

**IN THE COURT OF APPEALS OF IOWA**

No. 7-934 / 07-1906  
Filed December 28, 2007

**IN THE INTEREST OF K.C. and H.P.,  
Minor Children,**

**S.C., Father,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Joe E. Smith, District Associate Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Megan Lantz of Muna Legal Clinic, Des Moines, for appellant father.

George Arvidson, Des Moines, for mother.

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

Kimberly Ayotte of the Youth Law Center, Des Moines, for minor children.

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

**ZIMMER, J.**

A father appeals from a juvenile court order that terminated his parental rights. We affirm the decision of the juvenile court.

***I. Background Facts and Proceedings.***

Scott and Samantha are the parents of K.C., who was born in June 2006. Samantha is also the mother of H.P., who was born in March 2005. Jason is H.P.'s father.

The children were removed from the care of Scott and Samantha on February 2, 2007, after the police found drugs in the home while the children were present, and Samantha admitted that she and others used methamphetamine while the children were in the home. Scott and Samantha were arrested on methamphetamine and child endangerment charges, and the children were placed in foster care.

A petition alleging K.C. and H.P. to be children in need of assistance (CINA) was filed on February 5, 2007, and on April 4 the children were adjudicated as CINA. In June 2007 Scott and Samantha were both sentenced to prison for ten years on the drug charges, which necessitated the removal of the children from the family home.

On July 30, 2007, the State filed a petition seeking to terminate the parental rights of Scott, Jason, and Samantha. Following a September 2007 hearing, the court granted the State's request.<sup>1</sup> It terminated Scott's parental rights under sections 232.116(1)(d), (h), and (l) (2007). Samantha's parental

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<sup>1</sup> Scott and Samantha were both imprisoned at the time of the hearing and presented testimony by deposition.

rights were also terminated, and Jason consented to the termination of his rights to H.P. Only Scott has appealed from the order terminating his parental rights.

## ***II. Scope and Standards of Review.***

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern in termination proceedings is the best interests of the child. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

## ***III. Claims on Appeal.***

Scott first contends that the juvenile court erred in determining the State established the grounds for termination under any of the sections alleged in the termination petition. Second, he asserts the termination was not in K.C.'s best interests. For the reasons which follow, we find no merit in either argument.

### ***A. Grounds for Termination.***

Upon our de novo review of the record, we concur in the juvenile court's determination that Scott's parental rights should be terminated under section 232.116(1)(d), which requires proof that the child has been adjudicated CINA because of abuse or neglect, the parent has been offered services to correct the situation leading to the adjudication, and the circumstances continue in spite of those services.

The record makes clear that K.C. has been neglected by Scott because of his drug use. His testimony to the contrary is not persuasive. K.C. was adjudicated CINA because her parents were using illegal drugs. Scott was

incarcerated at the time of adjudication. Scott was released from jail in April, but tested positive for marijuana the following month. In June his release from jail was revoked, and he was sent to prison for a felony drug offense.

The record reveals Scott cancelled visits with K.C. prior to his incarceration. He was also offered and refused parenting skill sessions. Additional services were not possible when Scott was in custody.

Scott was in prison when the termination hearing was held. As the juvenile court aptly noted, Scott's testimony "minimizes, justifies and denies the nature of his addiction." We agree with the court's conclusion that Scott still lacks insight into the effects his drug problem has on himself and others. This lack of insight demonstrates that additional services would be required before there could be reunification in this case. The record reveals that the conditions that led to the removal of K.C. continue to exist. We conclude the state carried its burden to show that the grounds for termination required by section 232.116(1)(d) have been met in this case. Because we find termination was proper under this section, we need not address the merits of termination under the other statutory grounds urged by the State.

***B. Best Interests.***

Scott argues that K.C. can be returned to his care within a reasonable time. He believes it is in his daughter's best interests to grant him additional time. We disagree. Like the juvenile court, we find the termination of Scott's parental rights is clearly in K.C.'s best interests.

Scott does not explain why termination of his parental rights would not be in K.C.'s best interests. Although he is currently in prison for a drug offense,

Scott claims he has been a “fit, nurturing, loving and safe father.” The facts simply do not support this contention. Scott is unavailable to this child because of a series of poor choices. In particular, he has chosen a life of drug use and crime at the expense of a relationship with his child. K.C. is in need of a safe and nurturing home. She should not be required to wait any longer for Scott to pay his debt to society and resolve his drug problem. Termination is clearly in this child’s best interests.

**AFFIRMED.**