

**IN THE COURT OF APPEALS OF IOWA**

No. 8-1001 / 08-1728  
Filed December 31, 2008

**IN THE INTEREST OF R.M.,  
Minor Child,**

**M.M., Father,  
Appellant.**

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Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, District Associate Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Steven J. Drahozal of Drahozal & Schilling, Dubuque, for appellant father.

Sarah Stork Meyer, Dubuque, for mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Ralph R. Potter, County Attorney, and Jean A. Becker, Assistant County Attorney, for appellee State.

Mary Kelley, Assistant Public Defender, Dubuque, for minor child.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

**DOYLE, J.**

A father appeals from the juvenile court order terminating his parental rights to his child. Upon our de novo review, we affirm.

***I. Background Facts and Proceedings.***

M.M. is the father and K.M. is the mother of R.M., born prematurely in January 2008.<sup>1</sup> At that time, both M.M. and K.M. lived in M.M.'s parents' four-bedroom house, along with M.M.'s parents and four of M.M.'s siblings.<sup>2</sup>

Due to R.M.'s premature birth, R.M. has exhibited some special needs. While hospitalized, R.M. came to the attention of the Iowa Department of Human Services (Department) based upon concerns that the parents could not safely care for R.M. Following R.M.'s release from the hospital, the State filed a petition on January 25, 2008, asserting R.M. was a child in need of assistance (CINA). Following a prehearing conference, the juvenile court entered an order providing that R.M. remain in R.M.'s parents' custody, with the parents to continue residing with M.M.'s parents. The order further directed that services be provided to the parents.

From January 2008 until March 2008, services were provided to the parents in the home. During this time, service providers noted concerns regarding the parents' sleeping during the day and not attending to the needs of R.M. It appeared to the service providers that M.M.'s mother was providing the majority of care to R.M.

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<sup>1</sup> K.M. consented to the termination of her parental rights and has not appealed.

<sup>2</sup> The dining room had been converted into a makeshift fourth bedroom.

On March 13, 2008, an adjudication/disposition hearing was held. Based upon the evidence received and the agreement of the parties, the juvenile court adjudicated R.M. a CINA. Due to various concerns, including M.M.'s anger issues and limitations in his intellectual functioning, the court continued R.M.'s placement with the parents, provided they continued to reside with M.M.'s parents. The court also ordered that services be provided to the parents, including family, safety, risk, and permanency services, and that the parents follow through with mental health evaluations and any recommended treatment. Additionally, the court ordered that until the next review hearing, the parents work on bonding with R.M. through increased interaction with her, continue their efforts to obtain and/or maintain employment, make all appointments, maintain their room in a clean and appropriate manner appropriate for an infant, and accept parenting suggestions from service providers without becoming defensive or hostile.

Following the adjudication/disposition hearing, M.M. and K.M. separated, and K.M. moved out of M.M.'s parents' home. On March 18, 2008, a service provider conducted a drop-in visit to M.M.'s parents' home, and again found M.M. sleeping. The only adult present was M.M.'s handicapped sister, who was not an appropriate sole caregiver. M.M.'s sister attempted to wake M.M. up, but was not able to do so. Due to concerns for R.M.'s safety, an ex parte temporary removal order was entered thereafter, placing R.M. in foster care. At the removal hearing, M.M. stipulated to removal with services to continue.

A review hearing was held on June 13, 2008, and the juvenile court was advised by the Department that the parents had made little to no progress

regarding issues of establishing a residence, obtaining employment, and overall organization and stability. The Department recommended continuing removal, and the juvenile court agreed, continuing R.M.'s custody in foster care. The court further ordered that the parents continue to receive services.

On September 3, 2008, the State filed a petition for termination of the parents' parental rights. Following a contested termination hearing, the juvenile court entered an order on October 7, 2008, terminating M.M.'s parental rights to R.M. pursuant to section Iowa Code section 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned to custody of parent) (2007).

M.M. appeals.

## ***II. Scope and Standards of Review.***

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). If the juvenile court terminates parental rights on more than one statutory ground, we need only to find the evidence supports termination on one of the grounds cited by the juvenile court to affirm. *In re R.K.*, 649 N.W.2d 18, 19 (Iowa Ct. App. 2000). Our primary concern in termination proceedings is the best interests of the child. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to the child's

long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

### ***III. Discussion.***

M.M. does not take issue with the juvenile court's conclusion that R.M. could not be returned to his custody. Instead, he contends the court should have given him two additional months to demonstrate the adequacy of his parenting abilities. Upon our de novo review, we agree with the juvenile court that granting M.M. additional time would not have allowed R.M. to be safely returned to M.M.'s care and that termination was in R.M.'s best interests.

Despite M.M.'s receipt of intensive services for eight months, R.M. still cannot be placed in M.M.'s care. M.M.'s visitation with R.M. had not progressed beyond supervised visits. Additionally, M.M. was not able to consistently apply the parenting skills that he was being taught, and the provider still had to prompt M.M. how to properly supervise and interact with R.M. Although it is true that M.M. followed some of the recommendations set forth in the case permanency plan, such as having a mental health evaluation and following the mental health provider's recommendations, M.M. failed to follow through on other important recommendations. Over the pendency of the case, M.M. did not obtain employment until two weeks prior to the termination hearing. Additionally, M.M.'s girlfriend and her son moved in with M.M. into M.M.'s parents' home, and M.M., his girlfriend, and her child all shared a room and a single bed. Home cleanliness issues still remained; on a drop-in visit to the home just prior to the termination, a Department worker found their room to be so cluttered and dirty that she could not even open the door far enough to walk in. M.M. testified that

his parents' home would be appropriate for R.M., further demonstrating his lack of insight into R.M.'s needs and appropriate care.

It is clear M.M. loves R.M. and would like to develop a relationship with R.M. However, upon our review of the record, it is apparent that serious concerns still exist regarding M.M.'s stability and his ability to provide adequate care for R.M., especially given R.M.'s special needs. R.M. is doing very well in the foster home, and the foster parents are willing to adopt R.M. R.M. deserves stability and permanency, which M.M. cannot provide. See *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993).

We do not minimize the efforts M.M. made to recover R.M. Nevertheless, the evidence does not support the conclusion that additional time would allow R.M. to be returned to M.M.'s care. Consequently, we agree with the juvenile court's finding that termination of M.M.'s parental rights is in R.M.'s best interests and no reasonable extension of time would alleviate the concerns noted. Accordingly, we affirm the juvenile court's decision to terminate M.M.'s parental rights.

#### ***IV. Conclusion.***

Because we agree with the juvenile court's finding that termination of M.M.'s parental rights is in R.M.'s best interest and no reasonable extension of time would alleviate the concerns noted, we affirm the juvenile court's decision to terminate M.M.'s parental rights.

**AFFIRMED.**