

IN THE COURT OF APPEALS OF IOWA

No. 6-174 / 05-1900

Filed April 26, 2006

**IN THE INTEREST OF S.J. and Z.J.,
Minor Children,**

**R.J., JR., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Carol L. Coppola,
District Associate Judge.

A father appeals from the order terminating his parental rights to two
children. **AFFIRMED.**

John C. Heinicke of Kragnes, Tingle & Koenig, P.C., Des Moines, for
appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Cory McClure,
Assistant County Attorney, for appellee-State.

Kimberly Ayotte, Youth Law Center, Des Moines, guardian ad litem for
minor children.

Considered by Zimmer, P.J., and Miller and Hecht, JJ.

HECHT, J.

Ralph is the father of Zachary and Stacy, who were born in 1996 and 1997.¹ The children first came to the attention of the Iowa Department of Human Services (DHS) in 2001, when they were adjudicated to be children in need of assistance (CINA) due to physical abuse. After that case was closed, the children again came to the court's attention when it was alleged their mother and her husband were not providing them with proper supervision or medical care. They were again adjudicated CINA under Iowa Code section 232.2(6)(c)(2) (2003) in September of 2003. In March of 2004, Zachary and Stacy were removed from their mother's care and placed in foster care, where they have remained since that time. On July 6, 2005, the State filed a petition seeking to terminate Ralph's parental rights. Following a hearing, the court terminated his parental rights under section 232.116(1)(d) and (f) (2005). Ralph appeals.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

Ralph first maintains there is insufficient evidence in the record to terminate his parental rights. Upon our careful de novo review of the record, we conclude the court properly terminated Ralph's rights under section

¹ Their mother, Ricki, consented to the termination of her parental rights and her interests are not at issue in this appeal.

232.116(1)(f), which requires proof that the “the child[ren] cannot be returned to the custody of the child[ren]’s parents as provided in section 232.102.”² During Zachary’s and Stacy’s crucial early years, Ralph spent little time with them. By the time of the termination hearing in September of 2005, Ralph had exercised only two visitations with them since June. During his absence from the children, he also had no contact with DHS. He later claimed his absence was necessitated by his mother’s illness. These are not the actions of a parent who is serious about reuniting with his children.

Furthermore, we are persuaded that Ralph has an untreated serious anger management problem. Caseworker Julie Clark testified to her concern with Ralph’s “frustration levels,” reporting that Ralph had threatened various in-home service providers as well as the children’s mother and her husband. Despite the clear concerns of DHS in this area, and despite the aid of therapists, Ralph continued to deny that he had any sort of anger problem. Consequently, it did not appear that Ralph had made the progress in addressing anger concerns required by the DHS prior to considering reunification.

At the time of the termination hearing, Zachary and Stacy had been in foster care for approximately eighteen months. Even at that time, Ralph was not asking for immediate custody of the children, rather he wished the court to allow him additional time to address his issues so he could eventually reunify with them. We believe this case must be viewed with a sense of urgency, *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997), and that these children can wait no longer for

² While paragraph (f) requires proof of three additional elements, Ralph concedes the State met its burden with respect to them.

Ralph to prove he can provide responsible parenting. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

Ralph further contends termination is not in the best interests of the children. We disagree. We recognize that even if statutory requirements for termination are met, the decision to terminate must still be in the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). Both Stacy and Zachary have special needs and require a great deal of care and structure in their lives. Ralph has not demonstrated he understands the children's needs and has not exhibited a level of patience that would warrant placing the children in his care. For these reasons, as well as those articulated above, we conclude termination of Ralph's parental rights is in the best interests of the children.

Finally, Ralph maintains "the juvenile court erred in precluding evidence of relative placement" and thus erred in refusing to defer its decision to terminate his parental rights. Iowa Code section 232.116(3)(a) provides that the court need not terminate if a relative has legal custody of the children. Here, the court merely precluded Ralph's father from testifying about whether he wished to be considered for the placement of the children. Ralph's father did not have legal custody of the children; thus the court's refusal to invoke section 232.116(3)(a) was not improper.

AFFIRMED.