

**IN THE COURT OF APPEALS OF IOWA**

No. 7-928 / 07-1826  
Filed December 12, 2007

**IN THE INTEREST OF B.M.B. and S.A.B.,  
Minor Children,**

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

**S.B., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Clarke County, David L. Christensen, Judge.

A mother and father appeal from the orders terminating their parental rights to their two children. **AFFIRMED.**

William Eddy of Eddy Law Firm, Indianola, for appellant father.

Patrick Greenwood, Lamoni, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, and Ronald Wheeler, County Attorney, for appellee State.

Jane Rosien, Winterset, for minor children.

Considered by Huitink, P.J., and Miller and Eisenhauer, JJ.

**HUITINK, P.J.**

A mother and father<sup>1</sup> appeal from the orders terminating their parental rights in regards to their seven and nine-year-old daughters. We affirm.

**I. Background Facts and Prior Proceedings**

These children have been involved with the Iowa Department of Human Services (DHS) since the spring of 2005 for lack of supervision. The mother agreed to enter a shelter for substance abuse treatment, but left against the recommendation of staff. When the mother left the children with a friend and did not return for two days, DHS intervened. The children were removed on November 10, 2005, and placed in foster care.

On December 15, 2005, both parents stipulated that they desired to be relieved of their duty to care for the children, so the children were adjudicated children in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(k) (parent for good cause desires to be relieved of children's care) (2005).

Over the next sixteen months, the mother sporadically participated in offered services. Her visitation privileges were suspended for nearly five months when she tested positive for methamphetamine and did not cooperate with subsequent requests for drug screens. The mother never progressed past supervised visitations.

The father participated in family services and progressed to semi-supervised visitations, but he also drifted in and out of homeless shelters and was unable to maintain a stable residence.

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<sup>1</sup> The mother and father are married, but separated. The father lives in a different city.

The children have remained in foster care since they were removed in November 2005. DHS attempted to place the children with a relative, but the relative eventually decided not to take the children.

In April 2007 the district court entered an order directing the State to institute termination proceedings because neither parent was able to provide a safe and stable home for the children. Over the next several months, the mother took positive steps towards reunification and sought treatment for her substance abuse. However, by the time of the termination hearing, she still had not completed her parenting classes, had not had a job for nearly a month, and relied on a friend for housing. The father was living at the YMCA and testified that he would not be able to resume custody of the children for at least another three or four months.

On October 17, 2007, the district court entered orders terminating both parents' parental rights under Iowa Code section 232.116(1)(f) (2007).

## **II. Standard of Review**

We review termination of parental rights de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Grounds for termination must be proved by clear and convincing evidence and our primary concern is the children's best interests. *Id.*

## **III. Merits**

### **A. Reasonable Services**

On appeal, both parents make vague claims that the State did not make reasonable efforts to return the children to their care. While the State bears the obligation to offer reasonable reunification services, a parent has the responsibility to demand other, different, or additional services prior to the

termination hearing. *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999). When a parent alleging inadequate services fails to demand services other than those provided, the issue of whether services were adequate is not preserved for appellate review. *Id.*

The termination orders acknowledge that the parents have been offered services for twenty-eight months. However, the orders do not address any demands for additional services, and neither party filed a post-trial motion asking the court to address this issue. Similarly, there is no evidence either parent has previously challenged DHS's efforts towards reunification or requested any specific services (beyond asking DHS for more visitation) to facilitate the reunification process. The time to request additional services has passed. We will not consider this argument now, for the first time, on appeal.

#### **B. Statutory Basis for Termination**

Both parents claim the State failed to prove a statutory basis for termination. Section 232.116(1)(f) provides that parental rights can be terminated if the State proves by clear and convincing evidence that the children: (1) are four years of age or older; (2) have been adjudicated CINA; (3) have been removed from the physical custody of their parents for the last twelve consecutive months with any trial period at home lasting less than thirty days; and (4) cannot be returned to the custody of their parents as provided in section 232.102.

Both parents only dispute whether the children could be returned to their care. The mother contends the children were no longer in need of supervision and that the continuation of care or treatment was unjustified and unwarranted.

The father concedes the children could not be returned to his care for at least three months, but argues termination was improper because the children could have been returned to their mother's care.

While the mother has had recent success with her substance abuse treatment, she was still unemployed and depending on a friend for transportation and housing at the time of the hearing. Because of the instability in her life and the fact that she had not completed the recommended parenting classes, we agree with the district court's conclusion that the children could not be returned to her care at the time of the hearing. As noted above, the father concedes the children could not be returned to his care. Accordingly, we find there is clear and convincing evidence the children cannot be returned to the care of either parent.

### **C. Best Interests**

The mother claims her strong bond with her children means that termination is not in their best interests. A strong bond between parent and child is a special circumstance which militates against termination when the statutory grounds have been satisfied. Iowa Code § 232.116(3)(c). However, this is not an overriding consideration, but merely a factor to consider. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). In determining the children's best interests, we look to the children's long-term and immediate needs. *J.E.*, 723 N.W.2d at 798.

The statutory period set forth in section 232.116(1)(f) directs that twelve months is the point where the rights and needs of the child surpass the needs of the parents. These parents have been given nearly twenty-three months to prove they are ready to care for their children. To date, they have still not done

so. The law demands a full measure of patience with troubled parents who attempt to remedy a lack of parenting skills; however, children need not endlessly await the maturity of their parents, especially once the statutory period has elapsed. *In re A.C.*, 415 N.W.2d 609, 613-14 (Iowa 1987); *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997).

While we realize it may be difficult for these children to sever their emotional bond with their parents, we also realize that, based on their parents' prior behaviors, there is a strong possibility neither will ever be able to provide for the children's basic needs. See *J.E.*, 723 N.W.2d at 798 (noting a parent's past performance is likely indicative of the quality of care the parent will provide in the future). Safety and the need for a permanent home are the primary concerns when determining a child's best interests. *Id.* at 801 (Cady, J., concurring specially). These children have waited nearly two years for their parents to establish a safe environment. They should not be forced to wait any longer. See *A.C.*, 415 N.W.2d at 613 ("The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems."). We find it is in the children's best interests to terminate their parents' parental rights so that they can have permanency and the chance to grow in a stable and secure environment.

We therefore affirm the orders terminating both parents' parental rights.

**AFFIRMED.**