

**IN THE COURT OF APPEALS OF IOWA**

No. 2-478 / 12-0769  
Filed June 27, 2012

**IN THE INTEREST OF Y.C.F. and E.A.F.,  
Minor Children,**

**R.F.-C., Father,  
Appellant.**

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Appeal from the Iowa District Court for Pottawattamie County, Gary K. Anderson, District Associate Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Benjamin J. Pick of McGinn, McGinn, Springer & Noethe, Council Bluffs, for appellant father.

Roberta Megel, Council Bluffs, for mother.

Thomas J. Miller, Attorney General, Janet Hoffman, Assistant Attorney General, Matthew Wilber, County Attorney, and Dawn Landon, Assistant County Attorney, for appellee State.

Phil Caniglia, Council Bluffs, for minor children.

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

**DOYLE, J.**

A father appeals from the order terminating his parental rights to his twin children. He claims (1) the State failed to prove the grounds for termination by clear and convincing evidence and (2) termination was not in the children's best interests. We review these claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The mother of these children left them in the care of a friend when they were three months old. More than a year later, the friend attempted to take the children to the doctor but was unable to do so because she did not have the necessary medical authorization. The friend contacted the Iowa Department of Human Services for help. She informed the Department the mother was a drug addict and unable to care for the children.

The father is not a citizen of the United States, having illegally immigrated from Mexico some time ago. He does not speak English and cannot read or write in either Spanish or English. The father married the mother after she gave birth to the twins. They lived together in Omaha for a few months until the mother took the children to live with her friend in Council Bluffs. The father, who worked long hours during the week, would visit the mother and children on the weekends. He did not know she had left the children with her friend, believing she was living there as well. The father also did not know the mother had four older children who were not in her care because of her drug use. He was not even aware she had a drug problem.

The children were removed from their parents' care in September 2010 and placed with the mother's friend, under the supervision of the Department.

They were later placed with a foster family due to concerns about the friend's care for the children, who appeared malnourished and exhibited significant developmental delays. The children were adjudicated as children in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(a), (c)(2), and (g) (2009) in November 2010.

The father immediately began participating in the services offered by the Department, expressing a strong desire to care for the children. A Hispanic service provider, who had also immigrated to the United States from Mexico, was assigned to the case. He encouraged the father to pursue citizenship like he had. He also offered to help the father learn to read and write in Spanish and speak English, but the father was unwilling to learn and continued to communicate with his English-speaking children primarily through gestures.

The Department recommended termination of parental rights at the permanency hearing in October 2011. The juvenile court denied that request, opting to instead give the father "additional time in which to become a full-time parent to these children." The court noted the father had consistently exercised visitation with the children, who enjoyed their time with him.

The father's visits were increased after the permanency hearing. He moved from Omaha into a two-bedroom apartment in Council Bluffs. With the help of the foster family, he was able to furnish the apartment. Overnight visits began in November. Unfortunately, things did not go well.

During one of the visits, the father allowed his daughter to have too much sugar and had to take her to the emergency room because she became ill. He had been warned about the children's sensitivity to sugar on prior occasions.

The father also allowed the friend who had cared for the children when they were babies to have access to them, despite the children having previously been removed from her care. The last straw came when the father returned the children an hour and a half late after a visit.

After that, the father's visits were scaled back to Mondays through Thursdays from 5:30 to 8:30 p.m. He did not ask for the overnight visits to resume and declined to spend additional time with the children over the holidays. He also regularly returned the children early from visits, often failing to have them bathed or ready for bed.

Because of these developments, the State filed a petition for termination of parental rights in January 2012. The juvenile court entered an order terminating the parents' rights to the children under Iowa Code sections 232.116(1)(d), (h), and (i) (2011). The father appeals.

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). In this case, we choose to focus our attention on section 232.116(1)(d). Under that section, parental rights may be terminated if the court finds by clear and convincing evidence the children were previously adjudicated as CINA and if, after services have been offered to the parents, the circumstances that led to the adjudication continue to exist. Iowa Code § 232.116(1)(d).

The father argues he was not provided with reasonable services to reunite him with his children. See *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) (stating the second element of section 232.116(1)(d) implicates the reasonable effort requirement). In particular, he asserts the Department "did not make any formal

services aimed at gaining U.S. citizenship or becoming literate available to him.”<sup>1</sup>  
The record does not support this assertion.

The case manager for the Department testified the father was given contact information for organizations that could help him with his immigration status. The service provider also called several immigration attorneys for the father. He scheduled an appointment with one, which the father did not attend. And as previously noted, the provider offered to teach the father how to read and write in Spanish and speak English. The father was not receptive. The provider stated he “either just didn’t answer or he basically said he didn’t do it before so he didn’t see a need to do that.”

It is clear from the foregoing that the problem here was not with the services provided, but with the father’s response to those services. See *id.* at 495. And contrary to the father’s assertions otherwise, his lack of citizenship, his illiteracy, and his inability to speak English were not motivating factors in the Department’s termination recommendation, though those factors certainly complicated the case. The Department was instead more concerned with the father’s poor parenting skills.

The case manager testified that

even without the benefit of the English language, the Hispanic language is widely used in our support systems, in the schools. I have seen [the father] . . . not utilize even his native tongue to reach out and to seek information regarding the children. He does not appear to be proactive in getting information and in seeking

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<sup>1</sup> Though the father did not request any such services be provided to him, we will nevertheless assume for the sake of argument that he has preserved error on this issue. See *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999) (stating where a parent alleging inadequate services fails to demand services other than those provided, the issue of whether services were adequate is not preserved for appellate review).

information regarding the children. . . . He relies heavily upon the foster parents and our department and our . . . provider to give him information, and even when given information lacks the motivation to act on it independently.

The service provider similarly testified the father “is a little slow in following through. . . . [H]e waits until the last minute.” The provider did not feel the children could be safely returned to the father’s care because, despite repeated instruction, the father lacked “a basic understanding of what it takes to raise the little kids.”

To his credit, the father had stable employment and housing throughout most of the case. He also consistently exercised his visitation with the children. However, the father relied heavily on others for help in parenting the children, some of whom were not appropriate care providers. The case manager testified the father “believes that his role as a father is to provide for the children through working full time and maintaining a level of contact with him.”

While it is clear the father loves his children very much, even he recognizes that “he has room for improvement with respect to his ability to parent two young children.” The father nevertheless urges that “if given more time to complete additional services . . . he can be the children’s primary custodian.” Children, however, are not equipped with pause buttons and simply cannot wait for responsible parenting. See *In re C.H.*, 652 N.W.2d 144, 151 (Iowa 2002). We cannot deprive children of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child. See *P.L.*, 778 N.W.2d at 41.

The children are in a preadoptive foster home. Their maternal aunt, who lives in Florida but has been involved in the case since it began, also wants to adopt the children and has taken the steps necessary to do so. Termination will provide these children with the safety, security, and permanency they deserve. *See id.*; *see also* Iowa Code § 232.116(2) (requiring us to “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 father’s bond with the children does not outweigh their need for permanency. *See* Iowa Code § 232.116(3)(c) (stating the court need not terminate where there is clear and convincing evidence the termination would be detrimental to the child due to the closeness of the parent-child relationship); *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997), *overruled on other grounds by P.L.*, 778 N.W.2d at 39 (interpreting the exceptions in section 232.116(3) as permissive, rather than mandatory). There was no evidence termination of the father’s parental rights would be detrimental to these two young children, who have never been in his full-time care.

The judgment of the juvenile court is affirmed.

**AFFIRMED.**