

IN THE COURT OF APPEALS OF IOWA

No. 7-561 / 07-1124
Filed September 19, 2007

**IN THE INTEREST OF B.J. AND D.J.,
Minor Children,**

S.D.J., Mother,
Appellant,

C.J., Father,
Appellant.

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

Parents appeal the juvenile court order terminating their parental rights to
their minor children. **AFFIRMED.**

Deborah M. Skelton, Walford, for appellant mother.

Lorraine Machacek, Cedar Rapids, for appellant father.

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

Elizabeth Jacobi, Cedar Rapids, guardian ad litem for minor children.

Considered by Sackett, C.J., and Zimmer, 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**

C.J. and S.J. are the parents of B.J., born in 2003, and D.J., born in 2004. The parents have a long history of substance abuse and domestic violence. The mother, S.J., also has a history of mental health problems. The family came to the attention of the Iowa Department of Human Services due to concerns about drug use in the home and unsanitary conditions. On August 11, 2005, the children were adjudicated to be in need of assistance (CINA) under Iowa Code sections 232.2(6)(c)(2), (g), and (n) (2005).

Under the terms of the adjudicatory order, the children remained in the care of S.J., and C.J. was to have supervised visitation. The children were removed from S.J.'s care in September 2005 because she allowed C.J. to have unsupervised contact with the children. The disposition order, entered on September 20, 2005, placed the children in foster care.

S.J. entered a substance abuse treatment program which permitted the children to be placed in her care. On January 17, 2006, the disposition order was modified to place the children in the custody of S.J., conditioned on her continued participation in that program. The children were removed from S.J.'s care on February 7, 2006, because she was unsuccessfully discharged from her substance abuse treatment program. S.J. continued to associate with known drug users. The disposition order was again modified to place the children in foster care. S.J. made little progress with services. She admitted to employment

as a prostitute. She also admitted in January 2007 she was using methamphetamine.

In May 2006, C.J. was sent to jail in Kentucky for failure to pay child support for another child.¹ He served six months in jail, and then was placed on probation, which requires him to remain in Kentucky. He has not seen the children since he was extradited to Kentucky.

In March 2007, the State filed a petition requesting termination of the parental rights of C.J. and S.J. S.J. was hospitalized in a psychiatric unit later that month, and then began a dual-diagnosis treatment program in April 2007. On June 13, 2007, the juvenile court entered an order terminating C.J.'s parental rights under sections 232.116(1)(b), (e), and (h) (2007), and S.J.'s parental rights under sections 232.116(1)(h) and (l). The court determined it would be in the children's best interests to terminate the parental rights of C.J. and S.J. The parents 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.V.*, 611 N.W.2d 489, 492 (Iowa 2000).

¹ C.J. previously served a prison sentence in Kentucky for child abuse in regard to this child.

III. Father

A. C.J. claims the State did not present sufficient evidence to support the termination of his parental rights. C.J.'s parental rights were terminated on three grounds. When parental rights are terminated on more than one statutory ground, the termination may be affirmed if we find grounds to terminate under one of the sections cited. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

In this case, we find C.J.'s parental rights were properly terminated under section 232.116(1)(h).² The State presented clear and convincing evidence the children could not be returned to C.J.'s care at the time of the termination hearing. C.J. was convicted of child abuse in Kentucky, and had engaged in incidents of domestic abuse with S.J. C.J. had not addressed his anger management problems, and the children could not be safely returned to his care.

B. C.J. also claims termination of his parental rights is not in the children's best interests. C.J. is not able to meet the children's needs. He has not taken steps to place himself in a position where he could safely care for the children. Furthermore, he has not seen the children for about one year, and so has no relationship with them. We conclude termination of C.J.'s parental rights is in the children's best interests.

IV. Mother

A. S.J. contends the termination of her parental rights is not supported by clear and convincing evidence. We find S.J.'s parental rights were also

² By making this finding, we are not concluding there was insufficient evidence to support the termination of C.J.'s parental rights under sections 232.116(1)(b) or (e). We are not required, however, to discuss other Iowa Code sections once we have concluded the termination is supported by at least one statutory ground. See *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

properly terminated under section 232.116(1)(h). At the time of the termination hearing S.J. had entered a dual treatment program that was expected to require attendance for at least one year for her to receive full benefits. S.J. was not permitted to have her children with her at this treatment facility. Assuming S.J. successfully completed the program, she still would not be able to have the children in her care until April 2008 at the very earliest. The children should not be required to wait for permanency. "Children simply cannot wait for responsible parenting." *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997).

S.J. asserts she could transfer to a substance abuse treatment program where she could have the children in her care. She already tried this approach and was unsuccessful. A good prediction of the future conduct of a parent is to look at the past conduct. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). We determine the State presented clear and convincing evidence the children could not be safely returned to S.J.'s care, and her parental rights were properly terminated under section 232.116(1)(h).³

B. S.J. claims termination of her parental rights is not in the children's best interests. Throughout the juvenile court proceedings S.J. failed to act in the children's best interests. Her conduct furthered her own interests and did not meet the children's needs. We conclude it is in the children's best interests to terminate her parental rights.

³ Again, our finding that S.J.'s parental rights were properly terminated under section 232.116(1)(h) does not mean there was not sufficient evidence to support termination under section 232.116(1)(f). We simply are not required to discuss all the code sections cited by the juvenile court if we can affirm on one ground. See *S.R.*, 600 N.W.2d at 64.

C. S.J. asserts the juvenile court should have placed the children with her sister. The juvenile court did not address this issue. The termination order did not address the future placement of the children. We do not address issues raised for the first time on appeal. *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994). We conclude S.J. has failed to preserve this issue for our review.

We affirm the decision of the juvenile court terminating the parental rights of C.J. and S.J. to their minor children B.J. and D.J.

AFFIRMED.