IN THE COURT OF APPEALS OF IOWA

No. 9-667 / 09-0989
Filed August 19, 2009

IN THE INTEREST OF L.M.Z.,
Minor Child,

E.M.H., Father,
Appellant.

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

A father appeals the termination of his parental rights to his child. **AFFIRMED.**

Matthew L. Noel of Blair & Fitzsimmons, P.C., Dubuque, for appellant.

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

Colista Schmitt of Reynolds & Kenline, L.L.P., Dubuque, attorney and guardian ad litem for minor child.

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

EISENHAUER, J.J.

A father appeals from the termination of his parental rights to his child. He contends the State failed to prove the grounds for termination by clear and convincing evidence. He also seeks an extension of time to continue reunification efforts. We review his claim de novo. *In re N.V.*, 744 N.W.2d 634, 636 (Iowa 2008).

The juvenile court terminated the father's parental rights under Iowa Code section 232.116(1)(h) (2009). Under this section, termination is appropriate where the State has proved by clear and convincing evidence the following:

> (1) The child is three years of age or younger.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
> (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

The father does not dispute the first three elements have been proved, but argues there is insufficient evidence the child cannot be returned to his care.

This infant was removed at birth and has remained in the care of the maternal grandmother, who indicates she is willing to adopt her. She was nine months old when the termination order was entered.

The father has mental health issues that are not being addressed. He stopped taking the prescribed medication for these issues and at the termination

hearing was unable to recall his doctor's name. At the hearing, he testified he was about to move into an efficiency, one-bedroom apartment where he would live with the child and the mother, whose parental rights were also terminated.[1] The father has no concerns about the mother's ability to care for the child. He continued to choose a relationship with the mother, even when told it could jeopardize his ability to regain custody of his the child.

The father works ten to twelve hours per week, earning approximately seven dollars per hour. He has two other children for whom he does not provide support. He is to pay fifteen dollars per month in support for one of the children, which he has failed to do since the child's birth. The only support the father has provided for L.Z. has been to buy her diapers three times since her birth.

The father has a problem with managing his anger. As a result, he refused to continue with supervised visits with the child at the end of April, claiming, "I just don't like being in the same room with [the worker]" who "plays on that fricking laptop the whole time and he makes up a lie about us." He stated that "somebody should blow up DHS."

The evidence demonstrates the father does not have the skills necessary to provide basic parenting for the child. The situation continues to exist despite the assistance given the father to remedy his deficiencies. The father asks for more time. A child should not be forced to endlessly await the maturity of a natural parent. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). At some point, the

[1] The mother does not appeal.

rights and needs of the child rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). That time is now. Accordingly, we affirm.

AFFIRMED.