

**IN THE COURT OF APPEALS OF IOWA**

No. 6-589 / 06-0675

Filed August 9, 2006

**IN THE INTEREST OF R.C., V.C., C.W., and N.H.,  
Minor Children,**

**J.H., Mother,**  
Appellant,

**R.C., Father of R.C. and V.C.,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Karla J. Fultz,  
Associate Juvenile Judge.

A mother appeals from a juvenile court order terminating her parental  
rights to four children. **AFFIRMED.**

Aaron H. Ginkens of Ginkins Law Firm, P.L.C., West Des Moines, for  
appellant mother.

Christine Bisignano, West Des Moines, for appellant father of R.C. and  
V.C.

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

Thomas P. Graves of Jackowski & Graves, Clive, guardian ad litem for  
minor children.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

**MILLER, J.**

Judy is the mother of Ronald, Vernon, Christopher, and Nathaniel (the children), who were, at the close of the record in a termination of parental rights hearing, fifteen, thirteen, ten, and six years of age respectively. Ronald [Sr.] is the father of Ronald and Vernon, Christopher's father is unknown. John is the father of Nathaniel. Judy appeals from an April 2006 juvenile court order terminating her parental rights to the children. The order also terminated the parental rights of Ronald [Sr.], any unknown putative father of Christopher, and John. Ronald [Sr.] also appealed, but his appeal has been dismissed for failure to file a petition on appeal. Neither Christopher's unknown putative father nor John has appealed. We affirm.

We review termination proceedings *de novo*. Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence.

*In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

Judy raises two issues on appeal. We address them in reverse order.

Judy claims termination of her parental rights was improper because of the closeness of the parent-child relationship, citing Iowa Code section 232.116(3)(c) (2005). However, no such issue was presented to or passed upon by the juvenile court, and Judy did not raise the issue by a post-ruling motion in the juvenile court. We conclude error has not been preserved on this issue and do not further address it. See *In re C.D.*, 508 N.W.2d 97, 100 (Iowa Ct. App. 1993) (holding a matter not raised in the trial court cannot be asserted for the first

time on appeal); see also *In re A.M.H.*, 516 N.W.2d 867, 872 (Iowa 1994) (holding a motion pursuant to Iowa Rule of Civil Procedure 1.904(2) is essential to preservation of error when a trial court does not resolve an issue).

Judy also claims termination of her parental rights is not in the children's best interest. Even if statutory requirements for termination are met, the decision to terminate must still be in the best interest of a child. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994).

Judy has a substantial history of abuse and neglect of the children, as well as of older siblings of the children. The children were the subject of a past child in need of assistance (CINA) proceeding that was closed in March 2002.

The children were removed from Judy's physical custody in October 2002 when she was involuntarily committed to a hospital for serious mental health problems. They were adjudicated CINA in December 2002. The children thereafter remained in the legal custody of the Iowa Department of Human Services (DHS) and foster care placement until returned to Judy's physical custody in April 2004. In September 2004 the children were again removed from Judy's physical custody and placed in foster care after Judy had voluntarily returned them to the foster parents with whom they had earlier been placed.

Judy received services in the CINA proceeding that ended in March 2002. She has received lengthy and extensive services during the three and one-half years of the current CINA and termination cases. Judy has been unable or unwilling to utilize and benefit from those services. She is unwilling to hold the children accountable for their actions, discipline them when needed or restrain

their sometimes out-of-control behavior. Judy is unable or unwilling to recognize that there is anything wrong with her parenting and its serious deficiencies.

Judy has had a lengthy period of time to make changes and become able to effectively parent the children. She has not done so. The children have been out of her physical custody since October 2002, with the exception of the five-month period of April 2004 to September 2004. They are all thriving in their current, pre-adoptive foster homes. The family's in-home worker, DHS staff, and the children's guardian ad litem all recommend termination of Judy's parental rights.

The children have suffered through a somewhat tumultuous three and one-half year journey of removal, return, and another removal. They cannot be returned to Judy's care without being subject to the danger of adjudicatory harm, because of Judy's inability or unwillingness to make necessary changes in her passive and ineffective parenting. Termination of parental rights is necessary to give the children the opportunity for the stability, security, and permanency they now desperately need and deserve. We fully agree with the juvenile court that termination of Judy's parental rights is in the children's best interest.

**AFFIRMED.**