

**IN THE COURT OF APPEALS OF IOWA**

No. 6-725 / 06-1170  
Filed September 21, 2006

**IN THE INTEREST OF J.W. Jr., and B.K.,  
Minor Children,**

**R.M., Mother,**  
Appellant,

**C.K., Father of B.K.,**  
Appellant.

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Appeal from the Iowa District Court for Woodbury County, Mary Timko,  
Associate Juvenile Judge.

Regina appeals from the termination of her parental rights to her two  
children, and Chad, the father of one of the children, appeals the termination of  
his parental rights to his daughter. **AFFIRMED.**

Irene Schrunk, Sioux City, for appellant mother.

Patrick Tott, Sioux City, for appellant father of B.K.

Joseph Flannery, LeMars, for father of J.W. Jr.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, and Dewey Sloan, Assistant County Attorney, for appellee  
State.

Marchelle Denker of the Juvenile Law Center, Sioux City, for minor  
children.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

**ZIMMER, J.**

Regina appeals from the termination of her parental rights to her two children, and Chad, the father of one of the children, appeals the termination of his parental rights to his daughter. Upon our de novo review, we affirm.

***I. Background Facts & Proceedings***

Regina is the mother of Breana, born in February 1996, and Joseph Jr., born in March 2000. Chad is the father of Breana, and Joseph, Sr. is the father of Joseph Jr.<sup>1</sup> The Iowa Department of Human Services (DHS) has been involved with Regina and the children since December 2003. Breana was adjudicated a child in need of assistance (CINA) on February 6, 2004, and Joseph Jr. was adjudicated CINA on November 29, 2004, due to Regina's neglect and drug abuse.

The juvenile court ordered custody of the children to remain with Regina as long as she entered the House of Mercy or the Women and Children's Center. On January 18, 2005, Regina entered the House of Mercy with both children. However, the children were placed in family foster care on October 31, 2005, after Regina left the House of Mercy against medical advice following allegations of physical abuse toward one of the children and noncompliance with treatment.

On January 20, 2005, the State filed a petition to terminate Regina's, Chad's, and Joseph Sr.'s parental rights, and following a hearing, their parental rights were terminated by the juvenile court in an order filed July 6, 2006. Regina and Chad have appealed.

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<sup>1</sup> Joseph Sr. has not appealed from the juvenile court's termination order. His parental rights are not at issue in this appeal.

## **II. Scope & Standards of Review**

We review termination proceedings de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Clear and convincing evidence must support the grounds for termination. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the best interests of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

## **III. Regina**

On appeal, Regina asserts: (1) the juvenile court erred in finding clear and convincing evidence supports the termination of her parental rights, (2) the court erred in failing to grant her an additional six months to assume care, (3) Iowa Code section 232.116(1)(d)(2) is void for vagueness and violates equal protection and due process as applied, and (4) termination is not in the best interests of the children.

The juvenile court terminated Regina's parental rights pursuant to Iowa Code sections 232.116(1)(d) and (l) (2005) (child CINA for physical abuse, sexual abuse, or neglect, and circumstances continue despite receipt of services; child CINA, parent has substance abuse problem, and child cannot be returned within a reasonable time). Regina disputes the finding that clear and convincing evidence supports the termination of her parental rights. We conclude the record does not support the mother's argument.

Regina was discharged from the House of Mercy because of noncompliance. She also entered into and quit another in-patient treatment program during the pendency of the court proceedings. Regina did not show up for a removal hearing or to get tested for drugs after Breana alleged on

November 3, 2005, that her mother was using drugs again. Breana told a child protection worker that her mother “is living with my grandmother and my grandmother is the one who gives her drugs.”

The juvenile court found Regina struggled with drug use for ten years, and since she left House of Mercy, she did not provide any verification of drug testing or treatment. The court concluded it had been assisting Regina for the past two and one-half years in maintaining sobriety and parenting, and Regina admitted she was not ready to parent her children without continued assistance. Furthermore, she had no stable housing or stable employment, and the court found “her commitment to sobriety and parenting continue to be in question.” We agree with the juvenile court’s finding that clear and convincing evidence supports the termination of Regina’s parental rights.

Regina next contends the juvenile court should have granted her an additional six months to assume care of the children. As we discussed above, the juvenile court found it had been assisting Regina for the past two and one-half years in maintaining sobriety and parenting. Regina had the children returned to her custody once, yet they were removed again when she left House of Mercy without completing the program. We find it would not be reasonable to grant Regina additional time when she already had nearly two and one-half years of services and failed to complete drug treatment. Joseph and Briana should not have to wait any longer for Regina to become a responsible parent. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). We agree with the juvenile court’s decision to deny Regina an additional six months to attempt reunification.

