

IN THE COURT OF APPEALS OF IOWA

No. 8-042 / 07-2039
Filed February 13, 2008

IN THE INTEREST OF J.W., Minor Child,

J.L.W., Father,
Appellant.

Appeal from the Iowa District Court for Floyd County, Peter B. Newell,
District Associate Judge.

A father appeals the termination of his parental rights to his child.

AFFIRMED

Rodney E. Mulcahy of Eggert, Erb, Frye & Mulcahy, P.L.C., Charles City,
for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Jesse Marzen, County Attorney, and David A. Kuehner,
Assistant County Attorney, for appellee.

Todd Prichard, Charles City, for mother.

Cynthia Schuknecht of Noah, Smith & Schuknecht, P.L.C., Charles City,
guardian ad litem for minor child.

Considered by Mahan, P.J., and Eisenhauer and Baker, JJ.

EISENHAUER, J.

A father appeals the termination of his parental rights to his child. He contends the State failed to prove the grounds for termination by clear and convincing evidence and failed to make reasonable efforts to reunify him with his child. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

The father's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(e) and (f) (2007). We need only find termination proper on one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). In order to terminate parental rights under section 232.116(1)(f), the State is required to prove by clear and convincing evidence that the child is four years of age or older, has been adjudicated in need of assistance, and has been removed from the home for twelve of the last eighteen months. The father does not dispute these elements have been proved. However, he contends the fourth element of section 232.116(1)(f), that the child cannot be returned to him as provided in section 232.102 has not been proved. We disagree.

The father has been incarcerated since 2004. He will not be released from federal prison until 2011, some four years after the termination of parental rights hearing was held. The father fails to point to any facts to support his bare allegation the child can be returned to his custody. While the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills," this patience has been built into the statutory scheme of chapter 232. *Id.* at 494. Children should not be forced to endlessly await the maturity of a natural parent. *Id.* At some point, the rights and needs of the child rise above

the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). That time is now.

The father also argues the State failed to make reasonable efforts to reunite him with his child. The reasonable efforts requirement is not a strict substantive requirement for termination. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). Instead, the services and the scope of the efforts provided by the Department of Human Services to reunify parent and child after removal impacts the State's burden of proving the child cannot be safely returned to the care of a parent. *Id.* The father has been incarcerated outside of the state throughout the pendency of this case. He cannot fault DHS for being unable to provide him additional services when his own actions prevented him from taking advantage of them. *In re M.T.*, 613 N.W.2d 690, 692 (Iowa 2000).

We affirm the termination of the father's parental rights to his child.

AFFIRMED.