

**IN THE COURT OF APPEALS OF IOWA**

No. 8-593 / 08-0978  
Filed August 13, 2008

**IN THE INTEREST OF I.P.,  
Minor Child,**

**M.A.G., Mother,  
Appellant,**

**B.J.P., Father,  
Appellant.**

---

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother and father appeal separately from the order terminating their parental rights. **AFFIRMED.**

John Swartz, Urbandale, for appellant mother.

Jeremy Feitelson, West Des Moines, for appellant father.

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

M. Kathryn Miller, Des Moines, for minor child.

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

**ZIMMER, J.**

A mother and father appeal separately from the district court's order terminating their parental rights. We affirm.

***I. Background Facts and Proceedings.***

Melissa is the mother and Brad is the father of Izach, born in June 2006. Melissa and Brad have never been married. They have lived together off and on since 2005. Izach was born prematurely and has respiratory problems. His condition requires that he be in environments that are clean and relatively dust free.

Melissa has two older children from a previous relationship. Prior to Izach's birth, these children were adjudicated children in need of assistance (CINA) in August 2005, and placed in their maternal grandparents' care based upon two founded reports to the Iowa Department of Human Services (Department). The first report stated that hazardous or unsanitary conditions were present in Melissa's apartment, endangering her children's health or physical safety. The second report asserted that Melissa had left Iowa to go to Minnesota with Brad, leaving her children behind in the care of their paternal grandmother, who had been released from treatment for alcohol and drug abuse just a few days earlier. Melissa did not leave any formula, diapers, or clothing for the children, nor did she leave leg braces needed by one of her children. In addition, Melissa did not leave any information about where she could be contacted.

After Melissa's two older children were adjudicated CINA, the juvenile court adopted the Department's case permanency plan. That plan required

Melissa to attend individual therapy based upon her issues with depression. Additionally, the plan offered other services to Melissa in an attempt to reunify the family. However, Melissa's participation in therapy was spotty at best. Melissa's two older children remain in the care of their maternal grandparents.

After Izach's birth, the State filed a petition on December 28, 2006, asserting that Izach was a CINA. Following an uncontested hearing, Izach was adjudicated a CINA on February 20, 2007, by the juvenile court. Izach remained in Melissa and Brad's care.

On March 27, 2007, the juvenile court entered its dispositional order confirming Izach to be a CINA. The juvenile court adopted the Department's case permanency plan requiring Melissa and Brad to provide a safe and stable home for Izach. The court also ordered Melissa to address her depression issues with an individual therapist. Izach remained in Melissa and Brad's care, and the parents were offered a variety of services.

In June 2007 Melissa and Brad separated due to their constant fighting and inability to resolve their differences. Brad then began making harassing and threatening phone calls to Melissa. Melissa filed a report with the Altoona Police Department, and a no-contact order was entered between Brad and Izach. On September 14, 2007, the juvenile court entered a review order prohibiting Brad from having contact with Izach unless supervised by a professional. On September 15, 2007, Melissa let Brad move back into her home despite the no-contact order.

On September 16, 2007, Izach was taken to his doctor due to an illness. Izach was prescribed medications; however, Melissa did not pick up the

prescriptions until the next day and then did not administer the medications as prescribed. As a result, Izach was hospitalized on September 18, 2007.

On September 25, 2007, the juvenile court modified its dispositional order and removed Izach from his parents' care. The court found that continued placement with Melissa and Brad would be contrary to Izach's welfare due to the parents' inability to meet Izach's medical needs and their lack of stability. The court further found that Izach remained a CINA, and placed Izach with Melissa's uncle and his fiancée. The no-contact order between Izach and Brad was rescinded, and the parents were granted visitation at the discretion of the Department.

Melissa and Brad separated for the last time on March 5, 2008. Brad moved to Oskaloosa with his mother and has only visited Izach a few times since moving. Brad's mother had offered Brad transportation to Des Moines, but she rescinded her offer after she and Brad got into a verbal fight and Brad kicked her vehicle.

On March 10, 2008, the State filed its petition to terminate Melissa's and Brad's parental rights. Following a contested hearing, the juvenile court terminated Melissa's and Brad's parental rights pursuant to sections 232.116(1)(d) (child CINA, circumstances continue despite receipt of services) and (h) (child three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home) (2007). The court found Melissa and Brad received or were offered services to correct the circumstances that led to Izach being adjudicated as a CINA, but despite that offer or receipt of services, those circumstances continued to exist. The court further found that

neither parent could resolve those circumstances in a reasonable period of time. Additionally, the court determined that, given Izach's age, the extended family dynamics, and the parents' relationship with their child and each other, it was in Izach's best interests that his parents' rights be terminated so that he may be eligible for adoption and real permanency.

