

IN THE COURT OF APPEALS OF IOWA

No. 8-048 / 07-2133
Filed February 13, 2008

**IN THE INTEREST OF M.R.,
Minor Child,**

S.C., Mother,
Appellant,

J.R., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Louise M. Jacobs,
District Associate Judge.

A mother and father appeal separately from the juvenile court order
terminating their parental rights. **AFFIRMED ON BOTH APPEALS.**

Chira Corwin of Mayberry Law Firm, P.C., Des Moines, for appellant
mother.

Matthew Gebhardt, Des Moines, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Christina Gonzalez,
Assistant County Attorney, for appellee State.

Charles Fuson of the Youth Law Center, Des Moines, for minor child.

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

ZIMMER, J.

A mother and father appeal separately from the juvenile court order terminating their parental rights. We affirm on both appeals.

I. Background Facts and Proceedings.

Sherry is the mother and Jose is the father of Miguel, born in December 2006.

The Iowa Department of Human Services (Department) became involved in this case when Miguel tested positive for methamphetamine at birth. The court issued a temporary removal order on December 27, 2006, and Miguel was removed from his parents' care and placed in foster care. At the time of Miguel's removal, Sherry and Jose both tested positive for methamphetamine. The parents denied having substance abuse problems and asserted that Miguel tested positive for methamphetamine because a relative whom they had allowed to stay at their apartment had spilled methamphetamine on the carpet. They asserted it was this exposure that caused Miguel's positive test and their own positive screens.

Miguel was adjudicated a child in need of assistance on February 9, 2007. Following adjudication, the parents received a variety of services designed to transition Miguel safely back to their care. At the review hearing held on June 13, 2007, it was apparent that the parents had made very little progress despite the services offered. The following day, the State filed for waiver of reasonable efforts, and the court held a hearing on this motion on July 23, 2007. At the hearing, testimony revealed that Sherry had accomplished only one month of sobriety and Jose had made little or no progress. The parents testified that

they continued to live in their apartment, which according to them contained methamphetamine in the carpet. They asserted it was this methamphetamine that contaminated everything within their apartment. Following the hearing, the court waived reasonable efforts.

The State filed a petition to terminate Sherry's and Jose's parental rights on October 19, 2007. The juvenile court held a contested termination hearing on October 31 and November 1, 2007. At the hearing, a service provider stated he was concerned about the parents' failure to make any significant progress with their methamphetamine use. He testified he did not believe Miguel could be returned to his parents' care. The child's guardian ad litem agreed with the service provider's conclusion that it was in Miguel's best interests to terminate Sherry's and Jose's parental rights.

The juvenile court entered an order on December 6, 2007, terminating Sherry's parental rights to Miguel pursuant to Iowa Code sections 232.116(1)(d), (e), and (h) (2007) and terminating Jose's parental rights pursuant to sections 232.116(1)(d), (e), (h), and (l). Sherry and Jose appeal.

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). 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 long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

III. Discussion.

A. Additional Time for Reunification.

In their appeals, neither Sherry nor Jose contends the statutory grounds for termination have not been met. However, they both assert they should have been allowed an additional six months to demonstrate their ability to safely parent Miguel. We disagree.

Both parents have a lengthy history of drug abuse. Shortly after Miguel tested positive for methamphetamine at birth and was removed from his parents' care, Sherry and Jose also tested positive for methamphetamine. The parents delayed taking ownership of their drug abuse problems and spent months denying their drug use. At the time of the termination hearing, Sherry was only able to produce one negative drug screen. Although she completed drug treatment, she had not followed through with her after-care program. Jose was not able to produce any negative drug screens at the termination hearing. Although Jose testified that he was scheduled to begin outpatient drug treatment on December 8, 2007, he had not yet started treatment despite being referred on multiple occasions for a drug abuse evaluation. At the termination hearing, the social worker reported that in the ten months since Miguel's removal, neither parent had addressed the reason their child was removed from their care, primarily their drug addiction.

It is apparent that serious concerns still exist regarding Sherry's and Jose's ability to provide a clean and sober home for their child. The parents have

been provided with extensive services since the inception of this case; however, neither Sherry nor Jose has been able to demonstrate a long-term commitment to maintaining a drug-free lifestyle. See *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006) (stating we look to the parent's past performance because it may indicate the quality of care the parent is capable of providing in the future). "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987). Upon our review of the record, we conclude the evidence does not support the conclusion that additional time would allow Miguel to be returned to his parents' care.

B. The Child's Best Interests.

Sherry and Jose also both argue on appeal that termination of their respective parental rights to Miguel is not in his best interests. Related to this argument, Sherry also argues that the public policy of Iowa is to prefer biological parents over all others. While we recognize a parental interest in the integrity of family unity, this interest is not absolute and may be forfeited by certain parental conduct. *In re D.C.*, 436 N.W.2d 644, 645 (Iowa Ct. App. 1988). We believe this is the case here, and we conclude termination of parental rights is in Miguel's best interests.

Sherry and Jose chose to abuse methamphetamine during Sherry's pregnancy with Miguel. Miguel has never been in his parents' custody. His parents spent more than six months denying their drug addictions while Miguel remained in foster care. At the time of the termination hearing, Miguel had been living with his foster parents for more than ten months. Testimony revealed

Miguel has bonded with his foster parents and they have indicated a desire to adopt him. Miguel deserves permanency and stability, which his parents cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). Miguel has waited long enough for his parents to resolve their drug abuse problems. Therefore, we agree with the juvenile court's finding that termination of Sherry's and Jose's parental rights is in the child's best interests.

C. Waiver of Reasonable Reunification Efforts.

Finally, Jose contends the State failed to provide reasonable efforts and adequate services prior to the waiver of reasonable reunification efforts. Jose further contends the court abused its discretion in granting this waiver. Miguel was removed from parental custody on December 27, 2006. Thereafter, Jose was offered services for more than seven months before the court issued an order granting the waiver of reasonable reunification efforts on July 23, 2007. Nothing in the record indicates Jose requested additional services prior to the termination hearing. A challenge to the sufficiency of such services should be raised when the services are offered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). Jose failed to raise this issue before the termination hearing, and therefore, we will not address it.

IV. Conclusion.

We affirm the juvenile court's decision to terminate Sherry's and Jose's parental rights.

AFFIRMED ON BOTH APPEALS.