Regina also claims Iowa Code section 232.116(1)(d)(2) is void for vagueness and violates equal protection and due process as applied. Regina does not cite to any portion of the record where she raised this issue prior to appeal. Furthermore, she cites no authority and makes no argument in support of this contention. Failure in a brief to state, argue, or cite authority in support of an issue may be deemed waiver of that issue. Iowa R. App. P. 6.14(1)(c); *In re W.R.C.*, 489 N.W.2d 40, 41 (Iowa Ct. App. 1992). We find Regina waived this claim.

#### **IV. Chad**

Chad raises a single issue on appeal. He claims the State failed to provide sufficient evidence that reasonable reunification services were provided by DHS. Chad contends DHS's failure to provide visitation with Breana once he requested visitation constituted a denial of reasonable services. He does not allege he requested any other services that were denied.

The juvenile court terminated Chad's parental rights pursuant to Iowa Code sections 232.116(1)(d), (e) and (f) (child CINA for physical abuse, sexual abuse, or neglect, and circumstances continue despite receipt of services; child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child; child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home).

The juvenile court found Chad requested visitation with Breana in August 2004 following his release from incarceration. DHS told him at that time what he needed to accomplish in order to initiate visitation, but he failed to follow through. Chad told the court he failed to maintain contact with DHS because he was "too

busy.” He did not request visitation again until December 12, 2005, approximately one month before the State filed its petition to terminate his parental rights.

Chad had a kinship care home study completed July 26, 2005, and the social worker was concerned with his ability to maintain sobriety “given his past history of chronic drug usage beginning at the age of five.” Chad reported to the social worker that he is a drug addict and made several unsuccessful attempts to complete drug treatment. He reported he has been sober since October 2003, but he failed to participate in the aftercare program for the latest drug treatment program he attended. The social worker also noted he had poor job stability, his apartment did not have adequate room for a child to be placed in the home, and he was not stable enough to provide a safe and stable home for a child.

Chad has at least one other child from a different relationship.<sup>2</sup> He is currently awaiting the results of a paternity test for another three-year-old child. Chad has been diagnosed with ADHD, anti-social personality disorder, and depression. He takes medication for these conditions and reports that life is difficult for him when he does not take his medication. Chad has an extensive criminal record beginning at the age of eight, including aggravated assault, possession of marijuana, and possession of drug paraphernalia.

Chad was in jail when Breana was removed from Regina’s custody, and he reported to the social worker that “he has not had a lot of involvement with Breana.” He reported he cared for Breana for a few months when she was seven years old, but Regina took her back. At the time the home study was

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<sup>2</sup> Chad’s son was adopted at birth and was eight years old at the time of the home study.

completed, Chad also reported he was not currently participating in any services in an attempt to regain custody of Breana.

There was no evidence presented at the termination hearing to indicate that the concerns noted in the home study were not continuing concerns. Chad also presented no evidence that he would have been in a position to assume custody of Breana at the time of the termination hearing or that increased visitation would have addressed the concerns raised in the home study. The nature and extent of visitation is controlled by the best interests of the child, and this standard may warrant limited parental visitation. *In re M.B.*, 553 N.W.2d 343, 345 (Iowa Ct. App. 1996). Furthermore, Chad's failure to follow through with his initial request for visitation and the lapse of more than a year before his next request for visitation support DHS's denial of visitation one month before the State filed the termination petition. We find clear and convincing evidence supports the termination of Chad's parental rights, and the State provided sufficient evidence that reasonable reunification services were provided by DHS.

#### **V. Best Interests**

The decision to terminate parental rights must reflect the children's best interests even when the statutory grounds for termination are met. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). It is apparent that serious concerns still exist regarding Regina's and Chad's stability, continued sobriety, and ability to provide adequate care for their children. Breana and Joseph Jr. have been removed from Regina's care several times, and Chad has maintained only sporadic contact with Breana. Despite the provision of numerous services, Regina and Chad remain unable to provide safe and secure homes for their children. When

we consider the children's best interests, we look to their long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The juvenile court found the children were doing well in their respective foster homes, and they were responding to the structure and stability they received. We find the termination of Regina's and Chad's parental rights is clearly in the children's best interests.

***VI. Conclusion***

We affirm the juvenile court's decision to terminate Regina's parental rights to Joseph Jr. and Breana and Chad's parental rights to Breana.

**AFFIRMED.**