

**IN THE COURT OF APPEALS OF IOWA**

No. 6-655 / 06-1095  
Filed September 7, 2006

**IN THE INTEREST OF K.K. AND K.K., JR.,  
Minor Children,**

**K.B.K., SR., Father,  
Appellant.**

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Appeal from the Iowa District Court for Des Moines County, Mark Kruse,  
District Associate Judge.

The father appeals the district court's termination of his parental rights to  
his two children. **AFFIRMED.**

Shane M. Wiley of Hirsch, Adams, Putnam, Cahill, Rashid & Wiley, P.L.C.,  
Burlington, for appellant father.

Andrew Hoth, Burlington, for appellee mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Patrick C. Jackson, County Attorney, and Pamela Dettmann,  
Assistant County Attorney for appellee State.

Marlis Robberts of Robberts Law Office, Burlington, for minor child.

Considered by Sackett, C.J., and Vaitheswaran, J., and Robinson, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2005).

**VAITHESWARAN, J.**

Kenzie appeals the termination of his parental rights to Kylee, born in 2003, and Kenzie Jr., born in 2004. He contends the record lacks clear and convincing evidence to establish that the children could not be returned to his custody. See Iowa Code § 232.116(1)(h) (2005). On our de novo review, we disagree.

Kenzie has a history of mental illness, including several suicide attempts. While mental illness is not alone grounds for termination of parental rights, here there is more. See *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989). Specifically, there is evidence that Kenzie refused to treat his illness and, as a result, jeopardized the welfare of his children.

In October 2004, the children's mother had the children removed from Kenzie's home due to his "erratic behavior." She testified, "we would argue; he would throw things, break things. When we had the children, he would totally ignore the children." She testified Kenzie was not able to supervise them properly.

Kenzie was involuntarily committed to a psychiatric unit. He testified to a diagnosis of depression and borderline bipolar disorder. On his release, Kenzie's behaviors again became erratic. A Department of Human Services caseworker expressed concern that the children would be hurt in his care. She also expressed uncertainty as to whether Kenzie was taking prescribed medications.

Kenzie did not take these medications until shortly before the termination hearing. When asked why, he answered "because I don't feel I need it." Although he attended ten therapy sessions in a six month period, his erratic

behavior continued. For example, just one month before the termination hearing he threatened and became confrontational with a service provider. The service provider was forced to cancel a scheduled visit with the children. All visits up to that point had been supervised.

A social worker with the Department opined that she did not believe the children could be returned to Kenzie's care because "his behaviors are volatile." She continued, "I think that he has proven over and over again that he is not able to fully manage his mental health on a consistent basis."

Based on this evidence, we affirm the district court's termination of Kenzie's parental rights to Kylee and Kenzie Jr.<sup>1</sup>

**AFFIRMED.**

Robinson, S.J., concurs; Sackett, C.J. concurs specially without opinion.

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<sup>1</sup> The State also relies on evidence that Kenzie used marijuana. However, the Department acknowledged it had no evidence to establish he used marijuana within six months of the termination hearing.