

IN THE COURT OF APPEALS OF IOWA

No. 8-195 / 08-0139
Filed March 26, 2008

**IN THE INTEREST OF C.T., M.T., and J.W.,
Minor Children,**

H.L.T.-W., Mother,
Appellant,

V.R.W., Father of M.T. and J.W.,
Appellant,

C.A.L., Father of C.T.,
Appellant.

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District
Associate Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Jane White, Des Moines, for appellant mother.

Kenneth Weiland, Knoxville, for appellant father of M.T. and J.W.

John Swartz, Urbandale, for appellant father of C.T.

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

Jerry Foxhoven of the Drake Legal Clinic, Des Moines, for minor children.

Considered by Huitink, P.J., and Zimmer and Miller, JJ.

ZIMMER, J.

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

I. Background Facts and Proceedings.

Heather is the mother and Christopher is the father of Cheyenne, born in 1998. Heather has two other children, Montay, born in 2002, and Jaden, born in 2003. Vaughn is the father of Montay and Jaden. This appeal addresses the juvenile court's decision to terminate Christopher's parental rights to Cheyenne.

Cheyenne and her two siblings were removed from her mother's home by the Iowa Department of Human Services (Department) in October 2006 because Heather and Vaughn were unable to parent the children and provide them with a safe environment. Christopher was in prison at the time Cheyenne was removed from her mother's care.

The children were adjudicated children in need of assistance (CINA) on October 19, 2006. Following adjudication, the family received a variety of services designed to transition the children safely back to their parents' care. However, the parents' response to those services was inadequate to assure that any of the parents could provide the children with a safe and secure home.

The State filed a petition to terminate Heather's, Christopher's, and Vaughn's parental rights on October 11, 2007. The juvenile court held a contested termination hearing on November 21, December 12, and December 13, 2007. At the hearing, the in-home worker testified that Christopher had been absent for most of Cheyenne's life, and she did not believe Cheyenne could be returned to her parents' care. Cheyenne's therapist testified

that Cheyenne expressed very little connection to her father. The family's social worker testified that Christopher was offered services while he was incarcerated and paroled; however, he chose not to follow through with the services offered to him while on parole. Cheyenne's guardian ad litem agreed it was in Cheyenne's best interests to terminate Christopher's parental rights.

In an order filed January 10, 2008, the juvenile court terminated Christopher's parental rights to Cheyenne pursuant to Iowa Code sections 232.116(1)(b), (d), (e), and (f) (2007).¹ Christopher has appealed.²

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 her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

¹ The termination order actually states that Christopher's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(a),(b), (d), and (f); however, review of the petition and termination order shows that the reference to section (a) is a typographical error and that the correct section is 232.116(1)(e).

² The court also terminated Heather's parental rights to all three children and Vaughn's parental rights to Montay and Jaden. The appeals of Heather and Vaughn were dismissed by order of our supreme court on February 22, 2008.

III. Discussion.

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

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)(f) as the basis for termination. That section provides that the juvenile court may terminate a parent's rights if all of the following elements are established by clear and convincing evidence: (1) the child is four years of age or older, (2) the child has been adjudicated a child in need of assistance, (3) the child has been removed from the physical custody of the child's parent for at least twelve of the last eighteen months, and (4) the child cannot be returned to the custody of the child's parent at the present time. Iowa Code § 232.116(1)(f).

With respect to section 232.116(1)(f), Christopher contends he should have been granted an additional six months to reintroduce himself into his daughter's life and to demonstrate that Cheyenne can safely be returned to his care. For the reasons which follow, we disagree.

Christopher has never had a meaningful relationship with his daughter. He has had little contact with Cheyenne for the last five years because of his repeated incarcerations. He last saw Cheyenne in 2005. The record reveals that Christopher has a lengthy history of abusing drugs and engaging in criminal

activity. Christopher was in prison when this juvenile proceeding began in October 2006. His current prison sentence was imposed in June 2005. Christopher was released from prison on July 19, 2007, but was arrested again on September 21, 2007, for a parole violation. When the termination hearing was held, Christopher was residing in a halfway house. He had been out of prison for about two weeks. Because of his placement, there was no possibility that his daughter could be returned to his care when the termination hearing was completed. We find clear and convincing evidence supports the juvenile court's decision to terminate Christopher's parental rights under section 232.116(1)(f).

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. Christopher would like to develop a relationship with his daughter. He wrote letters to her from prison after the child in need of assistance petition was filed, and has taken classes in prison to address his parenting. However, upon our review of the record, it is apparent that serious concerns still exist regarding Christopher's stability and his ability to provide adequate care for a child. To this point in his life, Christopher has not demonstrated the ability to remain drug free and out of jail. Cheyenne has settled into a new home, and she has begun to make strides in her personal life. Cheyenne deserves stability and permanency, which her father cannot provide. See *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). She should not be forced to wait any longer for her father to demonstrate that he can become a responsible parent. The evidence does not support the conclusion that additional time should be allowed to see if Cheyenne can be returned to her father's care.

We agree with the juvenile court's finding that termination of Christopher's parental rights is in his child's best interests, and we affirm the decision of the juvenile court.

AFFIRMED.