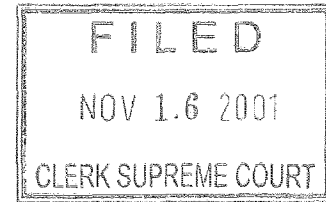


IN THE COURT OF APPEALS OF IOWA

No. 1-595 / 01-631
Filed November 16, 2001



IN THE INTEREST OF M.H.,
M.H., and C.S. II, Minor Children,

C.S., Father of C.S. II,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Patrick H. Tott,
Associate Juvenile Judge.

A father appeals from the juvenile court ruling terminating his parental
rights to his minor child. **AFFIRMED.**

William L. Binkard, South Sioux City, Nebraska, for appellant.

Thomas J. Miller, Attorney General, Tabitha Gardner, Assistant Attorney
General, and Dewey Sloan, Assistant County Attorney, for appellee-State.

James N. Daane II, of Buckmeier & Daane Lawyers, P.C., Sioux City, for
minor child.

Considered by Sackett, C.J., and Vogel and Vaitheswaran, JJ.

PER CURIAM

A father appeals the decision of the juvenile court which terminated his parental rights to his son. He claims the State did not present sufficient evidence to justify termination of his parental rights and termination is not in the child's best interests. We affirm on appeal.

Cesar and Wanda are the parents of Cesar II, born in December 1990. The parents' relationship involved incidents of domestic violence. Wanda is the mother of two other children, Maria and Melissa, who also lived in the home.

In 1999, Cesar was charged with assault against Maria and with domestic abuse assault against Wanda. Maria alleged Cesar often drank to excess and became violent with Wanda and the children. In June 1999, an order was entered prohibiting Cesar from having contact with Wanda or the children. Cesar continued to live in the home. Maria was removed from the home in July 1999. Cesar took Cesar II to Mexico for a period of time. In September 1999, after he returned, the other children were removed from the parents' care. Cesar II was placed in foster care.¹ He was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(a), (b), (c), (l) and (n) (1999).

Cesar had no communication with the Department of Human Services, and his whereabouts were unknown to the department, for quite some time. The department received reports Cesar may have been living with Wanda, but was unable to confirm this. On one occasion in March 2000, Cesar picked Maria and

¹ In July 1999, Cesar II was placed in the home of an aunt and uncle, along with his two half-sisters. They wish to adopt the children.

Melissa up from school without permission. He was arrested for operating while intoxicated in May 2000, and was placed on probation.

In June 2000, Cesar came forward and contacted the department. He attended three parenting classes, then quit participating. During a meeting with a department social worker, he stated he did not see any need to change, but he thought Wanda and the children should change. He admitted he had been living with Wanda. In September 2000, due to a physical altercation between the parents a new no-contact order was issued.

Cesar appeared at a permanency hearing in October 2000. At that time he was attending a substance abuse treatment program. He stated he was currently separated from Wanda, but had seen her that morning. Cesar was living with friends. He was in the United States on a work permit which expires in 2003. Cesar completed a batterer's education program. In November 2000, he completed a substance abuse treatment program and began aftercare. He requested visitation with Cesar II, but this request was denied by the department.

In December 2000, the State filed a petition to terminate the parental rights of Cesar and Wanda to Cesar II. The termination hearing was held in March 2001. Cesar testified he did not know whether he would get back together with Wanda. The juvenile court terminated the parents' rights under sections 232.116(1)(c), (d), (g), and (k). The court stated:

Cesar, while he has at least been involved with services, appears to lack the proper motivation as well. All of the services he has complied with have been required by his probation. He also indicated that he could not rule out a future relationship with Wanda. He does not have a stable residence and Cesar [II] remains afraid of him.

The court concluded termination of Cesar's parental rights is in Cesar II's best interests. Cesar appeals.

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

Cesar contends the State did not present sufficient evidence to warrant termination of his parental rights. He states that he has completed a substance abuse treatment program and a batterer's education program. Cesar asserts he is now ready to assume the care of Cesar II.

One of the grounds for termination of Cesar's parental rights was section 232.116(1)(c), which contains a requirement:

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstances which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Iowa Code § 232.116(1)(c)(2) (1999)..

After Cesar contacted the department in June 2000, he was offered services. Cesar attended only three parenting classes before he quit participation. He told a social worker he saw no need to change. Furthermore, Cesar's housing situation was worse at the time of the termination hearing than at the time of removal, because he no longer had a stable home, but was living with friends. To his credit, he had attended substance abuse treatment and a batterer's education program. However, the underlying circumstance which caused the children's removal, the domestic violence in the home, still remained

a threat. At the termination hearing Cesar testified he did not know if his separation from Wanda was permanent, and he did not know if they planned to get back together. Given the parents' history, and their continued conduct of putting their abusive relationship before the needs of the children, it does not appear Cesar could provide Cesar II with a safe and stable environment. Based on these factors, we find there was clear and convincing evidence to terminate Cesar's parental rights under section 232.116(1)(c).

When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996). Because we have determined Cesar's parental rights were properly terminated under section 232.116(1)(c), we need not address his claims regarding other code sections.²

Cesar claims termination of his parental rights is not in Cesar II's best interests. He states he is able to take care of his child. Cesar asserts that he has not had adequate time, nor opportunity, to prove himself in this matter.

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 child. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1984). 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,

² Cesar asserts section 232.116(1)(g) should not apply in this case, because that code section is for children three years of age or younger. Cesar II was ten years old at the time of the termination hearing. The State agrees section 232.116(1)(g) does not apply here.

mental, and emotional condition and needs of the child in deciding to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996).

We determine termination of Cesar's parental rights is in his child's best interests. Cesar did not contact the department for about ten months after the child's removal. During this time he made no effort to have the child returned to his care. Cesar made some recent efforts to comply with services, but is still not in a position to provide for his child's needs. As the juvenile court pointed out, Cesar II needs a permanent and stable home.

We affirm the decision of the juvenile court.

AFFIRMED.

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