

**IN THE COURT OF APPEALS OF IOWA**

No. 1-844 / 11-1505  
Filed November 23, 2011

**IN THE INTEREST OF J.S., Jr. and C.S.,  
Minor Children,**

**J.D.S., Sr., Father,  
Appellant.**

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Appeal from the Iowa District Court for Wapello County, William S. Owens,  
Associate Juvenile Judge.

A father appeals the district court's ruling terminating his parental rights to  
his children. **AFFIRMED.**

John R. Silko of John Silko Law Office, Bloomfield, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Lisa Holl, County Attorney, and Seth Harrington, Assistant  
County Attorney, for appellee State.

Allen A. Anderson of Anderson Law Firm, Oskaloosa, for appellee mother.

Lloyd Keith of Keith Law Firm, Ottumwa, attorney and guardian ad litem  
for minor children.

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

**VAITHESWARAN, P.J.**

A father appeals the termination of his parental rights to his children, born in 2005 and 2008. He contends (1) the record lacks clear and convincing evidence to support the grounds for termination cited by the juvenile court and (2) termination was not in the children's best interests.

*I.* The juvenile court terminated the father's parental rights pursuant to Iowa Code section 232.116(1)(f) (2011) as to the older child and section 232.116(1)(h) as to the younger child. Both require proof of several elements, including proof that the children cannot be returned to the parent's custody. Iowa Code § 232.116(1)(f), (h). On our de novo review, we are convinced the State proved these grounds for termination. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) (setting forth the standard of review).

The children came to the attention of the Iowa Department of Human Services in 2008 based on the younger child's failure to gain sufficient weight relative to his age. They again came to the attention of the department in 2009 after their mother left them in a running car. The children were removed from the parents' care in March 2009, returned to the mother several months later, and again removed after the younger child ingested indigestion tablets and painted his face with typewriter erasing liquid, which was scrubbed off harshly. In the fall of 2009, the boys were placed with their maternal grandparents.

Meanwhile, the boys' father moved to Texas and remained there for approximately two and a half years. In a social history report, the department noted that the father did not see the children from July 2008 to February 2009

and did not initially “request that his sons be placed with him.” The department surmised that the father was “making a new life” in Texas without the boys.

In the ensuing year and a half, the father visited the children five or six times. One of the visits took place in Texas over a two-week period. While the father then expressed an interest in having the boys stay with him, a Texas home study “was denied due to [the father’s] use of physical discipline and his girlfriend’s past history with the Texas Department of Human Services.”

The father returned to Iowa in February 2011. For the first three weeks, he did not exercise any visitation with the children, although the maternal grandparents said they would have allowed it. Later, the department set up supervised visits four times per month for a period of two hours each time. While the father attended many of the visits, a service provider expressed concern that he did not always come prepared with diapers and snacks and that he sometimes fell asleep.

In the end, the department recommended termination of the father’s parental rights to his children. It reasoned as follows:

[H]e has no home, job, or transportation. He states that his intentions are to obtain custody of his boys, however he has waited two years to do so. Now, he is starting from scratch. The boys continue to wait.

A court-appointed special advocate seconded this opinion, reporting that James “has made little attempt to have contact with the boys.”

By the time of the termination hearing, the father had moved into his own home, but he conceded he was not presently in a position to have the children returned to his custody.

Based on this record, we conclude the grounds for termination cited by the juvenile court were proven.

*II.* The State was also obligated to prove that termination was in the children's best interests. See *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). The father contends termination was not in their best interests because "he can now meet the needs of the boys, and provide both a home and financial support."

We agree that the father took steps to meet the children's physical needs. But, he did not take significant steps to meet their emotional needs. The father was essentially absent from the children's lives for a lengthy period of time. During that time, the children were nurtured and cared for by their grandparents. Shortly after their removal, a department employee reported that the boys were becoming "very bonded to the grandparents" and their "early and formative years" were "passing quickly, without their parents." This comment was even more true two and a half years after their removal. As the juvenile court noted,

[The boys] have been in placement with their grandparents for twenty-one of the last thirty-one months, and their grandparents' home is the only stable, safe and nurturing home they have ever had.

We agree with the court that termination of the father's parental rights to his two children was in the children's best interests.

**AFFIRMED.**