

IN THE COURT OF APPEALS OF IOWA

No. 8-260 / 08-0306
Filed April 9, 2008

**IN THE INTEREST OF D.H.,
Minor Child,**

**D.D.H., Father,
Appellant.**

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

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

AFFIRMED.

William Sales of Sales Law Firm, P.C., Des Moines, for appellant father.

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

Christine Bisignano, West Des Moines, for appellee mother.

Yvonne C. Naanep, Des Moines, for minor child.

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

BAKER, J.

A father appeals the termination of his parental rights to his son. Because the statutory grounds for termination were proved by clear and convincing evidence, we affirm.

I. Background and Facts

Derrick is the father and Ketarah is the mother of D.H., who was born on March 29, 2007. D.H. first came to the attention of the Iowa Department of Human Services (DHS) when he was born. Ketarah was transported from the Polk County Jail to Broadlawns Medical Center to give birth. She consented to D.H.'s removal on March 30, 2007. D.H. was placed in the custody of DHS for foster care placement. Although there has been some supervised visitation between D.H. and Ketarah, D.H. has remained in foster care.

Derrick is currently in the custody of the Wisconsin Department of Corrections and has been incarcerated throughout this case. He has a possible release date of December 2011, and his first opportunity for parole is November 2008. Due to his incarceration, Derrick has been unavailable to participate in DHS services. He has offered no emotional or financial support to D.H. Derrick has never had any contact with D.H.

On May 30, 2007, D.H. was adjudicated a child in need of assistance (CINA). On January 22, 2008, the juvenile court terminated Derrick and Ketarah's parental rights to D.H. pursuant to Iowa Code sections 232.11(1)(b), (e), (h), and (i) (2007). Ketarah's parental rights were also terminated pursuant to section 232.11(1)(d). Derrick appeals, contending the grounds for termination are not supported by clear and convincing evidence.

II. Merits

We review termination orders de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Grounds for termination must be proved by clear and convincing evidence. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Our primary concern is the best interests of the child. *Id.* Even if the statutory requirements for termination of parental rights are met, the decision must still be in the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). Although the juvenile court terminated Derrick's 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).

Pursuant to Iowa Code section 232.11(1)(h), the court may order termination of parental rights if it finds all of the following have occurred:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a [CINA]
- (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 . . . at the present time.

Upon our de novo review, we find clear and convincing evidence supports the termination under section 232.11(1)(h). The first three grounds are clearly met. Further, because Derrick is currently incarcerated, D.H. cannot be returned to his custody at the present time or in the foreseeable future.

“It is unnecessary to take from [D.H.’s] future any more than is demanded by statute.” *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987). D.H. deserves a level of stability and permanency Derrick cannot provide, and he should not have to wait any longer for Derrick to become a responsible parent. *In re K.R.*, 737 N.W.2d 321, 324 (Iowa Ct. App. 2007); see also *J.E.*, 723 N.W.2d at 798 (Cady, J., concurring specially) (“A child’s safety and the need for a permanent home are now the primary concerns when determining a child’s best interests.”). We find it is in D.H.’s best interests to terminate Derrick’s parental rights. Accordingly, we affirm the decision of the juvenile court.

AFFIRMED.