

IN THE COURT OF APPEALS OF IOWA

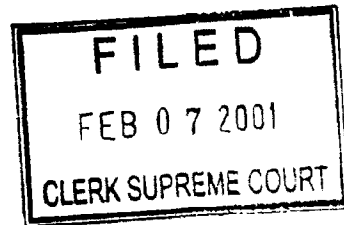
No. 0-559 / 99-1697
Filed February 7, 2001

IN THE INTEREST OF

J.M., Minor Child

R.T., Father,

Appellant.



Appeal from the Iowa Juvenile Court for Muscatine, County, James A. Weaver, District Associate Judge.

Father appeals the termination of his rights to his daughter. **AFFIRMED.**

Jeffrey M. Johnson, Muscatine, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant attorney General and Teresa E. Stoeckel, Assistant County Attorney for appellee-State.

Thomas G. Reidel of Conway & Reidel Law Office, Muscatine, guardian ad litem for the minor child.

Considered by Vogel, P.J., and Hecht, J., and Honsell, S.J.*

Senior judge assigned by order pursuant to Iowa Code Section 602.9206 (2000).

HONSELL, S.J.

R.T. and D.M. are the parents of J.M. R.T. and D.M. have not been married to each other, nor have they ever resided together. R.T. did not attempt to develop a relationship with J.M. during her first year of life nor has he made an effort to develop a relationship with J.M.'s siblings.

J.M. was born on September 5, 1990. During March of 1996, J.M. was adjudicated to be a child in need of assistance. She was placed in the care of her aunt and uncle. She has remained in their care and custody since that time.

At the time of the adjudication R.T. was incarcerated. Shortly before J.M.'s first birthday he had been sent to prison. He was paroled June 2, 1997. Upon his release from prison, R.T. was provided the opportunity to and did frequently visit with J.M. He was also accorded the opportunity to participate in family-centered services suggested by Department of Human Service personnel. He did well in the program and completed it successfully. The case plan developed by the Department of Human Services contemplated J.M.'s custody would at some time be placed with R.T. By January of 1998 J.M.'s caseworker reported that J.M. was in the process of transition to R.T.'s home. During this transition period J.M. continued to live with her aunt and uncle. In August of 1998 R.T. was arrested twice for driving while intoxicated with the second arrest including an additional charge of driving while license suspended. He was subsequently returned to prison where he remained at the time of the July 30, 1999 trial on the allegations made in the petition to terminate his parental rights. On October 6, 1999, the trial court terminated his parental rights to J.M.

I. Scope of Review. The review in termination proceedings is *de novo*. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Although they do not bind us, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. Iowa R. App. R. 14(f)(7); *In re M.M.S.*, 502 N.W.2d 4, 5 (Iowa 1993). The primary interest in termination proceedings is the best interests of the child. Iowa R. App. P. 145(f)(15); *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998). To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence. See Iowa Code § 232.116. "Clear and convincing evidence" means there are no serious or substantial doubts as to the correctness of conclusions of law drawn from the evidence. See *Raim v. Stancel*, 339 N.W.2d 621, 624 (Iowa App. 1983).

II. Best Interests of the Child. The issue to be determined on appeal is whether the termination of R.T.'s parental rights was in J.M.'s best interests.

Even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the children. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of a child, the court looks to the child's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional condition and needs of the children in deciding to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

A good prediction of the future conduct of a parent is to look at the past conduct. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998). The parent's past

performance may indicate the quality of care the parent is capable of providing in the future. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

During the nine years commencing with J.M.'s birth and concluding with the termination of parental rights trial, R.T. spent no less than seven of those years in prison. He committed the operating while intoxicated offenses at a time when he was trying to establish himself as a loving and caring parent of a child who was experiencing a difficult time with a proposed transition of her home from that of her aunt and uncle, who had provided a stable and loving environment for her, to his more recently established home. J.M.'s best interests will be best served by providing her with the opportunity to have a permanent and stable home in her life. R.T. does not seem to be capable of providing her with that permanency and stability.

We affirm the decision of the juvenile court removing J.M. from her father's care and terminating his parental rights.

AFFIRMED.