

**IN THE COURT OF APPEALS OF IOWA**

No. 7-255 / 07-0390  
Filed April 25, 2007

**IN THE INTEREST OF E.S.,  
Minor Child,**

**K.D.L., Father,  
Appellant.**

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Appeal from the Iowa District Court for Wapello County, William S. Owens,  
Associate Juvenile Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Allen Anderson of Spayde, White & Anderson, Oskaloosa, for appellant  
father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Mark Tremmel, County Attorney, and Seth Harrington,  
Assistant County Attorney, for appellee State.

Cynthia Hucks, Ottumwa, for maternal grandmother.

Shannon Woods of Harrison, Moreland & Webber, P.C., guardian ad  
litem.

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

**ZIMMER, J.**

Kenneth appeals from the juvenile court order terminating his parental rights to his son. We affirm.

***I. Background Facts and Proceedings***

Kenneth is the father and Erica<sup>1</sup> is the mother of Ethan, born in January 2005. Ethan was born prematurely. Kenneth was in prison when his son was born.

Ethan was brought to the attention of the Iowa Department of Human Services (Department) in February 2005 when hospital personnel informed the Department that Erica was unable to care for Ethan because of his special needs. Ethan was placed into voluntary foster care following his discharge from the hospital in March 2005 and was adjudicated as a child in need of assistance (CINA) the following month.

Ethan's mother was unable to care for her son without constant prompting. As a result, in the fall of 2005, the Department asked the State to file a petition for the termination of parental rights. The juvenile court held a termination hearing in December 2005. The court dismissed the petition without prejudice because it found Kenneth had not received reunification services.

Kenneth was released from prison in April 2006. Shortly after leaving prison, he met with a social worker from the Department to establish a plan for visitation, substance abuse treatment, and parenting skills education. Kenneth attended only two parenting skills sessions and had only two visits with Ethan. By June 2006 Kenneth was not cooperating with services, and the Department

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<sup>1</sup> Erica died in a car accident in July 2006.

received information that he and Erica had been recently involved in criminal activity. Kenneth was arrested in August 2006 for violating the terms of his parole.

The State filed a second petition to terminate Kenneth's parental rights on August 17, 2006. At the time the termination hearing was held, Kenneth was serving a prison term for criminal offenses committed in Iowa. In addition, Kenneth had unresolved criminal charges pending in Maryland. In an order filed February 19, 2007, the juvenile court terminated Kenneth's parental rights pursuant to Iowa Code section 232.116(1)(h) (2005) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). Kenneth 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 child's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

## ***III. Discussion***

In this appeal, Kenneth contends reasonable efforts were not made to reunite him with Ethan. He also argues termination is not in Ethan's best interests. Upon our review of the record, we find no merit in either of the father's arguments.

Kenneth does not say what additional services should have been provided or how those services could have impacted reunification efforts. When the

parent alleging inadequate services fails to demand services other than those provided, the issue of whether the services were adequate is not preserved for appellate review. *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999). We find Kenneth failed to preserve error on this issue. Moreover, the record reveals Kenneth failed to comply with services offered by the Department. Kenneth visited his son just two times after being released from prison. He stopped complying with services in June 2006. A short time later, he violated the terms of his parole and was incarcerated.

Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to his or her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Ethan has many special needs because of his premature birth, and he has severe developmental delays. Although Ethan was almost two years old at the time of the termination hearing, he was unable to walk. Ethan has feeding problems, hearing problems, and he suffers from asthma. Ethan is being taught sign language because of his communication difficulties. The child will probably be mildly to severely mentally disabled.

There is no credible evidence in the record that suggests additional time would allow Ethan to be returned to his father's care. Ethan has never been in his father's care. At the time of the termination hearing, Kenneth was in prison facing a lengthy term of incarceration. Ethan deserves stability and permanency, which his father cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). At the time of the termination hearing, Ethan had been in his current

foster placement for ten months, and his foster mother was willing to adopt him. This child should not be made to wait any longer for his father to become a responsible parent. *J.L.W.*, 570 N.W.2d at 781. We conclude termination of Kenneth's parental rights is in the child's best interests.

***IV. Conclusion***

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

**AFFIRMED.**