

**IN THE COURT OF APPEALS OF IOWA**

No. 7-278 / 07-0401  
Filed May 9, 2007

**IN THE INTEREST OF D.D.,  
Minor Child,**

**C.D., Mother,**  
Appellant.

---

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

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Patricia Lipski, Fairfield, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Tim W. Dille, County Attorney, and Patrick McAvan, Assistant County Attorney, for appellee State.

Stephan Small, Fairfield, for minor child.

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

**ZIMMER, J.**

Cindy appeals from the juvenile court order terminating her parental rights to her son. We affirm.

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

Cindy is the mother and James Jr.<sup>1</sup> is the father of Douglas, born in July 2005. Douglas was born prematurely and weighed only one pound four ounces at birth. He has faced a variety of serious medical issues as a result of his premature birth.<sup>2</sup> Douglas was not discharged from the hospital until October 2. When he was discharged, Cindy was instructed to return him to the hospital for appointments with his neonatologist, pediatric surgeons, and ophthalmologists.

Cindy failed to return Douglas to the hospital for his scheduled doctors' appointments. Douglas developed flat spots on his head due to being left in one position for too long. His mother often left him in a crib with a bottle propped in his mouth. In addition, Douglas did not gain adequate weight after he was discharged from the hospital to his mother's care. Cindy returned to the hospital with the child only after the Iowa Department of Human Services (Department) intervened. Although the mother received numerous services, her caseworkers became increasingly concerned Cindy was unable to provide adequate care for Douglas. An in-home nurse expressed concerns about Cindy's abruptness with her infant son, and another in-home provider expressed concerns that Cindy lacked basic knowledge about Douglas's heart monitor and his medical issues.

---

<sup>1</sup> James Jr.'s whereabouts were unknown at the time of the termination hearing. He has not appealed from the termination of his parental rights.

<sup>2</sup> Douglas had respiratory distress syndrome and required ventilation at birth; he also developed chronic lung disease that still requires increased oxygen administration. In addition, he suffered from an inguinal hernia, apnea, and anemia caused by prematurity.

Douglas was removed from Cindy's care on December 19, 2005. Within thirty days after the child was placed in foster care, he made dramatic strides in his health and development. Douglas was adjudicated a child in need of assistance (CINA) on February 22, 2006. Douglas has not returned to Cindy's custody since he was removed from the home.

The State filed a petition to terminate Cindy's parental rights on July 5, 2006, and an amended petition was filed on August 2, 2006. The juvenile court held a contested termination hearing on October 11, 2006. A family centered service provider with the Mid-Iowa Family Therapy Clinic testified she had concerns for Douglas's safety when he was in his mother's care. The provider stated Cindy had failed to participate in Douglas's last five medical appointments prior to the termination hearing. The provider also testified Cindy was unable to master basic parenting skills. At one point, Cindy even told the provider "I don't think I can take care of [Douglas]." According to the provider, Cindy would not be able to demonstrate the parenting skills necessary to have Douglas returned to her care even if she were given an additional six months.

The juvenile court terminated Cindy'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) in an order filed February 21, 2007. Cindy 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, Cindy contends reasonable efforts were not made to reunite her with Douglas because she did not receive a "psychiatric or psychological evaluation." She also contends the court abused its discretion in not granting additional time for reunification, and she maintains termination is not in Douglas's best interests. Upon our review of the record, we find no merit in any of the mother's arguments.

Cindy requested a psychiatric and/or psychological evaluation at the termination hearing. A parent has an obligation to demand additional services prior to the termination hearing. *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999). We conclude Cindy failed to preserve error on this issue. Moreover, the record reveals Cindy was diagnosed with depression and offered services to address that issue. Cindy initially attended some of her mental health appointments; however, she stopped going to her appointments three to four months prior to the termination hearing. Even before that time, she was not attending appointments on a regular basis. Furthermore, the Department asked Cindy to participate in a psychological evaluation, but according to a Department social worker, Cindy "has not wanted to do a psychological evaluation." The record suggests Cindy indicated her willingness to participate in a psychological evaluation only at the time of the termination hearing. We reject this assignment of error.

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 the child's long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Douglas has many special needs because of his premature birth, but he has thrived in foster care. He has gained weight, his oxygen levels have improved, and after only one week in foster care, the Department noticed an extreme improvement in the shape of his head.

Cindy has been provided with numerous services since October 2, 2005; however, she has made only minimal progress and has been unable to grasp the skills necessary to care for her son. There is no credible evidence in the record that suggests additional time would allow Douglas to be returned to his mother's care. When a parent is incapable of changing to allow the child to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). We conclude the juvenile court did not abuse its discretion in denying Cindy's request for a six-month continuance.

Douglas has spent nearly his entire life in foster care. Despite his special needs, he is considered adoptable. Douglas deserves stability and permanency, which his mother cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). We conclude termination of Cindy's parental rights is in the child's best interests.

#### ***IV. Conclusion***

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

**AFFIRMED.**