

IN THE COURT OF APPEALS OF IOWA

No. 2-1046 / 12-1738
Filed December 12, 2012

**IN THE INTEREST OF E.G., E.G., & E.G.,
Minor Children,**

**C.B.G., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Rachael E. Seymour,
District Associate Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Jesse A. Macro Jr. of Gaudineer, Comito & George, L.L.P., West Des
Moines, for appellant father.

Barbara Hoffman, Des Moines, for mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, John P. Sarcone, County Attorney, and Jennifer Galloway, Assistant
County Attorney, for appellee State.

Kimberly Ayotte of the Youth Law Center, Des Moines, for minor children.

Considered by Mullins, P.J., Bower, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

MAHAN, S.J.**I. Background Facts & Proceedings.**

Chris is the father of three children, a daughter born in 2003 and twin sons born in 2004.¹ The father has a long history of substance abuse. In February 2010, a search warrant was executed at his home resulting in his arrest for possession of marijuana and child endangerment.² The children were removed from his care and placed with the paternal grandparents.

The children were adjudicated to be in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and (n) (2009). The father participated in services and completed substance abuse treatment. He obtained a full-time job and maintained an apartment. He regularly participated in visitation with the children.

The children were returned to the father's care August 1, 2011. The children were removed again October 24, 2011, when the father admitted using alcohol and synthetic marijuana. Due to health issues with the paternal grandparents, the children were placed in foster care. The father had two drug tests, in January and February 2012, that were positive for synthetic marijuana.

On February 22, 2012, the State filed a petition seeking termination of the father's parental rights. At the termination hearing, when asked if the children could be returned to his care at that time he replied, "Today? I still think it would take a little bit. I mean, I have a long ways to go." The juvenile court terminated

¹ A prior district court order gave the father physical care of the three children. The children's mother consented to termination of her parental rights, and she has not appealed that termination.

² These charges against the father were eventually dismissed.

the father's parental rights pursuant to sections 232.116(1)(d) and (f) (2011). The court determined termination was in the children's best interests, finding "[t]he parents have shown a clear inability to make necessary changes to have the children be placed and maintained in their care." The father appeals the termination of his parental rights.

II. Standard of Review.

The scope of review in termination cases is de novo. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). Clear and convincing evidence is needed to establish the grounds for termination. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Where there is clear and convincing evidence, there is no serious or substantial doubt about the correctness of the conclusion drawn from the evidence. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). "The paramount concern in termination proceedings is the best interest of the child." *In re D.S.*, 806 N.W.2d 458, 465 (Iowa Ct. App. 2011).

III. Sufficiency of the Evidence.

The father claims there is insufficient evidence in the record to support termination of his parental rights. He claims the reasons for the removal of the children no longer exist, and they could be returned to his care. He points out he participated in services, maintained employment, and had stable housing. He claims there is no evidence the children were adversely affected by his use of alcohol or synthetic marijuana.

When the juvenile court terminates parental rights on more than one ground, we may affirm on any ground cited by the juvenile court. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). We conclude the father's parental

rights were properly terminated under section 232.116(1)(f). The record shows the children were more than four years of age, they had been adjudicated to be in need of assistance, and they had been removed from the father's physical care for at least twelve of the last eighteen months. See Iowa Code § 232.116(1)(f)(1)-(3). In addition, there was clear and convincing evidence that at the time of the termination hearing the children could not be returned to the father's care. See *id.* § 232.116(1)(f)(4). At the termination hearing, the father agreed he was not ready to assume care of the children at that time.

IV. Best Interests.

The father claims termination of his parental rights is not in the best interests of the children. He asserts he has been their primary caregiver throughout their lives. He claims he can continue to be a positive influence on them and help them reach their maximum potential.

Once one of the grounds for termination of parental rights under section 232.116(1) has been met, we next consider whether to terminate parental rights considering the factors in section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). We give "primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child." Iowa Code § 232.116(2)

On our *de novo* review, we conclude termination of the father's parental rights is in the best interests of the children. The children need stability, and it is not enough to hope that "someday a parent will learn to be a parent and be able to provide a stable home for the child." See *P.L.*, 778 N.W.2d at 41. The father

testified he needed additional substance abuse treatment and was not ready to assume full-time care of the children.

We affirm the decision of the juvenile court terminating the father's parental rights to these three children.

AFFIRMED.