

IN THE COURT OF APPEALS OF IOWA

No. 9-1073 / 09-1684
Filed January 22, 2010

**IN THE INTEREST OF O.N.F.,
Minor Child,**

**J.L.M., Father,
Appellant.**

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

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

AFFIRMED.

Patrick Parry of Forker & Parry, Sioux City, for appellant father.

Joseph Kertels of Juvenile Law Center, Sioux City, for appellee mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd and Janet L. Hoffman, Assistant Attorneys General, Patrick Jennings, County Attorney, and Dewey Sloan, Assistant County Attorney, for appellee State.

Angela Kayl, Sioux City, for minor child.

Considered by Sackett, C.J., and Vaitheswaran and Danilson, JJ.

VAITHESWARAN, J.

A father appeals the termination of his parental rights to his child, born in 2008. He maintains (1) the State failed to prove the two grounds for termination alleged in its petition and (2) termination was not in the child's best interests. Our review is de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

I. The State alleged that the father's parental rights should be terminated pursuant to Iowa Code sections 232.116(1)(d) and (g) (2009). Iowa Code §§ 232.116(1)(d) (requiring proof that child was adjudicated in need of assistance and parents were offered or received services to correct the circumstances and those circumstances continued despite receipt of services), (g) (requiring proof of several elements including proof that parent continues to lack ability or willingness to respond to services which would correct situation and an additional period of rehabilitation would not correct the situation). The juvenile court terminated the father's rights pursuant to both of these provisions. We find it necessary to address only one of them: Iowa Code section 232.116(1)(g). See *In re S.R.*, 600 N.W.2d 63, 64 (1999) (noting we may affirm if we find clear and convincing evidence to support any of the grounds cited by the juvenile court).

In early 2007, the father received a suspended sentence for aiding and abetting the delivery of a controlled substance. He was placed on probation. While on probation, the father got into a fight with his brother and became the subject of a new criminal complaint. He pleaded guilty to aggravated assault. In early 2008, his probation was revoked and the district court sentenced him to a prison term not exceeding five years. His child was born five months later.

The father met his child for the first time in February 2009, while in prison. The visit lasted two hours. The father had no further contact with the child.

The State sought a waiver of its obligation to make reasonable efforts towards reunification. The juvenile court granted the request.

At the termination hearing in December 2009, the father testified that he was awaiting housing at a residential treatment facility pending his discharge date in January 2010. He asked for an additional two or three months following discharge to “give [him] a shot” at parenting his child. The State countered that the father had that shot years earlier, after his parental rights to another child were terminated, but he squandered the opportunity to chart a new course. While we recognize that the father was himself a child in need of assistance, there is scant evidence showing an attempt to rehabilitate himself in the intervening years. At age twenty-eight, the father had been imprisoned on three occasions and had a history of substance abuse. His failure to benefit from rehabilitation efforts in the criminal justice system gives little confidence that he could demonstrate effective parenting skills soon after his release. For these reasons, we are persuaded that an additional rehabilitation period would not facilitate reunification between father and child.

II. The father next contends that termination is not in the child’s best interests. See *C.B.*, 611 N.W.2d at 492 (“The primary interest in termination proceedings is the best interests of the child.”). He asserts that he attempted to maintain contact with his child as best he could and tried to take advantage of the limited services available at the prison. The father’s testimony at the termination hearing and a letter he wrote to the Department of Human Services support his

assertions. Nonetheless, his circumstances as described above realistically preclude reunification. Accordingly, we agree with the district court that it is in the child's best interests to terminate the parental relationship.

AFFIRMED.