

**IN THE COURT OF APPEALS OF IOWA**

No. 6-401 / 06-0561

Filed June 28, 2006

**IN THE INTEREST OF K.K., R.K. III, and K.K.,  
Minor Children,**

**C.L.K., Mother,**  
Appellant,

**R.K., Father,**  
Appellant.

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Appeal from the Iowa District Court for Linn County, David M. Remley,  
Judge.

Parents appeal a juvenile court order terminating their parental rights.

**AFFIRMED.**

Cynthia S. Finley, Assistant Public Defender, Cedar Rapids, for appellant  
mother.

Robert W. Davison, Cedar Rapids, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Harold L. Denton, County Attorney, and Troy M. Powell,  
Assistant County Attorney, for appellee State.

David Nadler, Fitchburg, Wisconsin, guardian ad litem for minor children.

Considered by Mahan, P.J., and Hecht and Eisenhauer, JJ.

**PER CURIAM*****I. Background Facts & Proceedings***

Ralph and Cindy are the parents of Kaylee, born in January 1993, Katie, born in February 1997, and Ralph III, born in July 2002. Both parents have a history of substance abuse. The children were in the care of Cindy in December 2003, when a hair test showed the children had been exposed to illegal drugs. Cindy voluntarily placed the children with Ralph.

The children were adjudicated to be in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(c)(2) (2003) (child is likely to suffer harm due to parent's failure to supervise), (g) (parent fails to provide adequate food, clothing, and shelter), (n) (parent's drug abuse results in child not receiving adequate care), and (o) (illegal drug present in child). Ralph had a positive drug test, and in the dispositional order, dated May 7, 2004, the juvenile court determined the children should be removed from Ralph's care and placed with relatives.

In October 2004, Ralph III was removed from the care of his adult sister and placed in foster care due to her inability to provide adequate supervision. Kaylee and Katie had been in the care of a maternal uncle, but he stated he could no longer care for them. In November 2004, Kaylee and Katie were placed in foster care with Ralph III.

Cindy did not cooperate with services. She had a substance abuse evaluation, but did not follow through with treatment. Cindy was arrested for assault based on a domestic abuse incident involving her boyfriend, Matt. She

was arrested five times for public intoxication from May to October 2004. Additionally, she was charged with burglary and fifth-degree theft. Eventually, Cindy was sent to prison for probation violations. She had very few visits with the children.

Ralph was somewhat inconsistent in his participation in services. He participated in parenting skill development sessions. Ralph struggled to provide adequate housing for the children. He did not always provide drug tests as requested. In June and July 2005 he had drug tests that were positive for cocaine. Ralph attended a substance abuse treatment program, but he tested positive for marijuana and cocaine after attending the program.

In September 2005, the permanency goal for Kaylee was changed to another planned permanent living arrangement (APPLA). In November 2005, the State filed petitions seeking to terminate the parents' rights to Katie and Ralph III. Later, the recommendation for Kaylee changed, and in January 2006, the State filed a petition seeking the termination of the parents' rights to Kaylee. The petitions were heard together in March 2006.

The juvenile court terminated Cindy's parental rights under sections 232.116(1)(e) (2005) (child CINA, removed for six months, parent has not maintained significant and meaningful contact), (f) (child four or older, CINA, removed at least twelve months, child cannot safely be returned home) (Kaylee and Katie), and (h) (child is three or younger, CINA, removed at least six months, and child cannot safely be returned home) (Ralph III). The court terminated Ralph's parental rights under sections (e), (f), (h), and (l) (child CINA, parent has

substance abuse problem, child cannot be returned within a reasonable time). The juvenile court noted, “Cindy has had legal difficulties throughout the case and Ralph has made little progress with his substance abuse problem and efforts to remain substance free.” Cindy and Ralph each appeal the termination of their 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 consideration is the best interests of the children. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

## **III. Cindy**

**A. Sufficiency of the Evidence.** Cindy contends the State did not present sufficient evidence to support termination of her parental rights.<sup>1</sup> We find clear and convincing evidence in the record to show that Cindy failed to maintain significant and meaningful contact with her children. During the juvenile court proceedings, Cindy had only very few visits with the children, and often the Department of Human Services was not aware of her whereabouts. We determine Cindy’s parental rights were properly terminated under section 232.116(1)(e).

In addition, the children could not be safely returned to Cindy’s care. Cindy had not addressed her substance abuse problems. She also had

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<sup>1</sup> Cindy includes a discussion of section 232.116(1)(l). However, her parental rights were not terminated on this ground.

continuing criminal problems. Cindy did not participate in services. We conclude her parental rights were properly terminated under sections 232.116(1)(f) and (h).

**B. Reasonable Efforts.** Cindy asserts the State did not engage in reasonable efforts to reunite her with her children. On appeal, she does not state what different or additional services should have been offered to her. She did not raise the issue of reasonable efforts prior to the termination hearing. We conclude this issue has not been preserved for our review. *See In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997) (noting it is a parent's responsibility to demand services if they are not offered prior to the termination hearing).

**C. Additional Time.** Cindy claims the juvenile court should have given her an additional six months to pursue reunification with her children. Cindy had not made any effort to resume reunification with her children since the time they were removed. We conclude the juvenile court did not err in refusing to give her any additional time.

**D. Best Interests.** Cindy contends termination of her parental rights is not in the children's best interests. Throughout the juvenile court case Cindy did not show any inclination to put the children's needs before her own. We conclude termination of Cindy's parental rights is in the children's best interests.

#### **IV. Ralph**

**A. Sufficiency of the Evidence.** Ralph claims the State did not present sufficient evidence that his parental rights should be terminated. On our de novo review, we find clear and convincing evidence that Ralph's parental rights should be terminated. The evidence shows Ralph has not addressed his

substance abuse problems. Even after Ralph attended a substance abuse treatment program he had drug tests that were positive for marijuana and cocaine. We conclude Ralph's parental rights were properly terminated under sections 232.116(1)(f) and (h). Because we have affirmed the termination on this ground, we do not need to address the other grounds cited by the juvenile court. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

**B. Reasonable Efforts.** Ralph asserts the State did not engage in reasonable efforts to reunite him with his children. Again, we find this issue has not been preserved for our review because it was not raised before the juvenile court. See *H.L.B.R.*, 567 N.W.2d at 679.

**C. Additional Time.** Ralph contends the juvenile court should have given him six additional months to pursue reunification with his children. We find Ralph had ample time to work on the issues which led to the removal of the children. We conclude Ralph is not entitled to additional time to work on reunification issues.

**D. Best Interests.** Ralph claims termination of his parental rights is not in the children's best interests. Ralph points out that in September 2005, the State was recommending an APPLA for Kaylee. He believes there was insufficient reason for the State's change of position, and that his parental rights to Kaylee should not have been terminated.

The juvenile court specifically addressed this issue. The APPLA had originally been recommended because the foster mother had agreed to an open-door policy between Kaylee, her parents, and her adult siblings. Also, Kaylee

was then thirteen years old. Further investigation revealed, however, that there had been very little contact between the older siblings and Kaylee, or the parents and Kaylee. Thus, the reason for the APPLA was negated, and the State decided to proceed with termination of the parents' rights. Based on the juvenile court's findings, we conclude termination of the parents' rights was in Kaylee's best interests. We also find it is in the best interests of Katie and Ralph III to terminate Ralph's parental rights.

We affirm the decision of the juvenile court.

**AFFIRMED.**