

IN THE COURT OF APPEALS OF IOWA

No. 8-749 / 08-1277
Filed October 1, 2008

**IN THE INTEREST OF T.A.H.,
Minor Child,**

**S.L.D., Father,
Appellant.**

Appeal from the Iowa District Court for Carroll County, James A. McGlynn,
Associate Juvenile Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Joel Baxter of Beverly Wild Law Office, P.C., Guthrie Center, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John Werden, Jr., County Attorney, and Tina Meth-Farrington,
Assistant County Attorney, for appellee.

Patrick Hall of Eich Law Firm, Carroll, for mother.

Dee Ann Wunschel of Wunschel Law Firm, Carroll, guardian ad litem for
minor child.

Considered by Sackett, C.J., and Miller and Potterfield, JJ.

SACKETT, C.J.

The father of a female child born in May of 2006 has filed a petition on appeal challenging a July 23, 2008 order terminating his parental rights to the child. The State had also sought termination of the mother's parental rights. The juvenile court denied the petition concerning the mother, finding among other things, that the Iowa Department of Human Services, after determining a termination petition would be filed, had discontinued providing parenting services when a goal of a permanency order yet in place continued to be reunification with the mother.¹

The father makes two challenges to the termination of his rights. First he contends that the court failed to consider how the termination of his rights would bear on the best interest of the child financially, and second he contends there was not clear and convincing evidence that termination of his rights was in the child's best interest. The State responds that the father has not specifically challenged any of the statutory grounds found for termination and that termination of the father's parental rights is in the child's best interest.

SCOPE OF REVIEW AND APPLICABLE AUTHORITIES. We review de novo. Iowa R. App. P. 6.4; *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002). The parent-child relationship is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S. Ct. 549, 554, 54 L. Ed. 2d 511, 519 (1978); *Wisconsin v. Yoder*, 406 U.S. 205, 233, 92 S. Ct. 1526, 1542, 32 L. Ed. 2d 15, 35 (1972). The State has the right to terminate the legal relationship between a parent and a

¹ No appeal is taken from this finding.

child, but the Constitution limits its power to do so. *Quilloin*, 434 U.S. at 255, 98 S. Ct. at 554, 54 L. Ed. 2d at 519; see *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S. Ct. 625, 626, 67 L. Ed. 1042, 1045 (1923); *In re T.R.*, 460 N.W.2d 873, 875 (Iowa Ct. App. 1990). The State has the burden of proving the grounds for termination by clear and convincing evidence. Iowa Code § 232.96(2) (2007); *In re H.L.B.R.*, 567 N.W.2d 675, 677 (Iowa Ct. App. 1997). “The issue of whether or not to legally sever the biological ties between parent and child is an issue of grave importance with serious repercussions to the child as well as the biological parents.” *Id.* The goals of child-in-need-of-assistance proceedings are to improve parenting skills and to maintain the parent-child relationship. *Id.* An underlying issue in a termination action is whether the parent is beyond help, but a parent does not have an unlimited amount of time in which to correct his or her deficiencies. *Id.*; see *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990).

BACKGROUND. This child, together with three other siblings or half siblings, was removed from the mother’s care after an emergency removal order was issued in late October of 2006. The father has never had custody and has only seen the child twice. He currently is incarcerated in the Clarinda Correctional Facility, having been committed there in September of 2007. Convicted of Willful Injury Causing Serious Injury, his sentence will be completed in June of 2012, but he testified he might get an earlier release. He was in prison in California some years earlier and has spent jail time primarily as a result of alcohol-related offenses. He testified that prior problems he has had stem from his alcoholism and drug usage, he feels programs he has participated in since being incarcerated have changed his life and attitudes, and he has learned a lot

including about raising children. He was of the opinion that when released he would be ready to assist his daughter, noting that he has a fiancée who is a nurse. He testified that he believes he has fifteen children aged three months to twenty-nine years. He says he has contact with some of them, he raised four of them, and is hopeful he will get them back when he is released. There is no evidence he has any means to support the child at issue in this appeal.

ANALYSIS. The father's parental rights were terminated under Iowa Code sections 232.116(1)(b), (e), & (h) (2007). As the State correctly points out, the father does not contend these grounds are not supported by clear and convincing evidence. Failure in a brief to state, argue, or cite authority in support an issue may be deemed waiver of that issue. *In re Marriage of Stickle*, 408 N.W.2d 778, 772 (Iowa Ct. App. 1987). We do, however, review to assure that there is clear and convincing evidence supporting one or more of the grounds for termination found by the juvenile court and find that one or more of the grounds are so supported. When the juvenile court terminates parental rights on more than one statutory ground we need find evidence to terminate on only one of the statutory grounds cited by the juvenile court in order to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

We also find there is clear and convincing evidence termination of the father's rights is in the child's best interest. The father has never provided any custodial, financial, or emotional support to this child. We recognize that in affirming the termination we are cutting off his responsibility for financial support to the child and if the mother is successful in parenting the child she would not have his financial support. However, there is little or no evidence to support a

finding that the father would be in a financial position to provide financial support for the child in the immediate future. Nor do we find any evidence supporting his testimony that he believes he could parent the child in the future. He has not requested visits with the child, nor did he request services prior to his incarceration. We recognize he is receiving services while incarcerated but there is no evidence he will be available for the child in the immediate future. We affirm the order terminating his parental rights.

AFFIRMED