

IN THE COURT OF APPEALS OF IOWA

No. 3-388 / 13-0337

Filed April 24, 2013

**IN THE INTEREST OF J.L.B., L.N.B.,
M.A.B., R.J.B., AND D.W.L.,
Minor Children,**

**J.T., Father of M.A.B., and R.J.B.,
Appellant.**

Appeal from the Iowa District Court for Pottawattamie County, Charles D. Fagan, District Associate Judge.

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

AFFIRMED.

Benjamin Pick, Council Bluffs, for appellant father J.B.

Jay W. Mez, Council Bluffs, for appellant father J.T.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant Attorney General, Matthew Wilber, County Attorney, and Dawn M. Landon, Assistant County Attorney, for appellee State.

Roberta Megel, Council Bluffs, for appellee mother.

Scott Strait, Council Bluffs, attorney and guardian ad litem for minor children.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

VAITHESWARAN, J.

A father appeals the termination of his parental rights to his twins, born in 2007.¹ He contends (1) the State failed to prove the grounds for termination cited by the district court, (2) termination was not in the children's best interests, and (3) the district court should have declined to terminate his parental rights based on the bond he shared with the children.

I. We may affirm a termination order if clear and convincing evidence supports any of the grounds cited by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review of the record, we find more than this quantum of evidence to support termination under Iowa Code section 232.116(1)(d) (2011) (requiring proof of several elements, including proof that the parent was offered services to correct the circumstances that led to the adjudication and the circumstances continued to exist despite the offer or receipt of services). See *id.* (setting forth the standard of review).

The family has a long history of involvement with the Department of Human Services, precipitated by the parents' drug use. The most recent case was opened in February 2012, when the mother appeared to have a drug-induced psychotic episode. The twins were placed with their father.

At the adjudication hearing, the department recommended that the twins remain with their father. That recommendation changed when, following the hearing, the father admitted to methamphetamine and marijuana use and tested positive for high levels of those drugs in his system. The children were removed

¹ A separate appeal by the father of the other children listed in the caption was dismissed as untimely. The State's brief responded to both appeals.

from his care and remained out of his care through the termination hearing eight months later.

The department encouraged the father to undergo substance abuse treatment and afforded him several services to address his addictions. The father participated in these services and initially expressed an interest in complying with court directives. It became clear, however, that he did not view sobriety as a prerequisite to reunification.

The department case manager opined that the father did not understand the need to stop using drugs. She testified the father “is actively using methamphetamine” and “is very verbal about the fact that he uses methamphetamines.” Her opinion about the father’s lack of understanding was confirmed by the father’s unprompted admission that he was continuing to use “a drug.” He stated, “I know it is not legal. I know it is not right, but it allows my mind to clear its thoughts so I am not just stuck there in a hole doing nothing where I have been for the last ten years.” He faulted the department for being unable to tell him what inappropriate “actions that I do while I am on methamphetamines.”

Despite the father’s cavalier attitude towards drug use, the department afforded him a plethora of reunification services. Shortly after the adjudication hearing, the department arranged for a mental health evaluation. The thirty-year-old father reported he had been using methamphetamine since he was twenty-one, marijuana since he was fifteen, and alcohol since he was eighteen. The evaluator entered a diagnosis of methamphetamine, cannabis, and alcohol dependence.

The department also scheduled a preliminary psychiatric evaluation at which the father admitted his last use of marijuana was three days before the evaluation and his longest period of sobriety for several years had been six weeks.

The department insisted that the father undergo random drug screens. Of twenty-four scheduled drug tests between April 27, 2012, and October 1, 2012, the father tested positive for drugs on two occasions, tested negative on three occasions, and did not appear for the test on nineteen occasions. He told a family consultant that he did not intend to comply with drug testing. In the words of the consultant, “[A]t this point [the father] says he is just not going to do it.”

The department also arranged for the father’s participation in substance-abuse groups. The facilitator asked him to discontinue his participation “due to his uncooperative attitude/behavior.”

Finally, the department scheduled regular, twice-weekly supervised visits with the children. While the father was consistent in attending those visits and interacted appropriately with the children, the family consultant who served as supervisor testified that his admitted drug use precluded a safe return of the children to his care.

We conclude the department offered reasonable reunification services and the father’s addictions continued to exist despite the receipt of those services. Accordingly, the district court appropriately terminated his parental rights pursuant to Iowa Code section 232.116(1)(d).

II., III. The father also contends termination was not in the children’s best interests and the district court should have considered an exception to

termination based on the parent-child bond. See Iowa Code § 232.116(2), (3)(c); *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). We disagree.

As discussed, the father actively used methamphetamine. There was also evidence that his use of mood-altering substances resulted in vehicle rollovers. We conclude the children's safety would have been compromised had the district court returned the children to his care.

With respect to the cited exception to termination, the department case manager acknowledged the children shared a strong bond with their parents. But she also stated that the parents were involved with the department for years and the children felt sad that they were in limbo. We conclude there was no basis for invoking the exception to termination.

We affirm the district court's termination of the father's parental rights to his twins.²

AFFIRMED.

² We deny the father's motion to strike the State's responsive brief, which was filed after the untimely petition of the second father.