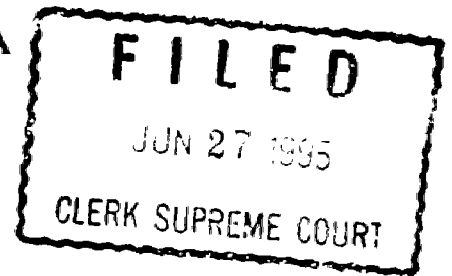


IN THE COURT OF APPEALS OF IOWA

No. 5-250 95-0168



IN THE INTEREST OF A.J. and M.J., Minor Children.

C.J., Father.

Appellant.

Appeal from the Iowa District Court for Polk County, Karla J. Fultz, Judge.

Father appeals the order terminating his parental rights pursuant to Iowa Code section 232.116(1)(c) (1993) (child previously adjudicated in need of assistance after a finding that sibling adjudicated CINA due to sexual abuse, parent offered or received services to correct circumstance and circumstance remains). **AFFIRMED.**

Todd E. Babich of Babich, McConnell & Renzo, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Charles K. Phillips, Assistant Attorney General, for appellee State.

David Adams, Des Moines, for mother.

Nicole Garbis and Susan Conn, Des Moines, guardians ad litem.

Heard by Donielson, C.J., and Sackett and Huitink, JJ.

DONIELSON, C.J.

Christopher appeals the termination of his parental rights. He claims there was not clear and convincing evidence to support the termination. We affirm.

Christopher is the father of Amanda born February 3, 1991, and Matthew born March 22, 1992. Christopher subjected his step-daughter, Julie (Amanda and Matthew's half-sister) to repeated incidents of severe sexual abuse. After the abuse was discovered a no-contact order was entered prohibiting Christopher from having contact with his children. He violated that order on at least two occasions. On March 12, 1993, Amanda and Matthew were adjudicated children in need of assistance ("CINA") pursuant to Iowa Code sections 232.2(6)(c)(2) and (6)(d).

Christopher was convicted of sexual abuse in the third degree and was imprisoned. It was only after his incarceration that he admitted committing the sexual abuse of his step-daughter. Christopher is serving a ten-year sentence. He has made slow progress in a prison sex offenders program.

A petition to terminate Christopher's parental rights to Amanda and Matthew was filed on September 19, 1994. An order terminating Christopher's rights was entered on January 3, 1995. The juvenile court found all of the elements of Iowa Code section 232.116(1)(c) were proven by clear and convincing evidence and it was in the best interests of the children to terminate Christopher's rights.

We utilize de novo review in determining if there is clear and convincing evidence to support the termination of parental rights. *In re S.A.*, 502 N.W.2d 23, 25

Iowa App. 1993). A child's rights and needs are paramount in termination proceedings. *Id.* The primary concern is the best interests of the children.

We look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

In re R.M., 431 N.W.2d 196, 199 (Iowa App. 1988) (citations omitted).

Iowa Code section 232.116(1)(c) (1995) provides for the termination of parental rights when a juvenile court finds both of the following have occurred:

- (1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.
- (2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Christopher argues there is no evidence he ever abused Amanda and Matthew and testimony regarding the risk he allegedly poses to them is unsubstantiated. He contends there was no evidence regarding a known abuser's propensity to abuse children of both sexes or to continue to abuse once the abusive conduct has been discovered. Christopher's brief suggests there was not a sufficient basis to terminate

his parental rights absent any evidence of a "generalized statistical probability" that he would abuse his own children.

It is not disputed the first element of section 232.116(1)(c) (sibling adjudicated CINA due to sexual abuse by a parent) was established. The only issue is whether the circumstances which led to the adjudication continue to exist despite the offer of services. The record reveals the CINA and criminal proceedings were contemporaneous. Sexual offender services were offered to Christopher in prison. Initially in denial about his conduct, Christopher made very slow progress in the program, and, at one point, regressed and failed to regularly participate in therapy. His motivation for participating in the program is regarded as poor, and he is believed to continue to pose a risk to children.

There was clear and convincing evidence upon which the juvenile court could conclude the circumstances which led to the abuse of the step-daughter continued to exist despite the provision of services. The termination was clearly in Amanda and Matthew's best interests, and we affirm.

AFFIRMED.