

**IN THE COURT OF APPEALS OF IOWA**

No. 8-376 / 08-0260

Filed May 29, 2008

**IN THE INTEREST OF E.M.,  
Minor Child,**

**E.M., Father,  
Appellant.**

---

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,  
District Associate Judge.

A father appeals from the termination of his parental rights. **AFFIRMED.**

Sharon Hallstoos, Cedar Rapids, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, Janet Lyness, County Attorney, and Kristin Parks, Assistant  
County Attorney, for appellee State.

Dennis Mathahs, Marengo, for appellee mother.

Mary Wolfe of Wolfe Law Office, Iowa City, for minor child.

Considered by Miller, P.J., and Vaitheswaran and Eisenhauer, JJ.

**VAITHESWARAN, J.**

Edwin appeals the termination of his parental rights to Edwina, born in 2000. He raises several arguments on appeal, only two of which we find it necessary to address: (1) whether the State proved by clear and convincing evidence that Edwin failed to maintain significant and meaningful contact with his daughter<sup>1</sup> and (2) whether termination was in the child's best interests. Our review is de novo. Iowa R. App. P. 6.4.

*I.* Iowa Code section 232.116(1)(e) (2007) requires the State to prove the following elements:

- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.
- (3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with their child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

Edwin does not challenge the first element.

With respect to the second element, he contends "the State of Iowa failed to prove by clear and convincing evidence that Edwina had been removed from his physical custody for a period of at least six months." The record reveals that Edwin and Edwina's mother had a short relationship that resulted in the child's birth. Edwina lived with her mother in Iowa. Edwin lived in Chicago. In 2006, Edwina was removed from her mother's care, returned to her shortly thereafter,

---

<sup>1</sup> The State alleged two grounds for termination. We may affirm if we find clear and convincing evidence to support either of those grounds. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

and was again removed after the Department of Human Services found the child home alone.

There is no question the removal orders were based on the actions of Edwina's mother, with whom the child was living. Edwin could have contested the removals on the ground that he did nothing to trigger them. He did not do so. He now contends he did not have an opportunity to challenge the second removal order because he was not at the address listed on the order and he believed the representations of Edwina's mother that the State's case was closed. However, he acknowledged that he did not inform his former attorney or the Department that he had moved, did not provide the postal service with a forwarding address, and did not maintain contact with his mother and brother, who had access to his mail. Based on this record, we conclude the second element of Iowa Code section 232.116(1)(e) was satisfied.

This brings us to the third element, which requires significant and meaningful contact between parent and child. "Significant and meaningful contact"

includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

Iowa Code § 232.116(1)(e)(3). Edwin argues that Edwina's mother "allowed him to visit with Edwina several times per year and that during her visits he had significant and meaningful contact with Edwina." While there is some evidence

of contact between Edwin and his daughter, there is scant evidence that Edwin made “a genuine effort to maintain communication with the child.” *Id.* After the first removal, he interacted with Edwina for “approximately a week or two” in Chicago. There is no indication that he continued his relationship with Edwina following this visit. Even after he learned of the second removal, he did not ask the Department to allow him written or telephone contact with the child and he made only a single request for a visit with her. The Department caseworker recommended denial of this request, as termination proceedings were imminent. Edwin did not seek judicial intervention. Based on this record, we conclude the State satisfied its burden of proving the absence of significant and meaningful contact.

Edwin also challenges the reunification efforts made by the Department. These efforts are implicated in the third element, which states the parents must be given an opportunity to resume the care of their child. Iowa Code § 232.116(1)(e)(3); *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). Edwin maintains the Department “did not send him any notice of the court hearings after the disposition hearing on November 8, 2006.” He also points to the fact that the State “failed to produce any written evidence where it specified or documented any steps with [him] as to how he may establish physical custody of Edwina.” Finally he argues that the Department “did not provide any evidence showing [him] to be an unfit parent.” These arguments would be appealing had Edwin informed the Department of his whereabouts. While we do not question Edwin’s belief that the State’s case was closed, he could have learned about his daughter’s status and welfare with minimal effort. Edwin’s mother did so by

checking Edwin's mail at his Chicago address. On learning that the Department was again involved with Edwina, she and her second son attempted to contact Edwin. They were unable to reach him. Reluctant to give up on Edwina, they took days off from their jobs and traveled from Chicago to Iowa City for court hearings. Edwin's mother gave a Department social worker her name, social security number, birthday, and address, and requested that the Department conduct a study of her home for possible placement of the child. The court granted this request and authorized the Department to enter into an interstate compact for a home study. Although this order was entered shortly after the second removal and well before the termination proceedings, the Department did not pursue the matter.<sup>2</sup> Edwin was unavailable to follow-up on the home study until a year later, after the termination petition was filed.<sup>3</sup> Based on Edwin's lack of interest, we conclude the Department's limited reunification efforts were sufficient.

*II.* The ultimate consideration is the child's best interests. *C.B.*, 611 N.W.2d at 492. As noted, Edwin failed to maintain a meaningful relationship with his daughter. The Department's social worker testified Edwina did not bring up her father and, when asked whether she wanted to live with him, she said "no." The social worker continued, "And she's never expressed an interest, so I would assume there's not much of a bond, if anything." We conclude termination of

---

<sup>2</sup> A Department caseworker explained that the grandmother had not given the Department a daytime phone number to facilitate contact.

<sup>3</sup> In October 2007, Edwin's attorney applied for a home study of the grandmother's home for a possible relative placement. This request was made one month after the termination petition was filed.

Edwin's parental rights to Edwina was in the child's best interests.

**AFFIRMED.**