

IN THE COURT OF APPEALS OF IOWA

No. 6-999 / 06-1767
Filed January 18, 2007

**IN THE INTEREST OF J.H., Z.H., T.K.S., K.S., and K.S.,
Minor Children,**

**K.S. and A.H., Parents,
Appellants.**

Appeal from the Iowa District Court for Calhoun County, Kurt John Stoebe,
District Associate Judge.

A mother and father appeal from a juvenile court permanency order.

AFFIRMED.

Joseph E. Halbur, Carroll, for appellants.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Cynthia Voorde, County Attorney, and Tina Meth-Farrington, Assistant
County Attorney, for appellee State.

Angela Ostrander, Fort Dodge, for minor children.

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

HUITINK, P.J.

Angela and Kent appeal from a juvenile court permanency order pursuant to Iowa Code section 232.104(2)(d)(1) (2005), continuing placement of their children, Tyler, Kody, Jordan, and Zachary, with their grandparents.¹ They argue the State failed to prove by clear and convincing evidence that the conditions of section 232.104(3) were met.² That section authorizes entry of a permanency order pursuant to section 232.104(2)(d) when the evidence shows:

- a. A termination of the parent-child relationship would not be in the best interest of the child.
- b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.
- c. The child cannot be returned to the child's home.

Iowa Code § 232.104(3). Our review is de novo. *In re K.C.*, 660 N.W.2d 29, 32 (Iowa 2003).

Termination. Kent and Angie first argue the juvenile court failed to find that termination of the parent-child relationship would not be in the children's best interests. The juvenile court, however, expressly found "that convincing evidence exists showing that termination of the parent-child relationship is not in the best interest of the children because visitation appears to be an important benefit to

¹ Kent is the father of Tyler, born in April 1996, and Kody, born in October 2000. Angela is the mother of Jordan, born in June 1999, and Zachary, born in January 2002. Angela and Kent (who live together but are not married) are the parents of Kyle, born in 2003. The juvenile court continued placement of Kyle with his parents, subject to the protective supervision of the Iowa Department of Human Services (DHS). That placement is not at issue on appeal. The juvenile court continued placement of Tyler and Kody with the parents of Kent's deceased wife and placement of Jordan and Zachary with Angela's parents.

² We assume without deciding that Kent and Angela have preserved error on this issue. At the permanency hearing, Kent and Angela contested only the termination of DHS reunification efforts, not the appropriateness of establishing permanency for the children. Compare Iowa Code § 232.102(12) with *id.* § 232.104(3).

the children.” Therefore, we conclude the first assignment of error is without merit.

Reasonable Efforts. The juvenile court received into evidence, without objection, various written reports and the case permanency plan. Based on these documents, the court concluded “services were offered to the family to correct the situation which led to the removal of the children from the home.” Accordingly, Kent and Angela’s argument that “no evidence [of reasonable efforts] was received” is without merit.

The documents received into evidence reveal that the children were removed in August 2005 after an incident of domestic violence in the presence of the children that resulted in physical injury to Angela. Following the removal, the children received protective childcare services and counseling to address their individual needs. Kent and Angela received in-home services to teach safe, effective parenting, and to assist them with repairing and rebuilding their relationships with the children and extended family members. Services were initiated to instruct Kent and Angela about child development, safety, household management, and nutrition. They received instruction on conflict resolution, family responsibilities, family reunification, and parenting skills. Angela received counseling for domestic violence and underwent a mental health evaluation. Kent completed a batterer’s education program and underwent a mental health evaluation.

The record supports the juvenile court's finding that services were offered to correct the situation that resulted in removal of the children from the home. Kent and Angela's argument to the contrary is without merit.³

Safe Return to the Home. During the provision of services, the Iowa Department of Human Services (DHS) issued two founded child abuse reports. The first, issued in February 2006, occurred as a result of Angela and Kent placing Kody in a dog kennel on more than one occasion with a dog that frightens him for punishment. The second, initiated in June 2006, resulted after Kent shot at the children with a BB gun during a weekend visit.

Although Kent completed a batterer's education program, he "stated repeatedly he got nothing out of the [batterer's education] classes." In addition, Kent failed to maintain consistent contact with Tyler and Kody. The mental health evaluator noted that Kent "has no motivation to change."

Providers reported to DHS that Angela "has been reluctant to entertain techniques to help her address and manage behavioral concerns regarding the children stating they have already been tried and nothing works." The mental health evaluator concluded that based on her history and present functioning, Angela "is not able to act in a manner that will protect her children from dangerous domestic violence."

It is clear from the record that although Kent and Angela received a myriad of services, little to no progress was made. The children, in contrast, had progressed since their removal from the home and were doing well. The record

³ The assertion that "not enough time has gone by to relieve the DHS of its reasonable efforts at reunification obligation" is similarly without merit. See *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990) ("Children simply cannot wait for responsible parenting.").

supports the juvenile court's finding that the children could not be returned to the home.

We affirm the juvenile court's permanency order.

AFFIRMED.