

**IN THE COURT OF APPEALS OF IOWA**

No. 1-232 / 11-0258  
Filed April 13, 2011

**IN THE INTEREST OF Z.V. and K.V.,  
Minor Children,**

**E.J.V., Father,**  
Appellant,

**A.V., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Scott County, Christine Dalton Ploof, District Associate Judge.

A mother and father appeal a ruling terminating their parental rights to their two children. **AFFIRMED.**

Lauren M. Phelps, Davenport, for appellant father.

Steven W. Stickle of Stickle Law Firm, P.L.C., Davenport, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Michael J. Walton, County Attorney, and Julie A. Walton, Assistant County Attorney, for appellee State.

Stephen W. Newport of Newport & Newport, P.L.C., Davenport, attorney and guardian ad litem for minor children.

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

**VAITHESWARAN, P.J.**

A mother and father appeal a ruling terminating their parental rights to their two children, born in 2004 and 2006. The mother (A) contends the record lacks clear and convincing evidence to support the grounds for termination cited by the district court and (B) joins in the legal issues raised by the father. The father contends (A) termination was not in the children's best interests and (B) the district court should have considered a long-term guardianship rather than termination of his parental rights.

***I. Mother's Appeal******A. Grounds for Termination***

We may affirm if the record contains clear and convincing evidence to support any of the grounds cited by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review, we find clear and convincing evidence to support termination under Iowa Code section 232.116(1)(f) (2009) (requiring proof of several elements including proof that children could not be returned to parent's custody).

The children were removed from their parents' care in October 2008 based on concerns that the parents were not properly supervising them and were using marijuana and cocaine. In April 2010, the children were returned to the parents' care for approximately five-and-a-half months. Just when permanent reunification seemed imminent, the parents relapsed and absconded with the children. They were later found in the State of Washington.

The children were returned to Iowa and placed in foster care. The mother admitted she and the father used marijuana and cocaine before leaving for

Washington, and both children indicated that the parents continued to use drugs in Washington. The children's statements were corroborated by the detection of cocaine in the younger child's hair.

After the children were returned to Iowa, the Department of Human Services afforded the parents thirty-seven telephone calls with them. The parents missed twenty.

Neither parent appeared at the termination hearing. The mother's attorney indicated he was unsure where she was but speculated she might still be in Washington.

A report introduced by the department summed up the department's long-term experiences with the parents as follows:

Throughout this case, the parents have received evaluations for their substance abuse and followed the recommendations while in the program; but when the program was successfully completed, they relapsed. [The parents] have not conquered their addiction and are not able [to] lead a life free of substances in an effort to ensure their children's safety.

The record supports this summation and supports the district court's conclusion that the children could not be returned to the mother's custody.

### ***B. Joinder***

The mother next joins in the best interests arguments raised by the father. We have found such a joinder impermissible. *In re D.G.*, 704 N.W.2d 454, 459–60 (Iowa Ct. App. 2005). Accordingly, we decline to address this argument.

## **II. Father's Appeal**

### **A. Best Interests**

The father essentially contends the district court did not engage in an adequate best interests analysis. See *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010); accord Iowa Code § 232.116(2). The court's ruling belies this assertion.

The district court explicitly considered the factors set forth in section 232.116(2) and in *P.L.*, stating:

Pursuant to Section 232.116(2) the Court should give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child and to the physical, mental, and emotional condition and needs of the child. The Court concludes that termination of parental rights is in the best interests of the child. The guardian ad litem recommends termination of parental rights. Neither parent is able to care for the children at this time or in the foreseeable future. The history of this case clearly demonstrates that reasonable efforts were undertaken to prevent or eliminate the need for removal of the children from the parental home, that reasonable efforts have been made to reunify the children with . . . either of their parents, and that failure to terminate parental rights would be contrary to the welfare of the children as the termination of parental rights is the only reasonable means to establish permanency for the children.

These statements are fully supported by the record. Additionally we note that, shortly before the termination hearing, the father was jailed for domestic assault in the State of Washington and, accordingly, was in no position to parent the children.

In the end, we agree with the department's statements that the father loved his children "deeply," but had "a serious drug addiction that interfere[d] with [his] long-term parenting abilities." For this reason termination of the father's parental rights was in the children's best interests.

***B. Exceptions to Termination***

The father next contends the district court failed to consider the statutory “exceptions” to termination. See Iowa Code § 232.116(3). Specifically, he suggests the children should have been placed in a long-term guardianship with a family member in lieu of terminating his parental rights.

In the termination context, guardianships with family members allow parents additional time to work towards reunification with their children. The father was given many opportunities to address his drug addiction and assume his role as a parent. He squandered those opportunities. Under these circumstances, there was no reason to hold out the false hope that he would one day reunite with the children. See *In re L.M.F.*, 490 N.W.2d 66, 67–68 (Iowa Ct. App. 1992) (concluding that permanency order placing child with the paternal grandmother was only appropriate if it could be shown that termination of the parent-child relationship would not be in the child’s best interests).

We affirm the termination of the parents’ rights to these two children.

**AFFIRMED.**