

**IN THE COURT OF APPEALS OF IOWA**

No. 9-310 / 09-0289

Filed July 2, 2009

**IN THE INTEREST OF Z.M. and M.M.-M.,  
Minor Children,**

**M.M., Father,**  
Appellant,

**D.M., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,  
District Associate Judge.

A mother and father appeal a juvenile court order terminating their  
parental rights. **AFFIRMED.**

Robert W. Davidson, Cedar Rapids, for appellant father.

Carrie K. Bryner, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Harold L. Denton, County Attorney, and Lance J. Hereen,  
Assistant County Attorney, for appellee State.

Collin Olander, Hiawatha, guardian ad litem for minor children.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

## **PER CURIAM**

### **I. Background Facts**

Michael and Deborah are the parents of Zachery, born in 2003, and Makayla, born in 2005. The children were removed from the parents' care in September 2007 after Makayla was present during a domestic violence incident between Michael and his paramour. Michael expressed no remorse, stating Makayla needed to learn how the world works. Deborah was living in Alabama at the time of the incident.<sup>1</sup> The children were placed in foster care.

The children were adjudicated to be children in need of assistance (CINA) under Iowa Code sections 232.2(6)(c)(2) and (n) (2007). Deborah was in Alabama during most of the time the children were in foster care. Because she was out of the state, she did not attend services in Iowa or attend visitation with the children.

Michael participated in services, but continued to struggle with his parenting skills. He attended only sixty-three percent of the visits available to him. He completed a batterer's education program and substance abuse treatment. He had a new girlfriend, but would not reveal her identity to social workers.

On August 28, 2008, the State filed a petition seeking termination of the parents' rights. The juvenile court terminated Michael's parental rights under sections 232.116(1)(e), (f) (Zachery), and (h) (Makayla). Deborah's parental rights were terminated under sections 232.116(1)(b), (e), (f) (Zachery), and (h) (Makayla). The court concluded "termination of parental rights is overwhelmingly

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<sup>1</sup> Deborah has another child in the juvenile court system in Alabama.

in these children's best interests." Michael and Deborah appeal the juvenile court order terminating 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 2000). The grounds for termination must be proved by clear and convincing evidence. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008). Evidence is clear and convincing when it leaves no serious or substantial doubt about the correctness of the conclusion drawn from it. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). Our primary concern is the best interests of the children. *In re A.S.*, 743 N.W.2d 865, 867 (Iowa Ct. App. 2007).

## **III. Michael**

Michael has appealed the termination of his parental rights under sections 232.116(1)(f) and (h). He has not appealed the termination under section 232.116(1)(e). "When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm." *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Michael's failure to raise an issue regarding section 232.116(1)(e) means he has waived that issue on appeal. See Iowa R. App. P. 6.903(2)(g)(3) (2009) ("Failure to cite authority in support of an issue may be deemed waiver of that issue."). We conclude the termination of Michael's parental rights may be affirmed under section 232.116(1)(e).

Michael also claims termination of his parental rights is not in the best interests of the children. In considering children's best interests, we look to their

long-range, as well as immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). We look to the parent's past performance because this may indicate the quality of care the parent is capable of providing in the future. *Id.* We determine that termination of Michael's parental rights is in the children's best interests. The juvenile court found Michael "continues to have difficulty managing the behaviors of the children, to have a consistent routine and structure, and to establish a parent-child bond with them." We conclude Michael is unable to meet the children's needs.

#### **IV. Deborah**

Deborah has appealed the termination of her parental rights under section 232.116(1)(f). This section applied only to Zachery. She has not addressed the termination of her parental rights under sections 232.116(1)(b) and (e) for both children, or (h) as to Makayla. As noted above, we may affirm on any ground cited by the juvenile court. See *S.R.*, 600 N.W.2d at 64. Deborah's failure to challenge the termination of her parental rights under sections 232.116(1)(b), (e), and (h) means we may affirm the termination on these grounds. See Iowa R. App. P. 6.903(2)(g)(3).

Deborah also contends termination of her parental rights is not in the children's best interests. Out of the nineteen months the children were removed from the parents' care, Deborah abandoned their care to others except for three or four months. She was not present in Iowa working to reunite with her children for much of the juvenile court proceedings. The juvenile court found Deborah "has not demonstrated that she would consistently meet the emotional needs of

her children or their need for stable and appropriate shelter, clothing, and food.”  
We conclude termination of Deborah’s parental rights is in the children’s best interests.

We affirm the decision of the juvenile court.

**AFFIRMED.**

Vogel and Miller, JJ., concur; Sackett, C.J. concurs specially without opinion.