

IN THE COURT OF APPEALS OF IOWA

No. 6-803 / 06-1398
Filed December 13, 2006

**IN THE INTEREST OF S.M.M., S.R., AND B.S.M.,
Minor Children,**

K.M., Father,
Appellant.

Appeal from the Iowa District Court for Linn County, Kristin L. Hibbs,
Judge.

A father appeals the juvenile court order terminating his parental rights to
three minor children. **AFFIRMED.**

Rich L. Pazdernik, Jr. of Nazette, Marner, Wendt, Knoll & Usher, L.L.P.,
Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold L. Denton, County Attorney, and Lance Heeren,
Assistant County Attorney, for appellee State.

Cory Goldensoph, Cedar Rapids, for mother.

Karla M. Wolff, Cedar Rapids, guardian ad litem for minor children.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

PER CURIAM

I. Background Facts & Proceedings

Kevin and Yvette are the parents of Shanice, born in 1995, Santana, born in 1996, and Brandy, born in 1997.¹ The children were removed from Yvette's care in June 2000 because she was not able to care for them. The children were adjudicated to be in need of assistance (CINA). At the dispositional hearing in August 2000 they were placed with Kevin. The CINA case was closed in February 2003.

In April 2004, Kevin was sent to jail for violating a no-contact order against another woman.² Kevin left the children in the care of a friend who was an alleged drug user. While the children were in the car, the friend left a gas station without paying for gas. The children were present during a police chase and while the friend was arrested. The children were then placed with Yvette for a short period of time before she voluntarily placed them in foster care. Once the Department of Human Services again became involved with the family, they discovered there had been continuing incidents of domestic violence between Kevin and Yvette.

The children were adjudicated CINA in regard to Yvette. In September 2004, the children were returned to Yvette's care under the supervision of the department. Kevin agreed the children should be placed with Yvette. A joint

¹ Kevin and Yvette are also the parents of Brandon; their parental rights to this child were terminated in November 2001. Their parental rights to another child, Adrian, were terminated in November 2002. Kevin agreed to the termination of his parental rights to these two children.

² Kevin and Amber are the parents of two children.

adjudicatory/dispositional order regarding Kevin was entered in December 2004. The children were adjudicated to be CINA under Iowa Code sections 232.2(6)(c)(2) (2003) (child is likely to suffer harm due to parent's failure to supervise), (g) (parent fails to provide adequate food, clothing, or shelter), and (n) (parent's mental condition results in child not receiving adequate care).

Kevin did not participate in services and did not maintain contact with the department. Because of this he did not have official visitation with the children. He was not to have unsupervised contact with the children, but Yvette permitted such contact. Shanice was diagnosed with depression. She told a social worker Kevin had come into the home, threatened Yvette, and thrown things, and that she was very scared that her father would hurt her mother. Due to concerns about Yvette's continuing contact with Kevin and the mental health problems of Yvette and Shanice, the children were removed from Yvette's care in March 2005, and placed in foster care.

Kevin began to participate in supervised visitation and parenting skills sessions in April 2005. Out of sixty-five possible visits he missed thirty, and was late for eight. He missed some visits because he was in jail for violating no-contact orders. The case permanency plan recommended that Kevin attend a batterer's education program, obtain a mental health evaluation, and obtain stable housing. Kevin did not meet these recommendations.

In March 2006, the State filed a petition seeking termination of the parental rights of Kevin and Yvette. Kevin last had contact with the department and the children in February 2006. Kevin started a batterer's education class on

the day of the termination hearing. The parents continued to have a relationship. Yvette and Kevin were expecting a baby in September 2006.

The juvenile court terminated Kevin's parental rights under sections 232.116(1)(e) (2005) (child CINA, removed for six months, parent has not maintained significant and meaningful contact), (f) (child four or older, CINA, removed for at least twelve months, and cannot be returned home), (g) (child CINA, parent's rights to another child were terminated, parent does not respond to services). The court also terminated Yvette's parental rights. The court found:

The Court concludes that it is in Shanice, Santana, and Brandy's best interest that their parental rights be terminated so that they can be placed for adoption. The children have shown a need for consistency and permanency that neither Yvette nor Kevin can provide. These children deserve the permanence that goes with a final adoption.

Kevin appeals the termination of his parental rights.

II. Standard of Review

The scope of review in termination cases is *de novo*. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interests of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Sufficiency of the Evidence

Kevin claims the State did not present clear and convincing evidence to support the termination of his parental rights. We determine there is clear and convincing evidence in the record to show Kevin did not maintain significant and meaningful contact with the children. The termination hearing was held in August

2006, and Kevin had not participated in visitation since February 2006. Even before February 2006 Kevin's attendance was sporadic. Kevin's lack of participation in visitation and services shows his lack of interest in his children. We conclude Kevin's parental rights were properly terminated under section 232.116(1)(e).

Where the juvenile court terminated parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) (citing *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996)). Because we have found sufficient evidence to terminate Kevin's parental rights under section 232.116(1)(e), we do not need to address the other sections cited by the juvenile court.

IV. Best Interests

Kevin asserts termination of his parental rights was not in the children's best interests. On appeal, Kevin claims termination could be avoided under section 232.116(3)(c), which provides that the court may decide not to terminate a parent's rights based the closeness of the parent-child relationship. The juvenile court did not address this issue and we determine it has not been preserved for our review. See *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994) (stating issues may not be raised for the first time on appeal).

Even if the issue had been preserved, however, we agree with the juvenile court's conclusion that termination of Kevin's parental rights is in the children's best interests. Kevin's continued acts of domestic violence with the children's

mother was detrimental to the children. One of the children expressed fear of Kevin because of his actions.

We affirm the decision of the juvenile court.

AFFIRMED.