

IN THE COURT OF APPEALS OF IOWA

No. 6-259 / 06-0126
Filed May 10, 2006

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

K.J., Father,
Appellant.

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

A father appeals a juvenile court order terminating his parental rights.

AFFIRMED.

Stephie N. Tran, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John Sarcone, County Attorney, and Jess Vilsack, Assistant
County Attorney, for appellee State.

Bryan Tingle of Kragnes, Tingle & Koenig, P.C. Des Moines, for mother.

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

Considered en banc.

PER CURIAM

Kennith and Angelina are the parents of Taylor, born in November 2002, and Joshua, born in February 2005. Both parents have a history of substance abuse. The children were removed from the parents' care in April 2005 due to reports that Kennith was involved in drug dealing. Also, the condition of the home was unsafe, with hazardous items present within the reach of the children. The children were placed in foster care.

The children were adjudicated to be in need of assistance (CINA) under Iowa Code sections 232.2(6)(b) (2005) (parent is imminently likely to neglect child), (c)(2) (child is likely to suffer harm due to parent's failure to supervise), and (n) (parent's drug abuse results in child not receiving adequate care). The parents were ordered to provide drug tests and participate in in-home services.

Kennith had a substance abuse evaluation, which recommended relapse prevention classes. In June 2005, Kennith was charged with domestic abuse assault against Angelina. Kennith had no further participation in services after his arrest on those charges. Kennith was subsequently charged with possession of a controlled substance with intent to deliver. In October 2005, Kennith was sentenced to a term of imprisonment not to exceed ten years on the drug charge.

The State filed a petition seeking termination of the parents' rights in November 2005. The juvenile court terminated Kennith's rights pursuant to sections 232.116(1)(d) (child CINA for neglect, circumstances continue despite the receipt of services) and (h) (child is three or younger, CINA removed for at least six months, and cannot be safely returned home). The juvenile court also

terminated the mother's parental rights.¹ The court noted, "Regrettably neither of these parents is available to resume care and custody of these children." Kenneth appeals the termination of his parental rights.

II. Standard of Review

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interest of the children. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

III. Sufficiency of the Evidence

Kenneth contends there is insufficient evidence in the record to support termination of his parental rights. On our de novo review of the record, we find clear and convincing evidence in the record to support the termination of Kenneth's parental rights. Kenneth is in prison on drug charges and it is clear the children cannot be returned to him at the present time. Additionally, Kenneth had just started treatment for substance abuse before he was arrested. He had not addressed the issue of domestic abuse. The children could not have been safely returned to Kenneth's care at the time of the termination hearing. We find Kenneth's parental rights were properly terminated under section 232.116(1)(h). For this reason we do not need to address the other ground cited by the juvenile court. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

¹ Angelina's parental rights were terminated under sections 232.116(1)(d), (e), and (h). She has not appealed.

IV. Best Interests

Kennith claims termination of his parental rights is not in the children's best interests. It is unknown when Kennith will be released from prison. Even when released, he has many issues to work on before he could adequately care for the children. The children need stability and they should not be required to wait longer for Kennith to be able to parent them. See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) (“[P]atience with parents can soon translate into intolerable hardship for their children.”). We conclude termination was in the children's best interests.

We affirm the decision of the juvenile court.

AFFIRMED.