

IN THE COURT OF APPEALS OF IOWA

No. 9-357 / 09-0235
Filed May 29, 2009

IN THE INTEREST OF M.W.-K., Minor Child,

J.L.K., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A father appeals from the order terminating his parental rights to his son.

AFFIRMED.

John C. Heinicke of Kragnes & Associates, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin J. Brownell, Assistant County Attorney, for appellee.

Jesse Macro, West Des Moines, for mother.

Jessica Miskimins of Youth Law Center, Des Moines, attorney and guardian ad litem for minor child.

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

EISENHAUER, J.

A father appeals the termination of his parental rights to his child. He contends the State failed to prove the grounds for termination by clear and convincing evidence. He also contends termination is not in the child's best interest. We review these claims de novo. *In re K.B.*, 753 N.W.2d 14, 15 (Iowa 2008).

The father's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d), (f), and (g) (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 does not dispute the first three elements have been proved, but argues there is not clear and convincing evidence the child cannot be returned to his care.

Despite the father's claim that there is no evidence as to what harm the child, now age seven, would suffer if returned to his care, we conclude there is overwhelming evidence the child cannot be returned to the father's care. After suffering from years of abuse and neglect at the hands of his parents, the father

seemed to make improvement in his parenting to the point the child was returned to his care. This arrangement lasted less than one month.

The father asked that the child be removed from his care after the child reported the father was lying to service providers about his relationship with a woman. The child informed DHS workers his father had left him in the woman's care in spite of a directive not to have women around the child because of a history of abuse the child suffered at the hands of his father's girlfriends. The father then yelled at the child "and said he has to have friends, that [the child] was trying to control his life, and he was sick of [the child]'s attitude." The DHS workers had to repeatedly ask the father not to yell at the child. The father then told the workers to "just take" the child because he couldn't deal with his behavior. After agreeing to place the child in a shelter, the father told him "this is what you wanted" and "this is your fault."

The record shows an unfortunate history of the father putting his own needs in front of the child's. The father asserts on appeal a clean home and material things are evidence the child will not suffer adjudicatory harm if returned to his care. The father's indifference to his child's well-being is evidence enough. We affirm termination under section 232.116(1)(f).

We also conclude termination is in the child's best interest. As noted by the juvenile court, the father will not make any lifestyle sacrifices to insure the child is surrounded by safe people. The child's therapist indicated he should not be placed in a new home until there is some certainty the home will be a permanent one. The child desperately needs the stability and security that his

father has been unable to provide him. Because termination is in the child's best interest, we affirm.

AFFIRMED.