

IN THE COURT OF APPEALS OF IOWA

No. 9-257 / 09-0307
Filed May 6, 2009

**IN THE INTEREST OF S.M., J.B., III, and E.B.,
Minor Children,**

**J.D.B., Father,
Appellant.**

Appeal from the Iowa District Court for Mitchell County, Gregg R. Rosenblatt, District Associate Judge.

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

AFFIRMED.

David A. Kuehner of Eggert, Erb & Mulcahy, P.L.C., Charles City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Mark L. Walk, County Attorney, and Nicholas T. Larson, Assistant County Attorney, for appellee.

DeDra Schroeder of Schroeder Law Office, Charles City, for mother.

Richard H. Gross of Gross & McPhail, Osage, guardian ad litem for minor child.

Considered by Vogel, P.J., and Eisenhauer and Mansfield, JJ.

EISENHAUER, J.

A father appeals the termination of his parental rights to his children. He contends the State failed to prove the grounds for termination by clear and convincing evidence. We review this claim de novo. *In re K.B.*, 753 N.W.2d 14, 15 (Iowa 2008).

The children were adjudicated in need of assistance following reports of substance abuse and domestic violence in the home. Subsequently, founded child abuse reports concluded the parents had failed to provide proper supervision because the children were left home without adult supervision while locked in rooms with no safe exit in case of emergency, and the father had physically abused the oldest child. The mother, who has not appealed from the termination order, did not participate in services to reunify her with the children. The father did avail himself of the services offered, and showed improvement in his parenting as long as service providers directed his actions. However, the father has shown little insight on how to parent the children without this direction.

The father's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(e) and (f) (2007). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(1)(f) where the State proves by clear and convincing evidence the following:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

The father first argues the State failed to prove “that the trial period at home was less than thirty days when approximately three months of placement at home were interrupted only by short stays in foster care.” Section 232.116(1)(f)(3) requires proof a child has been removed for either (1) twelve of the last eighteen months *or* (2) twelve consecutive months with a trial period at home of less than thirty days. There is no dispute the children had been removed from the father’s care for more than twelve of the eighteen months leading up to termination.

The father also disputes there is clear and convincing evidence the children cannot be returned to his care. We disagree. Although the father made progress in his parenting skills, this progress was attributable to the direction of the service providers. None of these providers recommended the children be returned to the father’s care, instead indicating the children would be at risk of harm if returned or left unsupervised with the father for a length of time. It is likely the father will allow continued contact with the mother despite the danger she presents to the children. Because the father has not demonstrated he can safely parent the children without assistance, we conclude the children cannot be returned to his care.

Because the State has proved the grounds for termination by clear and convincing evidence, we affirm.

AFFIRMED.