

IN THE COURT OF APPEALS OF IOWA

No. 6-795 / 06-1321
Filed October 11, 2006

**IN THE INTEREST OF A.S., E.S., and J.S.,
Minor Children,**

**E.S., Sr., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Gregory D. Brandt,
District Associate Judge.

A father appeals from the termination of his parental rights. **AFFIRMED.**

Aaron Ginkens of Ginkens Law Firm, P.L.C., West Des Moines, for
appellant father.

Nancy Trotter, Des Moines, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John Sarcone, County Attorney, and Jon Anderson, Assistant
County Attorney, for appellee State.

Karl Wolle, Des Moines, for minor children.

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

ZIMMER, J.

A father appeals from the termination of his parental rights to his three children. Upon our de novo review, we affirm.

I. Background Facts and Proceedings

Eugene Sr. and Kristina are the parents of April, born in February 1992; Jody, born in April 1994; and Eugene Jr., born in February 1996.¹ The children were initially removed from the parents' home on July 21, 2004, because both parents tested positive for methamphetamine.² The juvenile court adjudicated the children as children in need of assistance (CINA) on September 7, 2004. The Iowa Department of Human Services (DHS) returned the children to Eugene Sr.'s care on December 30, 2004, under DHS supervision, but the children were removed on June 21, 2005, when both parents again tested positive for methamphetamine.³

In a DHS family case plan dated April 6, 2006, it was reported Eugene Sr. did not provide drug screens consistently. Between July 20, 2004, and March 22, 2006, Eugene Sr. was supposed to submit to drug screening 106 times. He failed to show up thirty-six times, and he tested positive for methamphetamine seven times. Eugene Sr. reported to a DHS worker that he was involved in a treatment program through a church, but when the worker

¹ Kristina has not appealed from the juvenile court's order terminating her parental rights. Her parental rights are not at issue in this appeal.

² Kristina was in jail when the children were removed.

³ All three children have been removed from Eugene Sr.'s care twice, and Jody has been removed from his care three times, including when she tested positive for methamphetamine and marijuana at the time of her birth.

requested program information and verification, he failed to follow up on the request. When he was having semi-supervised visitation with the children, there were concerns he was allowing Kristina to be present even though he knew it was not allowed at the time because Kristina was not providing drug screens.

On May 11, 2006, the State filed a petition to terminate Eugene Sr. and Kristina's parental rights, and following a hearing, their parental rights were terminated by the juvenile court in an order filed August 2, 2006. Eugene Sr. has appealed.

II. Scope and Standards of Review

We review termination proceedings *de novo*. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the best interests of the children in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

III. Discussion

On appeal, Eugene Sr. contends termination is not in the best interests of the children because of the close bond he has with his children and because the children expressed a desire to reside with him.

The juvenile court terminated Eugene Sr. and Kristina's parental rights to the children pursuant to Iowa Code sections 232.116(1)(d), 232.116(1)(f), 232.116(1)(l) (child CINA for physical or sexual abuse or neglect, and circumstances continue despite receipt of services; child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home; child CINA, parent has substance abuse problem, child

cannot be returned within a reasonable time). Eugene Sr. does not contend the State failed to prove the statutory grounds for termination. He only maintains termination is not in the best interests of the children.

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). For the reasons that follow, we conclude that termination is in the children's best interests.

DHS Caseworker Heather Hewitt noted that Eugene Sr. had "not demonstrated [his] ability to be free from substance abuse" and had "not participated in services that eliminate the need for removal." Yolanda Dixon, an outreach therapist at Orchard Place Child Guidance Center (CGC) who worked with April and Jody, testified that although the children wanted to return to their parents, it was in their best interests to terminate parental rights because the children's need for permanency outweighed their desire to return home. Lance Kinseth, a clinical social worker at the CGC who worked with Eugene Jr., testified it was in the children's best interests to remain in their current foster care placement.

Kimberly Koch, a child and family resource specialist at Children and Families of Iowa, testified Eugene Sr. was given an opportunity to go to the home of the foster parents to assist Eugene Jr. with his homework, and he only took advantage of two of the eight visits offered. Koch also testified the children should be adopted by their foster family.

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). We agree with the district court's conclusion that Eugene Sr. has not adequately dealt with his substance abuse problem. Serious concerns still exist regarding his continued sobriety and ability to provide adequate care for the children. Eugene Sr. has failed to consistently provide drug screens. Furthermore, the juvenile court found he was dishonest with DHS after he tested positive for methamphetamine in February 2006, which "sabotages his rehabilitation." The children are currently living together with a foster family and are adjusting well to the structure they receive in the foster family home. The foster family is willing to adopt the children and permit the children to have ongoing contact with their parents.

We agree with the juvenile court's finding that termination of Eugene Sr.'s parental rights is clearly in the children's best interests.

IV. Conclusion

We affirm the juvenile court's decision to terminate Eugene Sr.'s parental rights.

AFFIRMED.