

IN THE COURT OF APPEALS OF IOWA

No. 7-883 / 07-1719
Filed November 29, 2007

**IN THE INTEREST OF M.L.,
Minor Child,**

**S.L., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Karla J. Fultz,
Associate Juvenile Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Dawn Bowman of Bowman Law Office, Pleasantville, for appellant father.

Edward Bull of Bull Law Office, P.C., Des Moines, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Annette Taylor,
Assistant County Attorney, for appellee State.

Jason Hauser, Des Moines, for minor child.

Considered by Vogel, P.J., and Mahan and Zimmer, JJ.

ZIMMER, J.

A father appeals from the juvenile court order terminating his parental rights to his son. We affirm.

I. Background Facts and Proceedings.

S.L. is the father and N.R. is the mother of M.L., born in July 2006.¹ N.R. used marijuana while she was pregnant with M.L., and M.L.'s meconium screen was positive for THC. A child protective assessment was opened alleging denial of critical care.

S.L. and N.R. claimed they were victims of Hurricane Katrina and that FEMA had relocated the family to Iowa; however, this story proved to be untrue. S.L. and N.R. came to Iowa after being sponsored by a local adoption agency. The parents reported they intended to give their child up for adoption after he was born. However, this also proved to be untrue, and the parents used the adoption agency's money to purchase supplies for the baby, as well as food and toys for their dog. Further investigation revealed the mother had a lengthy history of involvement with the juvenile court system in Ohio. She has given birth to six other children who are all in long-term placements or have been adopted.

Following a contested removal hearing on August 18, 2006, M.L. was placed in foster care. On August 19, S.L. was arrested and charged with domestic abuse after abusing N.R.² On September 28, 2006, M.L. was adjudicated a child in need of assistance (CINA). Following adjudication, the

¹ The mother has not appealed from the termination of her parental rights.

² On November 7, 2006, S.L. entered a guilty plea and was sentenced to probation.

parents received a variety of services designed to safely transition the child to their care.³

On January 24, 2007, N.R. was arrested and charged with second-degree criminal mischief and disorderly conduct.⁴ On February 20, 2007, a dispositional review hearing was held, and M.L. remained in foster care due to his mother's incarceration and his father's need for further services.

On July 12, 2007, a permanency hearing was held, and a plan was entered to return M.L. to his father within thirty days. However, the plan was suspended after the in-home service provider was notified that the father was allowing N.R. to have unauthorized contact with M.L., which had been prohibited due to the mother's risk of harm to the child.

The State filed a petition to terminate N.R.'s and S.L.'s parental rights on July 23, 2007. The juvenile court held a termination hearing on September 14, 2007. At the hearing, N.R. consented to the termination of her parental rights; however, S.L. contested the termination of his parental rights. S.L. admitted that he had allowed unauthorized contact between M.L. and N.R. on at least three occasions during his unsupervised visits with his son. The in-home service provider testified that prohibiting N.R. from having contact with M.L. during the unsupervised visits was a crucial part of S.L.'s being able to demonstrate both insight into what it takes to be a parent and the ability to protect his son.⁵ The in-

³ A dispositional hearing was held on November 14, 2006, and M.L.'s placement in foster care was confirmed due to his parents' need to access services for their mental health, substance abuse, and domestic violence.

⁴ On March 22, 2007, N.R. entered a guilty plea and was sentenced to probation.

⁵ The in-home service provider testified S.L. told him N.R. was using drugs during the time when S.L. allowed contact between N.R. and M.L.

home service provider and the guardian ad litem agreed that termination of S.L.'s parental rights was in the child's best interests.

In an order filed September 25, 2007, the juvenile court terminated N.R.'s parental rights to M.L. pursuant to Iowa Code sections 232.116(1)(a), (b), (d), (h), (i), (k), and (l) (2007) and S.L.'s parental rights to M.L. pursuant to sections 232.116(1)(d) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services), (h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home), and (i) (child meets definition of CINA, child was in imminent danger, services would not correct conditions). Only S.L. has appealed.

II. Scope and Standards of Review.

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the child's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to his long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

III. Discussion.

In this appeal, S.L. contends the grounds for termination were not supported by clear and convincing evidence. Upon our review of the record, we find no merit in any of the father's arguments.

When the juvenile court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate under one of the sections cited by the court in order to affirm the court's ruling. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). In this case, we choose to focus our attention on section 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home) as the basis for termination.

M.L. is fifteen months old, and he has never been in his father's custody. Despite receiving services, S.L. is still not capable of making the decisions necessary to protect his son. Although S.L. appropriately utilized services for a period of time, he then allowed unauthorized contact between his son and the child's mother. He allowed this contact despite being told on multiple occasions that he was not to allow contact because of the risks N.R. presented to M.L. When the service provider confronted S.L. about allowing the unauthorized contact, S.L. denied that contact had taken place. Later, S.L. admitted he had allowed such contact even though he knew it was in violation of his unsupervised visitation expectations.

S.L. has a history of being untruthful. He has a significant criminal history and has spent at least twelve and one-half years in prison. At the termination hearing M.L.'s guardian ad litem opined that S.L. had not made any real progress since this case began. We agree with the juvenile court that S.L. cannot be trusted to keep his son away from N.R. or another equally inappropriate person. Placement in the father's home would be contrary to the child's welfare. We find

clear and convincing evidence supports the juvenile court's decision to terminate S.L.'s parental rights under section 232.116(1)(h).

Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *M.S.*, 519 N.W.2d at 400. M.L. has been living with foster parents since his removal from the hospital. The foster parents have provided excellent care to M.L., and M.L. has formed a definite bond with them. At the termination hearing, the service provider testified it is difficult for M.L. to disengage from his foster parents.

It is apparent that serious concerns still exist regarding S.L.'s ability to protect his son. By continuing to allow M.L. to have contact with N.R. and being untruthful with his service provider, S.L. has failed to demonstrate his ability to be a responsible parent. We agree with the juvenile court that "[S.L.] has not shown a pattern of protecting or doing what is necessary to make [M.L.] his number one priority." The evidence does not support the conclusion that additional time would allow the child to be returned to his father's care.

When a parent is incapable of changing to allow the child to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). This child deserves stability and permanency, which his father cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). We agree with the juvenile court's finding that termination of S.L.'s parental rights is in the child's best interests.

IV. Conclusion.

We affirm the juvenile court's decision to terminate S.L.'s parental rights.

AFFIRMED.