

IN THE COURT OF APPEALS OF IOWA

No. 7-533 / 07-1126
Filed September 19, 2007

**IN THE INTEREST OF H.L, M.L. Jr., R.L., E.L., and K.L.,
Minor Children,**

M.A.L., Father,
Appellant,

T.L., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A father and mother appeal the juvenile court order terminating their parental rights. **AFFIRMED.**

Kevin Hobbs, West Des Moines, for appellant father.

Stephie N. Tran, Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John Sarcone, County Attorney, and Kevin Brownell, Assistant County Attorney, for appellee State.

Kathryn Miller, Juvenile Public Defender, Des Moines, guardian ad litem for minor children.

Considered by Vogel, P.J., and Baker, J., and Nelson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

NELSON, S.J.**I. Background Facts & Proceedings**

M.A.L. and T.L. are the parents of H.L., born in 1998, M.L., born in 2000, twins R.L. and E.L., born in 2000, and K.L., born in 2002. In May 2005, the State filed a petition alleging the children were in need of assistance due to T.L.'s mental health problems and concerns with M.A.L.'s ability to maintain his anger. The parents have a history of domestic abuse. On June 29, 2005, the children were adjudicated to be children in need of assistance (CINA) under Iowa Code section 232.2(6)(c)(2) (2005).

In July 2005, T.L. filed an affidavit asserting M.A.L. had threatened to kill her, her aunt, her grandmother, and the children by chopping them into little pieces and throwing them into the river. T.L. stated M.A.L. made these statements in front of the children. A no-contact order was entered. The order was later amended to allow M.A.L. to have professionally supervised visits with the children. On October 4, 2005, the children were removed from T.L.'s care after she violated the no-contact order by allowing M.A.L. to have contact with the children. The children were placed with their maternal great-grandmother, who was then living with their great-aunt.

In May 2006, the children were placed in the care of the great-aunt. The parents made only minimal progress, and were unable to have the children returned to their care. M.A.L. made verbally abusive and threatening statements to a social worker. On September 27, 2006, the juvenile court entered a permanency order pursuant to section 232.104(2)(d), placing the children in the

guardianship of the great-aunt. The court found termination of the parent-child relationship was not appropriate at that time.

The parents were not respectful or supportive of the guardianship. T.L. continually tried to interfere with the children's care. She made statements to the children that they were soon going to be living with her, which caused them stress. M.A.L. alleged the great-aunt was abusing the children. He asserted the Department of Human Services was engaged in a conspiracy against him. He did not take any responsibility for his own actions, but represented himself as a victim in the juvenile court proceedings.

On April 4, 2007, the State filed a petition seeking termination of the parents' rights. After a hearing, the juvenile court entered an order on June 15, 2007, terminating the parents' rights under section 232.116(1)(f) (2007). The court found that "[t]o return any of the children to either of the parents at this time would cause the children to suffer additional harm." The court also concluded that "[t]o allow either of the parents to upset the stability these children have found would be contra to their best interests." M.A.L. and T.L. each appeal the termination of their 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). 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. Father

A. The parental rights of the father, M.A.L., were terminated under section 232.116(1)(f). On appeal, however, he claims the State did not present sufficient evidence to terminate his parental rights under section 232.116(1)(c). Because M.A.L. has not challenged the termination of his parental rights under section 232.116(1)(f), he has waived that issue on appeal. See Iowa R. App. P. 6.14(1)(c) (“Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue.”).

Even if M.A.L. had challenged the sufficiency of the evidence to support his parental rights under section 232.116(1)(f), we would find clear and convincing evidence to support the termination on that ground. During the termination hearing M.A.L. admitted the children could not be returned to his care at that time. We affirm the termination of M.A.L.’s parental rights under section 232.116(1)(f).

B. M.A.L. contends the juvenile court was not required to terminate the parents’ rights because the children were placed with a relative. Under section 232.116(3)(a), the juvenile court need not terminate the parent-child relationship if “a relative has legal custody of the child.” It is within the sound discretion of the juvenile court and the best interests of the child, whether this section should be applied. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997).

In this case, the juvenile court found termination was in the children’s best interests. We agree with the juvenile court’s conclusion. A guardianship was already attempted, and proved unsuccessful. The parents were not able to

respect or support the guardianship with the great-aunt. The children need the permanency that termination provides.

IV. Mother

A. The mother, T.L., asserts the State did not present sufficient evidence to terminate her parental rights under section 232.116(1)(f).¹ Section 232.116(1)(f) applies when the children are four years of age or older, were adjudicated CINA, were removed from the parents' care for at least twelve months, and the children cannot safely be returned home. During the termination hearing T.L. conceded the children could not be returned to her care at the present time. There is no dispute concerning the other elements of section 232.116(1)(f). We conclude the mother's parental rights were properly terminated under this section.

B. T.L. claims termination of her parental rights is not in the children's best interests. She states she and the children have a strong bond, and termination would be detrimental to the children. The juvenile court found:

The bond between the children and the parents is described as broken as to a parent/child relationship. The children do not look to either parent to care for them or protect them. . . . The children no longer look to either parent to meet their daily or long-term needs.

We concur in the findings of the juvenile court, and conclude termination of T.L.'s parental rights is in the children's best interests.

We affirm the decision of the juvenile court.

AFFIRMED.

¹ The mother raises some arguments concerning abandonment. Termination based on abandonment is found in section 232.116(1)(b). The mother's parental rights were not terminated under this section.