

**IN THE COURT OF APPEALS OF IOWA**

No. 8-639 / 08-1064  
Filed September 17, 2008

**IN THE INTEREST OF J.J.S.,  
Minor Child,**

**C.J.S., Father,  
Appellant.**

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Appeal from the Iowa District Court for Decatur County, Gary K. Kimes,  
Judge.

A father appeals from the district court's order terminating his parental  
rights to his son. **AFFIRMED.**

Marta J. Day, Lineville, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, and Lisa Hynden-Jeanes, County Attorney, for appellee State.

Patrick Greenwood, Lamoni, for minor child.

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

**VOGEL, J.**

Curtis appeals from the district court's order terminating his parental rights to J.S. (born in December 2005) pursuant to Iowa Code section 232.116(1)(h) (2007).<sup>1</sup> He asserts that the district court should have given him additional time before his parental rights were terminated, the State failed to prove J.S. could not be returned to his care, and termination of his parental rights is not in J.S.'s best interests.<sup>2</sup> We affirm.

Upon our de novo review of the record, we conclude that Curtis's arguments are without merit and termination is in J.S.'s best interests. See *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). In April 2006, J.S. came to the attention of the Iowa Department of Human Services (DHS) due to a lack of supervision in the home, which resulted in a founded child abuse assessment. At that time, both J.S.'s mother, Carol, and Curtis were living in the home with J.S. Voluntary services were implemented, but Curtis's participation was sparse and he tested positive for marijuana and methamphetamine on several occasions.

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<sup>1</sup> The district court also terminated the mother's parental rights. Her rights are not at issue in this appeal.

<sup>2</sup> Curtis asserts that the district court erred by not stating the specific code section under which his parental rights were terminated. However, Curtis did not raise this issue in a post-ruling motion pursuant to Iowa Rule of Civil Procedure 1.904(2); therefore it is not preserved for appeal. See *In re A.M.H.*, 516 N.W.2d 867, 872 (Iowa 1994) (holding a post-ruling motion is required for error to be preserved to address deficiencies in district court ruling). Regardless, even if Curtis had preserved the issue, we would find no error. The State's petition requested termination of Curtis's parental rights under Iowa Code section 232(1)(h). Following the hearing and ruling from the bench, the district court found the State had proved each and every allegation of the petition. A written order followed, that incorporated each element of Iowa Code section 232.116(1)(h). Finally, Curtis also alleges that the district court erred by mentioning an unrelated child abuse case. However, we also conclude that this was not preserved on appeal as there is no evidence of this in the record and Curtis fails to assert how this unsupported allegation has prejudiced him. See Iowa R. App. P. 6.14(1)(c) ("Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue.").

Subsequently, J.S. was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and (n) (2005). J.S. remained in Carol's care and Curtis was allowed supervised visitation. In February 2007, Carol and Curtis were arrested for a domestic violence incident, during which J.S. was present. A safety plan was implemented, which prohibited Carol and Curtis from having contact with each other while J.S. was present. However, DHS workers soon discovered that Carol and Curtis were violating the safety plan by again living together. In April 2007, J.S. was removed from his parents' care and placed in foster care.

Curtis was offered a variety of services in order to achieve reunification, including anger management services, mental health services, medication management, and substance abuse services. However, Curtis's participation in services has been inconsistent and sporadic. DHS workers testified that Curtis has not fully addressed his mental health issues and has refused mental health medication and they remained concerned about anger management, domestic violence, and substance abuse issues, which have been present since the beginning of this case. Additionally, a DHS worker testified that Curtis had been belligerent and hostile toward the workers during this case. At the time of the termination hearing, Curtis had not progressed past supervised visitation and had yet to maintain a residence that was appropriate for J.S. Although Curtis argues that he has recently made progress by attending counseling sessions, a DHS worker testified that Curtis "has made most of his positive progress within the last . . . two months," which Curtis also conceded. This progress was simply too little, too late. *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000) ("A parent cannot wait

until the eve of termination, after the statutory time periods for reunification have expired, to begin to express an interest in parenting.”).

J.S. had been out of his father’s care for thirteen months. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) (“At some point, the rights and needs of the child rise above the rights and needs of the parents.”). He is in need of a safe and permanent home. *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (stating a child’s safety and need for a permanent home are the defining elements in determining a child’s best interests). J.S. has done well in foster care and has bonded with this foster family, who is willing to adopt him. Thus, we conclude that termination of Curtis’s parental rights is in J.S.’s best interests. We have considered all of the arguments on appeal and affirm the district court’s order.

**AFFIRMED.**