

**IN THE COURT OF APPEALS OF IOWA**

No. 6-405 / 06-0564

Filed June 14, 2006

**IN THE INTEREST OF J.C., JR., J.C., III, and M.C., JR.,  
Minor Children,**

**M.C., SR., Mother,**  
Appellant,

**J.C., SR., FATHER,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Constance Cohen,  
Associate Juvenile Judge.

A mother and father appeal the termination of their parental rights to their  
children. **AFFIRMED.**

Todd E. Babich of Babich, Goldman, Cashatt & Renzo, P.C., Des Moines,  
for appellant-mother.

Alexandra M. Nelissen of Nelissen Law Office, P.C., Des Moines, for  
appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
County Attorney, John P. Sarcone, County Attorney, and Stephanie Brown,  
Assistant County Attorney, for appellee.

Kim Ayotte and Mike Sorci, Youth Law Center, Des Moines, guardians ad  
litem for minor children.

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

**EISENHAUER, J.**

A mother and father appeal the termination of their parental rights to their children. They contend the State failed to prove the grounds for termination by clear and convincing evidence and failed to make reasonable efforts to reunify them with their children. The father additionally contends termination is not in the best interests of the children. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

To quote Justice David Harris:

As is frequent in termination cases, the record here makes depressing and touching reading. The question is often a painful one: whether the best interests of the child demand a result that will be heartbreaking for parents who are clearly unable to fill the parenting role. Or, to put the question in its converse, can the natural temptation to treat tragic parents with exhaustive patience overcome the result demanded in order to secure a chance in life for the child?

*In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

These children have been waiting for their drug-addicted parents to be their parents for years. They have been out of their parent's care since November 2003. Parental rights were terminated pursuant to Iowa Code sections 232.116(d), (f), and (l) (2005). 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). Termination is appropriate under section 232.116(1)(f) where:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

The first three elements of this section have been indisputably proven. We turn our attention to whether the children can be returned to their parents' custody at the present time.

We conclude termination was proper under section 232.116(1)(f) as to the mother. She has a history of substance abuse going back to the 1990s. She had tested positive for drug use as late as January 2006, after the termination hearing had begun. Her drug use makes it likely that the children would suffer harm if returned to her, and there is no doubt the children could not be returned to her care.

Termination is also appropriate under this section as to the father. Although the father had maintained sobriety for the six months leading up to termination, this sobriety did not begin until the termination petition was filed. He has a history of methamphetamine abuse and has sought treatment on four occasions, twice completing treatment. After completing treatment in 2001, the father maintained sobriety for eighteen months before relapsing. It is notable that relapse occurred shortly after the dismissal of a previous juvenile court proceeding involving his children. Six months sobriety is not significant given the father's extensive use and his substance abuse history. The future can be gleaned by a parent's past performance. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). The children need permanency now and cannot be returned to their father's care.

The parents also contend the State failed to make reasonable efforts to reunite them with their children. Iowa Code section 232.102(7) requires the Department of Human Services (DHS) to make reasonable efforts to return a child to their parent. Services are to be offered to improve parenting skills. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). The reasonable efforts requirement is not a strict substantive requirement for termination. *Id.* Instead, the services provided by the DHS to reunify parent and child after removal impacts the State's burden of proving the child cannot be safely returned to the care of a parent. *Id.* We conclude any failure by the State to provide reasonable services as alleged by the parents did not impact its burden of proving the children cannot be safely returned to their parents.

Finally, the father contends termination is not in the children's best interest. We disagree. The children are doing well as reported by the therapist with Children and Families of Iowa. She has been working with the children since March 2004, and the trial court gave her testimony "substantial weight." We note the following finding by the trial court and adopt it as our own:

The children have suffered terrible harms emotionally while waiting for their parents to resume care of them. Their resiliency, in combination with the structure and consistency of a loving, preadoptive foster home, have sustained them to date. But, as [the Children and Families of Iowa counselor] testified, requiring the children to place their lives on hold because of a slight chance that their parents really will conquer their demons this time will result in further harm. They have already been waiting too long for an answer. Termination of parental rights is in the children's best interest and would be less detrimental than the harm that would be caused to them by continuing the parent/child relationships. There are no compelling reasons to maintain the parent/child relationships. It is time to put an end to the false hopes and disappointments that they have endured over the past several years and give them a forever home they need and deserve.

While the law requires a “full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” this patience has been built into the statutory scheme of chapter 232. *Id.* at 494. Children should not be forced to endlessly await the maturity of a natural parent. *Id.* At some point, the rights and needs of the child rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The children simply cannot wait for responsible parenting. *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997).

For the foregoing reasons, we affirm the termination of the mother and father’s parental rights.

**AFFIRMED.**