

**IN THE COURT OF APPEALS OF IOWA**

No. 8-854 / 08-1426  
Filed October 15, 2008

**IN THE INTEREST OF D.L.R. and M.R.,  
Minor Children,**

**M.A.R., Father,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Louise Jacobs,  
District Associate Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Robb Goedicke of Burdette Law Firm, P.C., Clive, for appellant father.

Edward Bull of Bull Law Office, P.C., Des Moines, for mother.

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

Charles Fuson of the Youth Law Center, Des Moines, for minor child.

Considered by Huitink, P.J., and Vaitheswaran and Potterfield, JJ.

**HUITINK, P.J.**

M.R. (father) appeals from the trial court's termination of his parental rights concerning his children, M.R. and D.R. He asserts the evidence does not support termination of his parental rights on any grounds cited by the trial court. We review his claims de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

The father's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(b) (2007) (abandonment), (d) (child CINA for physical or sexual abuse (or neglect), circumstances continued despite receipt of services), (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), (g) (child CINA, parental rights of another child terminated, parent does not respond to services), (h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home), and (l) (child CINA, parent has substance abuse problem, child cannot be returned within a reasonable time). If the juvenile court terminates parental rights on more than one statutory ground, we need only find that the evidence supports termination on one of the grounds cited by the juvenile court to affirm. *In re R.K.*, 649 N.W.2d 18, 19 (Iowa Ct. App. 2000).

In order to terminate parental rights under Iowa Code section 232.116(1)(g), we must find: (1) the child has been adjudicated a child in need of assistance, (2) the court has terminated parental rights with respect to another child who is a member of the same family, (3) there is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation, and (4) there is clear and convincing

evidence that an additional period of rehabilitation would not correct the situation.

The first two statutory elements are not in dispute. The trial court's findings of fact concerning elements three and four state:

[M.R.] is unable at this time to have the children returned to his home, and it is not simply a matter of his incarceration. Prior to his incarceration, he did not show an ongoing commitment to making the changes necessary for the children to be returned to his care. It is unlikely that the children could be returned to his care in the foreseeable future. He is unable to provide a safe and stable home for his children.

.....  
He has neither made significant inquiries concerning the child, nor has he attempted to participate in any of the services being offered. Though [M.R.] testified that participating in programs while in prison which may be helpful to him, the participation in those services does not cause him to be able to care for the children at this time.

Based on our de novo review of the record, we find abundant evidence supporting these findings, and we adopt them as our own. Like the trial court, we find clear and convincing evidence supports the termination of the father's parental rights pursuant to section 232.116.1(g).

The father also argues that termination is not in the best interest of M.R. or D.R. We disagree. To determine what is in the best interests of the child, evidence of the parent's past performance is the best indicator of the quality of future care for the child. *In re J.K.*, 495 N.W.2d 108, 110 (Iowa 1993) (citing *In re M.M.*, 483 N.W.2d 812, 814 (Iowa 1992)). Based on the father's history of substance abuse, criminal conduct, and incarceration, we conclude termination of his parental rights is in the children's best interests.

The juvenile court's decision terminating M.R.'s parental rights with respect to M.R. and D.R. is affirmed. We have carefully considered all of the

father's remaining arguments raised on appeal and find they have no merit or are controlled by the foregoing.

**AFFIRMED.**