

IN THE COURT OF APPEALS OF IOWA

No. 8-207 / 08-0214

Filed April 9, 2008

**IN THE INTEREST OF R.R. and A.R.,
Minor Children,**

**C.J.R., Father,
Appellant.**

Appeal from the Iowa District Court for Mahaska County, Michael R. Stewart, Judge.

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

AFFIRMED.

Michael S. Fisher of Fisher Law Office, Oskaloosa, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Rose Anne Mefford, County Attorney, and Misty White-Reinier, Assistant County Attorney, for appellee.

Terri A. Beukelman, Pella, guardian ad litem for minor children.

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

EISENHAUER, J.

A father appeals the termination of his parental rights to his children. He contends the State failed to prove the grounds for termination by clear and convincing evidence. He also contends the State failed to make reasonable efforts to reunify him with his children. 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 section 232.116(1)(h) (2007). To prove this ground for termination the State must prove by clear and convincing evidence each of the following:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

Iowa Code § 232.116(1)(h). The father does not dispute the State has proved the first three elements under this section. Instead he contends it failed to prove the children cannot be returned to his care.

At the time of termination, the father, age thirty-four, had just been released from prison. It was his fourth incarceration for theft or burglary. He was incarcerated during the pendency of this case and has no relationship with the children. At the termination hearing, he testified he was unable to assume care of the children, but wished to at some point in the future.

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. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). 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). Furthermore, the father's past history of being incarcerated four times over a fifteen year period does not bode well for his future ability to parent the children. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) (holding a parent's future performance can be gleaned from the past).

The father also argues the State failed to make reasonable efforts to reunify him with his children. A challenge to the sufficiency of services should be raised in the course of the child in need of assistance proceedings. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). Because the father failed to do so, we find this issue has not been preserved for our review.

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

AFFIRMED.