

IN THE COURT OF APPEALS OF IOWA

No. 9-365 / 09-0563
Filed June 17, 2009

**IN THE INTEREST OF C.L.,
Minor Child,**

D.D. Sr., Father,
Appellant.

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

A father appeals from the district court's order terminating his parental
rights to his daughter. **AFFIRMED.**

Henry Keyes of Keyes Law Offices, Cedar Rapids, for appellant father.

Michael Lindeman, Cedar Rapids, for appellee mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Lance J. Heeren,
Assistant County Attorney, for appellee State.

John Jacobsen, Cedar Rapids, for the minor child.

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

VOGEL, J.

David appeals from the district court's order terminating his parental rights to C.L.,¹ born July 2007. His rights were terminated under Iowa Code section 232.116(1)(h) (2007) (child is three or younger, child in need of assistance (CINA), removed from home for six of last twelve months, and child cannot be returned home). He challenges whether there was clear and convincing evidence C.L. could not be returned to his care and whether termination was in C.L.'s best interests. He also asserts that he should have been granted an additional six months prior to termination. We affirm.

We review termination of parental rights cases *de novo*. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Grounds for termination must be proved by clear and convincing evidence and our primary concern is the child's best interests. *Id.* In December 2007, C.L.'s mother's rights were terminated to an older child, S.L., based in part on a founded child abuse report for physical abuse. She hid the pregnancy and birth of C.L., but in August 2007, the Iowa Department of Human Services (DHS) discovered C.L. had been born. Based on DHS's determination that David was an inappropriate person to be around S.L., as well as his history of substance abuse and criminal activity, David was not permitted in the home with C.L.² Due to C.L.'s mother's choice to allow inappropriate people in the home, including David,³ C.L. was removed in August 2007 and placed in foster care.

¹ The parental rights of C.L.'s mother were also terminated. She does not appeal.

² David was not the biological father of S.L.

³ Social workers believe that prior to C.L.'s removal, David was living with C.L. and her mother, against DHS instructions that he was not to be unsupervised with C.L.

Both C.L.'s mother and David stipulated to C.L. being in need of assistance, and she was thus adjudicated a CINA pursuant to Iowa Code section 232.2(6)(c)(2) on September 24, 2007. Shortly thereafter, the cost of paternity testing was authorized by the court, and the testing confirmed that David was the father of C.L. David was granted visitation that fluctuated between supervised and semi-supervised, but never progressed to unsupervised. David's rights were terminated on March 25, 2009 pursuant to Iowa Code section 232.116(1)(h).

David asserts a lack of clear and convincing evidence that C.L. could not be returned to his care and that he should have been granted an additional six months prior to termination. Reasonable services were offered to David throughout the proceedings, including parenting sessions with supervised visits, family team meetings, and psychological evaluations. Throughout this time, David was unable to maintain financial stability or a safe place to live. While he was able to secure an apartment for a few months, the electricity was turned off for failure to pay his bill, and he was later evicted. He currently lives in a homeless shelter, and did not demonstrate an ability to change his current circumstances such that he could provide a safe home for C.L. Our legislature has established a six-month standard after removal for parents to demonstrate they can provide for and parent a very young child. Iowa Code § 232.116(1)(h); *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) (quoting *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987) ("It is unnecessary to take from the [child's] future any more than is demanded by statute."). This time period has elapsed, and the record supports that David still does not have the ability to safely and adequately provide for C.L.'s needs. The record does not suggest that additional time would

result in any improvement in David's circumstances such that C.L. could be safely returned to his care.

We agree with the district court that C.L.'s best interests are for the termination of David's parental rights. David lacks the ability to understand C.L.'s needs and has failed to demonstrate he can provide a safe home to which C.L. could be returned. At the time of the termination hearing, C.L. had been removed from David for nineteen months, and has since remained with the same foster family. *J.E.*, 723 N.W.2d at 802 (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in a child's best interests). We affirm the termination of David's parental rights.

AFFIRMED.