

**IN THE COURT OF APPEALS OF IOWA**

No. 8-548 / 08-0791

Filed July 16, 2008

**IN THE INTEREST OF K.W. and K.W.,  
Minor Children,**

**R.W., Father,  
Appellant,**

**A.W., Mother,  
Appellant.**

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

A mother and father appeal the termination of their parental rights to their  
children. **AFFIRMED.**

Jessica R. Noll, of Thomas & Poulson Law Firm, P.C., Sioux City, for  
appellant-father.

Stephanie Forker Parry of Forker & Parry, Sioux City, for appellant-  
mother.

Thomas J. Miller, Attorney General,, Kathrine S. Miller-Todd, Assistant  
Attorney General, Patrick Jennings, County Attorney, and Dewey P. Sloan,  
Assistant County Attorney, for appellee.

Maxine Buckmeier, Sioux City, guardian ad litem for minor child.

Heard by Miller, P.J., and Vaitheswaran and Eisenhauer, JJ.

**EISENHAUER, J.**

A mother and father appeal the termination of their parental rights to their children. They contend the State failed to prove the grounds for termination by clear and convincing evidence. They also contend termination is not in the children's best interest. We review these claims de novo. See *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).<sup>1</sup>

The children at issue are eleven months apart in age. The Department of Human Services first became involved with them a few days after the older child's birth in August 2005. The parents suffer from mental illness and the doctor questioned their ability to care for the child. The child was adjudicated in need of assistance (CINA) in October 2005.

In February 2006, at a meeting with the in-home provider, the mother became angry and required hospitalization. At that time, the father voluntarily placed care of the child with a foster family. The younger child was born in July 2006 and immediately placed with his sibling in foster care. In October 2006, he was adjudicated CINA.

On February 6, 2008, the State filed a petition to terminate the parents' rights pursuant to Iowa Code section 232.116(h) and (k) (2007). Following an April 3, 2008 hearing, the court found termination was appropriate under both sections.

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<sup>1</sup> The father also contends the juvenile court did not fairly evaluate the evidence presented. Because our review is de novo, our obligation is to review the case anew. *In re L.G.*, 532 N.W.2d 478, 480 (Iowa Ct. App. 1995).

We need only find termination was proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(1)(k) where:

- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.
- (2) The parent has a chronic mental illness and has been repeatedly institutionalized for mental illness, and presents a danger to self or others as evidenced by prior acts.
- (3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

The parents do not dispute the first two elements have been proved. Instead, they argue the State failed to prove the children cannot be returned to their home within a reasonable period of time.

The father has been diagnosed with schizophrenia and ADHD. The mother has been diagnosed with major depressive disorder, ADHD, and borderline personality disorder. Both parents have suffered from auditory hallucinations. The older child has been out of the parents' care since February 2006 and the younger child has been out of the parents' care since his birth in July 2006. During this time, the parents have not been able to demonstrate a stable home or the ability to care for the children despite the myriad of services offered to them. Neither parent has complied with the therapy recommendations or has demonstrated an ability to consistently take the medication prescribed to treat their illnesses. As stated by the trial court,

It is not that [the parents] carry diagnoses of mental illness that lead this court to conclude that the children cannot be returned to their care; it is the fact that they are not able to control it to the point that children in their care would not be harmed.

The future can be gleaned by the parent's past performance. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). The children are young and need a permanent stable home. The grounds for termination have been proved by clear and convincing evidence.

The children are together in a pre-adoption home. They are reported to be doing well in the home as their social worker testified:

[T]hey are all part of a family. They're comfortable. They know that their needs are going to be met. They . . . interact. They are nurtured. They play with the other children in the home. . . . [T]hese are little, little boys, and it's amazing how they talk and how comfortable they are in that foster home.

Children should not be forced to endlessly await the maturity of a natural parent. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). At some point, the rights and needs of the child rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). We conclude termination is in the children's best interest.

**AFFIRMED.**