

IN THE COURT OF APPEALS OF IOWA

No. 7-163 / 07-0164
Filed March 14, 2007

**IN THE INTEREST OF K.L.B. AND D.M.B.,
Minor Children,**

**D.L.B., Father,
Appellant.**

Appeal from the Iowa District Court for Pottawattamie County, Gary K. Anderson, District Associate Judge.

A father appeals from the order terminating his parental rights to two children. **AFFIRMED.**

Scott D. Strait, Council Bluffs, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Matthew W. Wilber, County Attorney and Dawn Eimers, Assistant County Attorney, for appellee State.

William McGinn, Council Bluffs, for appellee mother.

Brian Rhoten, Council Bluffs, guardian ad litem for minor children.

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

VOGEL, P.J.

D.L.B. is the father of K.L.B., who was born in May of 2002, and D.M.B., born in February of 2004. The children and their mother first came to the attention of authorities in early April 2005 after police officers discovered drugs in their apartment. On April 19, the children were taken into protective custody, and later that month the State filed a petition alleging they were in need of assistance (CINA). Following a hearing, the court found the children to be CINA pursuant to Iowa Code sections 232.2(6)(c)(2), (e), and (n) (2005).

On June 8, 2006, after mother's drug use continued and father largely absented himself from the children's lives, the State filed a petition to terminate both of their parental rights. Following a hearing on the petition, the juvenile court granted the State's request and terminated D.L.B.'s parental rights under sections 232.116(1)(b), (e), (f), (h), and (j). He appeals from this order. The mother did not appeal, and we do not address the termination of her parental rights in this opinion.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern in termination proceedings is the best interests of the children. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

Upon our de novo review of the record, we concur in the juvenile court's judgment that father's parental rights should be terminated pursuant to sections

232.116(1)(f) and (h), which require the State to prove by clear and convincing evidence that the children cannot be returned to their parents' custody.¹ First, D.L.B. has been largely absent from their lives for eighteen months. He thus has not shown the skills, ability, or desire to raise two children in a safe and nurturing environment. At the time of the termination hearing D.L.B., who has had a significant drug problem himself, was living with a woman who had recently relapsed on methamphetamine, and who had lost custody of her children due to her drug addiction. Such a relationship in the environment of the children is not conducive to the children's safety. In addition, although the Department of Human Services (DHS) was clearly concerned about his drug use, D.L.B. did not complete an ordered substance abuse evaluation until November of 2006 and he did not enter extended outpatient substance abuse treatment as recommended.

Furthermore, we conclude termination of D.L.B.'s parental rights is in the best interests of the children. See *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994) (recognizing that even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the children). The children have virtually no bond with D.L.B., which is not surprising considering his protracted absence from their lives. In fact, the evidence showed the children's strong bond with their foster parents. To re-introduce D.L.B. into their lives would only cause confusion, uncertainty, and the potential for adjudicatory harm to the children.

¹ We note that in his petition on appeal D.L.B. does not contest the termination under sections 232.116(1)(b), (e), or (f). Thus, we consider them to have been waived and affirm on those grounds. See Iowa R. App. P. 6.14(1)(c).

Finally, we reject D.L.B.'s contention that DHS failed to "provide sufficient reunification services under the facts and circumstances of this case." The numerous orders entered throughout this case were largely ignored by D.L.B. He was offered many services to assist him, had he been seriously motivated to provide the children a safe and nurturing home. As the State notes, D.L.B.'s half-hearted participation only began after the filing of the termination petition. The children simply cannot wait for D.L.B. to someday respond to the services offered, in hopes of eventually becoming a responsible parent. See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). The children's lives and best interests are paramount.

AFFIRMED.