

IN THE COURT OF APPEALS OF IOWA

No. 8-393 / 08-0668

Filed June 25, 2008

**IN THE INTEREST OF H.B.,
Minor Child,**

**S.K.B. and G.L.B., Parents,
Appellants.**

Appeal from the Iowa District Court for Ida County, Mary L. Timko,
Associate Juvenile Judge.

Parents appeal the juvenile court order terminating their parental rights.

AFFIRMED.

Marvin W. Miller, Jr. of Miller, Miller, Miller, P.C., Cherokee, for appellants.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Kristal L. Phillips, County Attorney, and Meghann Cosgrove
Whitmer, Assistant County Attorney, for appellee State.

Marchelle M. Denker, Juvenile Law Center, Sioux City, guardian ad litem
for minor child.

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

PER CURIAM**I. Background Facts & Proceedings**

Sherry and Garry are the parents of Haley, born in October 2006. Both parents have a history of using illegal drugs. Sherry also has mental health concerns. In March 2007 the parents tested positive for methamphetamine and marijuana use. They agreed to place Haley in the care of a paternal aunt.

Haley was adjudicated to be a child in need of assistance (CINA) under Iowa Code sections 232.2(6)(c)(2) (2007) (child is likely to suffer harm due to parents' failure to supervise) and (n) (parents' drug abuse results in child not receiving adequate care). The parents were ordered to participate in substance abuse treatment and submit to random drug tests.

After a permanency hearing in September 2007, the juvenile court determined Sherry and Garry were making enough progress with their sobriety that they should have an additional six months to work on reunification. The parents tested positive for methamphetamine in October 2007. They continued a history of dishonesty regarding drug use until confronted with the facts.

In November 2007, Haley was placed in foster care. The parents filed a motion seeking to have her returned to her previous placement with relatives. In December 2007, the State filed a petition seeking termination of the parents' rights. These two matters were combined for a hearing.

The parental rights of Sherry and Garry were terminated under sections 232.116(1)(d) (child CINA for neglect, circumstances continue despite the receipt of services), (h) (child three or younger, CINA, removed for at least six months,

and child cannot be returned home), and (I) (child CINA, parent has substance abuse problem, child cannot be returned within a reasonable time). The court found the parents were not in a position to have Haley returned to their care, and termination of their parental rights was in the child's best interests. The court determined Haley should be returned to the care of relatives. Sherry and Garry 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 proved 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 child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Reasonable Efforts

Sherry and Garry claim the State failed to engage in reasonable efforts to reunite them with their child. They assert they should have been afforded more visitation time with the child. The Department of Human Services must make reasonable efforts to provide services to eliminate the need for removal. *In re M.B.*, 595 N.W.2d 815, 818 (Iowa Ct. App. 1999). Parents have the responsibility to demand services prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997).

The parents' visitation time with the child was shortened after they relapsed into drug use in October 2007. The parents had driven with Haley in the car after they had used methamphetamine. Based on the facts in the case,

we find the parents have not shown the State failed to offer reasonable services to them.

IV. Sufficiency of the Evidence

The parents claim the State failed to present clear and convincing evidence to support termination of their parental rights. On our de novo review of the record we find there is sufficient evidence to terminate the parents' rights under each of the code sections cited by the juvenile court. The parents have been unable to successfully address their substance abuse problems. Furthermore, they were not honest with social workers about their drug use and that lack of honesty impeded efforts to address their problems. We determine the parents' rights were properly terminated under sections 232.116(1)(d), (h), and (l).

V. Best Interests

Sherry and Garry claim termination of their parental rights is not in Haley's best interests. They assert Sherry successfully parented two older children, and should be able to care for Haley. They also assert Haley is bonded to her family. In considering a child's best interests, we look to the child's long-range, as well as immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

We conclude termination of the parental rights of Sherry and Garry is in the child's best interests. Sherry and Garry need to address their own problems, and they are not able to meet the child's needs. The parents were given an additional six months to work on reunification, but instead relapsed into drug use. Haley should not be required to wait any longer for her parents to be able to care

for her. See *id.* (noting patience with parents can soon translate into intolerable hardship for a child).

VI. Due Process

The parents contend their due process rights were violated because the juvenile court heard their motion resisting the change of placement at the same time as the termination petition. They assert that if Haley had been placed with a relative prior to the termination hearing, perhaps their parental rights need not have been terminated based on section 232.116(3)(a).

This issue was not raised before the juvenile court. An issue not presented in the juvenile court may not be raised for the first time on appeal, even an issue of constitutional dimensions. *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994). We conclude the parents have not preserved this issue for our review.

We affirm the decision of the juvenile court terminating the parental rights of Sherry and Garry.

AFFIRMED.