

**IN THE COURT OF APPEALS OF IOWA**

No. 8-951 / 08-1486  
Filed November 26, 2008

**IN THE INTEREST OF B.D.B. and G.A.B.,  
Minor Children,**

**L.D.B., Father,  
Appellant.**

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Appeal from the Iowa District Court for Guthrie County, Virginia Cobb,  
District Associate Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Joel Baxter of Beverly Wild Law Office, P.C., Guthrie Center, for appellant  
father.

Donna Schauer, Adel, for mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, and Mary Benton, County Attorney, for appellee State.

Karen Mailander of Mailander Law Office, Anita, for minor children.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

**DOYLE, J.**

A father appeals from the order terminating his parental rights. He contends the juvenile court did not set forth specific findings of fact to support its determination that the termination of his parental rights was in the children's best interests. Upon our de novo review, we find no merit in his claim and affirm the decision of the juvenile court.

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

L.D.B. is the father of G.A.B., born July 2005, and B.D.B., born December 2006.<sup>1</sup> The children came to the attention of the Iowa Department of Human Services (Department) in March 2007 after L.D.B. was arrested for committing domestic violence against the children's mother while the children were present. On May 23, 2007, the children were removed from the home because the parents had not followed through with recommendations from the child protective report.

On June 27, 2007, the children were adjudicated children in need of assistance (CINA). Thereafter, L.D.B. was offered a variety of services. However, L.D.B.'s participation was minimal at best.

On August 22, 2007, L.D.B. was convicted of domestic abuse assault, third offense. L.D.B. was subsequently sentenced to a term not to exceed five years and was committed to the custody of the Iowa Department of Corrections. L.D.B. is presently incarcerated.

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<sup>1</sup> This appeal concerns only the termination of L.D.B.'s parental rights to the children. The mother has consented to the termination of her parental rights.

On December 26, 2007, the State filed petitions to terminate L.D.B.'s parental rights to the children. Following a hearing on the petitions, the juvenile court terminated L.D.B.'s parental rights pursuant to sections 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home) (2007). L.D.B. appeals.

## ***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 children'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 children's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the children's best interests, we look to their long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

## ***III. Discussion.***

L.D.B. contends the juvenile court did not set forth specific findings of fact to support its determination that the termination of his parental rights was in the children's best interests.<sup>2</sup> Nonetheless, upon our de novo review, we agree with

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<sup>2</sup> L.D.B. also contends the juvenile court erred in failing to place the children with his aunt. Although it appears L.D.B. raised this issue at the termination hearing, the juvenile court did not address the issue in its order terminating her parental rights. "Issues must ordinarily be presented to and passed upon by the trial court before they may be raised and adjudicated on appeal." *Benavides v. J.C. Penney Life Ins. Co.*, 539 N.W.2d 352, 356 (Iowa 1995). L.D.B. did not file a motion to enlarge or modify the court's order. See *State Farm Mut. Auto. Ins. Co. v. Pflibsen*, 350 N.W.2d 202, 206-07 (Iowa 1984) ("It is

the juvenile court's conclusion that the termination of L.D.B.'s parental rights was in the children's best interests.

In the present case, the juvenile court found the children had not been returned to the physical custody of either parent since their removal in May 2007. Moreover, the court found that L.D.B. was imprisoned and it was unlikely he would be released from prison for a period of five or more years. Thus, the court found there was clear and convincing evidence that the children could not be returned to their parents' custody.

The children have been in their current foster home since May 2007, except for a short reunification with their mother. Both children are doing very well in their foster home, and the foster parents are willing to adopt the children. These children deserve stability and permanency, which their father cannot provide. See *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). The evidence does not support the conclusion that additional time would allow the children to be returned to their father's care, given his present incarceration. We agree with the juvenile court's finding that termination of L.D.B.'s parental rights is in the children's best interests. Accordingly, we affirm the juvenile court's decision to terminate L.D.B.'s parental rights.

**AFFIRMED.**

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well settled that a [rule 1.904(2)] motion is essential to preservation of error when a trial court fails to resolve an issue, claim, defense, or legal theory properly submitted to it for adjudication.”). This rule has been held to apply to termination proceedings. See *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994). L.D.B. thus has not preserved error on this claim, and we do not address it any further.