

IN THE COURT OF APPEALS OF IOWA

No. 1998-6 (8-604) / 98-1313

Filed November 30, 1998

IN THE INTEREST OF M.D.M., JR.,
Minor Child,

M.M., SR., Father,
Appellant.

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

The father of M.D.M. appeals a district court order terminating his parental
rights. **AFFIRMED.**

Susan R. Stockdale of Roehrick, Hulting, Blumberg, Kirlin & Krull, P.C., Des
Moines, for appellant.

Thomas J. Miller, Attorney General, Diane M. Stahle, Special Assistant
Attorney General, and Cory McClure, Assistant County Attorney, for appellee State.

Michael Sorci of the Youth Law Center, Des Moines, guardian ad litem for
minor child.

Considered by Sackett, C.J., and Huitink, Streit, Vogel, and Mahan, JJ.

HUITINK, J.

Michael, Sr., the father of Michael, Jr., appeals a district court order terminating his parental rights. The father argues: (1) he was doing everything asked by DHS to address his mental illness and lack of parenting skills but was denied essential services; and (2) there was no evidence he inflicted any physical or mental abuse on the child. We affirm.

Michael and Tyanne are the parents of Michael, Jr., born in December 1992. In May 1993, Michael Jr. came to the attention of the Department of Human Services (DHS) after allegations his parents left him unsupervised in their apartment, with the exception of infrequent checks by a neighboring teenager. A DHS social worker sent to the home found it in an appalling condition. Dirty clothes, diapers, and animal feces littered the floor. Bugs were found throughout the apartment and dirty dishes were strewn about. Twenty to thirty moldy baby bottles were on the filthy kitchen countertop. A baby bottle found in Michael Jr.'s crib had mold in the nipple. Numerous other health hazards existed throughout the apartment. DHS concluded the allegations of child abuse based on denial of critical care were founded, but did not remove Michael Jr. from the home.

In January 1995, another child abuse report for denial of critical care was founded against Tyanne only, emphasizing the wretched nature of the family's living conditions. Michael Jr. was found to be suffering from severe diaper rash which resulted in sores on his body, and he also exhibited first-degree burns on his elbow

and genitals. Tyanne explained that Michael Jr. crawled into the broiler section of the stove and burned himself. Michael Jr. was also observed playing in dog food on the floor. Again, Michael Jr. was not removed from the home.

A third founded child abuse report occurred in early 1996, based on lack of supervision by Michael Sr. Michael Sr. took Michael Jr. to the hospital for drug testing after he concluded Tyanne was smoking crank in front of him. After the tests were complete, hospital officials asked if they had any transportation home. Michael Sr. said they had transportation but one day later, he and the child were still in the emergency room. Michael Sr. admitted he had no place to go, no transportation, and no shoes or socks for the child. The social worker recommended several housing options, but Michael Sr. refused them all. The State filed a CINA petition, removed Michael Jr. from his father's care, and placed him in a foster home, where he has remained.

In December 1996, Michael Sr. was sentenced to an indeterminate term of imprisonment not to exceed seven and one-half years for terrorism and assault with a dangerous weapon. He was transferred to the Fort Des Moines facility in January 1997 and was discharged in October 1997. Psychiatrists in the prison facility determined that Michael Sr. was the product of a very dysfunctional family. They noted Michael Sr.'s history of mental illness, with stays at Orchard Place, University of Iowa Hospitals, Meyer Hall, and Broadlawns psychiatric unit.

The State filed a petition to terminate the parental rights of Tyanne and Michael pursuant to Iowa Code section 232.116(1)(c)¹ and (e)² (1997). Following a hearing, the district court terminated their rights. Michael Sr. has appealed.

We review proceedings to terminate parental rights de novo. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). Our primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995). Those best interests are determined by looking at the child's long-range as well as immediate interests. We consider what the future likely holds for the child if that child is returned to his or her parents. When the district court terminates a parent's rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order

¹ c. The court finds that 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.

² e. The court finds that all of the following have occurred:

(1) The child is four years of age or older.

(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 twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996); *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa App. 1995).

Michael Sr. argues that the founded child abuse reports were grounded on Tyanne's failure to care for their child properly. He notes he is no longer with Tyanne and she is no longer capable of inflicting abuse on Michael Jr. due to her departure from Iowa. He asserts he has been undergoing continuous therapy since his incarceration and has made progress toward understanding the nature of sexual abuse and his own childhood problems. His therapists informed the court that because of the many layers of abuse and neglect suffered by Michael Sr., it would be two more years before it was possible even to begin plans for parenting education. Michael Sr. claims the State cut off virtually all his contact with Michael Jr. without allowing him a chance to prove his parenting ability. He states he understands his current inability to care for Michael Jr., but argues the State erred in completely cutting off all visitation in 1996.

It is unnecessary to take from a child's future any more than is demanded by statute. Stated otherwise, plans which extend the twelve-month period of Iowa Code section 232.116(1)(e) during which parents attempt to become adequate in parenting skills should be viewed with a sense of urgency. *In re A.C.*, 415 N.W.2d 609, 614 (Iowa App. 1987). Michael argues the court did not address whether he could have limited contact with his son, even if reunification was not currently possible. However, the language of the statute only requires clear and convincing evidence

“that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.” Iowa Code § 232.116(1)(e)(4). Michael Sr.’s therapists are unanimous in their opinion he needs continued therapy concerning his dysfunctional family background before he can begin to address his parenting problems. At the time of the termination order, Michael Jr. had been in foster care for eighteen months. Michael Sr. now asks us to force Michael Jr. to wait at least two more years for a chance at reunification. Iowa courts have long recognized the best interests of a child are often not served by requiring the child to stay in “parentless limbo.” See, e.g., *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983); *Long v. Long*, 255 N.W.2d 140, 146 (Iowa 1977). We find Michael Jr.’s well-being requires that impediments to his forming new family relationships be swept away. *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990). We affirm the termination of Michael Sr.’s parental rights under Iowa Code section 232.116(1)(e). Consequently, we need not address his arguments concerning section 232.116(1)(c).

Michael Jr. has formed a bond with his foster family. Although Iowa Code section 232.116 contains no requirement the court must find a child adoptable before terminating parental rights, Michael Jr. is adoptable. *In re T.C.*, 522 N.W.2d 106, 109 (Iowa App. 1994). His foster family would be an appropriate adoptive placement.

AFFIRMED.