Melissa and Brad now appeal separately from the termination of their parental rights.

## ***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.***

In this appeal, Melissa and Brad contend the grounds for termination were not supported by clear and convincing evidence. Brad also maintains termination is not in Izach's best interests. Melissa further asserts that the juvenile court erred in terminating her parental rights due to the closeness of the parent-child relationship. Upon our review of the record, we find no merit in the parents' arguments.

**A. Grounds for Termination.**

When the juvenile court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate under one of the sections cited by the court in order to affirm the court's ruling. *In re S.R.*, 600 N.W. 2d 63, 64 (Iowa Ct. App. 1999). In this case, we choose to focus our attention on section 232.116(1)(d) as the basis for termination.

The record reveals that a variety of services have been offered to Melissa and Brad in an attempt to reunify them with Izach. Melissa has been offered services since her two other children were adjudicated as CINA in 2005, and Brad has been offered services since Izach's adjudication in 2006. However, Melissa and Brad either declined or failed to participate in many of the offered services. Melissa and Brad did not attend couple's counseling despite their rocky relationship. Brad continues to have significant anger management issues that he refuses to adequately address. Additionally, Melissa only attended therapy to address her mental health issues intermittently until November 2007. Melissa then failed to follow through with the necessary paperwork to maintain her insurance coverage, and from November 2007 to February 25, 2008, Melissa did not attend therapy at all, despite the court's order. Melissa also stopped taking her medications completely during 2007. Although Melissa has resumed therapy and begun taking her medications again, serious concerns remain regarding her long term commitment to treatment.

Melissa and Brad have continued to struggle financially. They appear unable or unwilling to manage their finances. Melissa and Brad regularly fall behind on rent and other bills, and are unable to account for how they spend their

income. Brad left his employment without having any other employment lined up, and has been unemployed since, except for a one-day temporary job. He has not actively sought employment. Additionally, Melissa was only employed part-time, and she was inconsistent in seeking and maintaining full-time employment during the pendency of this case. Although services have helped Melissa maintain a cleaner home, concerns continue to exist regarding whether Melissa will keep her home in the state of cleanliness required by Izach's respiratory issues.

The record demonstrates that neither parent has been able or willing to make Izach a priority in their lives. Neither parent seems to understand Izach's need for stability and consistent loving care. A few months before the termination hearing, Brad began questioning his paternity of Izach. After his paternity was confirmed, he failed to demonstrate a serious commitment to his son and missed many visits with him. The parents' off-again, on-again relationship remains volatile to the detriment of their son. Consequently, we find clear and convincing evidence supports the juvenile court's decision to terminate Melissa's and Brad's parental rights under section 232.116(1)(d).

***B. Best Interests.***

Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *M.S.*, 519 N.W.2d at 400. Izach has been living and thriving in the home of his great uncle and his great uncle's fiancée, and his great uncle and his great uncle's fiancée have made a commitment to adopt him.

When a parent is incapable of changing to allow the child to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). Izach deserves stability and permanency, which his parents cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). We agree with the juvenile court's finding that termination of Melissa's and Brad's parental rights is in the child's best interests.

***C. Closeness of the Parent-Child Relationship.***

Melissa also asserts that the juvenile court erred in terminating her parental rights due to the closeness of the parent-child relationship. Melissa cites Iowa Code section 232.116(3)(c), which provides that the court need not terminate the relationship between the parent and child if there is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship. Melissa maintains termination of the parent-child relationship would be detrimental to Izach because she shares a strong, positive, and close bond with her child.

However, we find no indication in the record that the mother ever raised the exception found in section 232.116(3)(c) before the juvenile court, and therefore conclude Melissa failed to preserve error on this issue. However, even if error had been preserved, we would find termination of Melissa's parental rights clearly serves Izach's best interests. As stated above, Izach needs permanency and stability. He should not have to wait any longer for responsible parenting. Accordingly, we affirm the juvenile court.

***IV. Conclusion.***

We affirm the juvenile court's decision to terminate Melissa and Brad's parental rights.

**AFFIRMED.**