IN THE COURT OF APPEALS OF IOWA

No. 0-657 / 10-1030
Filed October 6, 2010

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

S.C.J., Father,
Appellant,

A.M.J., Mother,
Appellant.

Appeal from the Iowa District Court for Johnson County, Deborah Farmer Minot, District Associate Judge.

A mother and father appeal from an order terminating their parental rights.

AFFIRMED.

Natalie H. Cronk of Law Offices of Natalie H. Cronk, Iowa City, for appellant-father.

Raymond M. Tinnian, Kalona, for appellant-mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Janet M. Lyness, County Attorney, and Emily Vos, Assistant County Attorney, for appellee.

Dai Gwilliam of Stein, Moore, Egerton & Weideman, L.L.P., Iowa City, attorney and guardian ad litem for minor children.

Considered by Vaitheswaran, P.J., and Eisenhauer and Danilson, JJ.

EISENHAUER, J.

A mother and father appeal from the termination of their parental rights to their two youngest children.[1] They contend the State failed to prove the grounds for termination by clear and convincing evidence and termination is not in the children's best interest. The father also contends the State failed to make reasonable efforts to reunify him with the children. We review these claims de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

T.J. was adjudicated in need of assistance in November 2008 pursuant to Iowa Code sections 232.2(6)(c)(2), (f), and (n) (2007) upon stipulation of the parties. M.J., born in December 2008, was adjudicated in need of assistance in April 2009 pursuant to section 232.2(6)(c)(2) (2009). The children remained in the parents' care until August 2009 when they were removed following the father's attempted suicide. No trial placements back in the parents' home were attempted. A petition to terminate was filed in February 2010 and following a May 2010 hearing, the juvenile court terminated the mother and father's parental rights pursuant to sections 232.116(1)(d) and (h) (2009).

The parents contend the juvenile court erred in terminating their rights, claiming the State failed to prove the grounds for termination by clear and convincing evidence. We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(1)(h) where there is clear and convincing evidence of the following:

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[1] The parents have two older children who are not subjects of this proceeding.

> (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.

There is no dispute the first three elements were proved. The parents contend there is not clear and convincing evidence the children cannot be returned to their care.

In its extensive and detailed order, the juvenile court made the following findings:

> Based upon all the testimony and evidence adduced at hearing, this Court finds that these parents have a lengthy and significant history of what can only be described as chronic neglect of their children. This has manifested itself in many ways: lack of supervision; failure to meet basic needs, such as nutrition, hygiene, and appropriate schedules and routines; a filthy, unhygienic, and unsafe home environment; allowing a convicted child sex offender to be around the children; allowing [the father] to care for the children despite disabling medical problems and a directive from his physician that he should not be alone with the children; the absence of setting and enforcing even minimal expectations for structure, behavior, and discipline. Further, the parents employed the highly dangerous strategy of tying the children into their rooms at night to prevent them from getting up and foraging for food, thereby risking serious harm or death to the children who were confined. In addition, the children were subjected to years of hostility between their parents, including frequent threats, shouting matches, name-calling, and degrading comments in front of the children or, even if the children were in other rooms, loud enough for neighbors and bystanders to hear. At times, this anger was directed at the children . . . , and often for inappropriate reasons. . . . After more than ten years as parents, neither parent has mastered even the rudimentary parenting skills that constitute minimally adequate parenting. For example, [the father] is still "learning" to change a diaper, and [the mother] still has to be

> reminded to check her children's Pull-Ups and take them to the bathroom.

The record supports these findings and we adopt them as our own.

There is no doubt the children would be at risk of further neglect if returned to the parents' care. Even with the extensive services provided, the parents were unable to safely parent the children, necessitating their emergency removal in August 2009. The neglect and exposure to abuse has had a detrimental effect on the children, resulting in developmental delays and aggressive behaviors. The State proved the grounds for termination by clear and convincing evidence.

Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37 (Iowa 2010). In determining the best interest, this court's primary considerations are "the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child." *Id.* We conclude termination is in the children's best interest. Despite the receipt of extensive services for a prolonged period of time, the parents have made limited progress in their abilities. Termination is necessary to ensure the children's safety and long-term growth. The children's physical, mental, and emotional needs also require termination. Neither child shares a close enough bond with the parents to make termination detrimental as set forth in section 232.116(3)(c).

The father also contends the State failed to make reasonable efforts to reunite him with the children as required by section 232.102(5)(b). Specifically,

he argues he should have received additional visitation with the children. As the juvenile court noted, no request for additional visitation was made until twelve days before the termination hearing. As such, error was not preserved on this issue. *See In re M.T.*, 613 N.W.2d 690, 692 (Iowa Ct. App. 2000) (holding a parent is not entitled to rely upon an allegation DHS failed to provide reasonable services, where he did not timely request such services).

AFFIRMED.