

IN THE COURT OF APPEALS OF IOWA

No. 7-304 / 07-0584

Filed May 23, 2007

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

**L.R.S., Father,
Appellant,**

**S.J.F., Mother,
Appellant.**

Appeal from the Iowa District Court for Wapello County, William S. Owens,
Associate Juvenile Judge.

A father and mother appeal from the order terminating their parental
rights. **AFFIRMED ON BOTH APPEALS.**

Allen Anderson of Spayde, White & Anderson, Oskaloosa, for appellant
father.

John Silko, Bloomfield, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Mark Tremmel, County Attorney, and Seth Harrington,
Assistant County Attorney, for appellee State.

Cynthia Hucks, Ottumwa, for custodians.

Mary Krafka of Krafka Law Office, Ottumwa, for maternal grandmother.

Ryan Mitchell, Ottumwa, for minor child.

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

ZIMMER, J.

A mother and father appeal separately from the juvenile court order terminating their parental rights to their daughter. We affirm on both appeals.

I. Background Facts and Proceedings

Stacy is the mother and Larry is the father of Lynsey, born in January 2000.¹ Lynsey came to the attention of the Iowa Department of Human Services (Department) in July 2005 because she had been exposed to drugs and tested positive for methamphetamine and marijuana. The child was removed from her parents' home and placed in voluntary foster care on July 25, 2005. In September 2005 Lynsey was placed with her paternal grandmother and step-grandfather.

The court adjudicated Lynsey as a child in need of assistance (CINA) on September 26, 2005.² Following adjudication, the parents did not take advantage of the services they were offered. On October 7, 2005, both parents displayed signs of drug abuse during a visit with their daughter. An in-home provider reported the mother and father were "glassy-eyed, inattenti[ve] to what was going on in the room, jittery, [and] unable to concentrate on anything." Neither parent completed recommended substance abuse treatment. In May 2006 the court received a report indicating that the parents' home had no utilities and had been posted as uninhabitable by the city where they were living. The parents were asked to submit to drug testing in July 2006. Stacy consented to

¹ Stacy and Larry have never been married.

² Lynsey has two half-siblings, Malea and Dakota, who have also been adjudicated CINA. Stacy's parental rights to Malea and Dakota are not at issue in this appeal.

testing, and her test result was positive for methamphetamine. Larry refused to submit to drug testing.

The State filed a petition to terminate Stacy's and Larry's parental rights on August 1, 2006. The termination hearing was scheduled for October 13, 2006, but it was continued until November 27 after the father requested the appointment of counsel. When the termination hearing was held, Stacy and Larry's home was still without utilities, and their residence had been condemned. Neither parent had seen Lynsey since October 2005.

In an order filed March 23, 2007, the juvenile court terminated Stacy's and Larry's parental rights pursuant to Iowa Code sections 232.116(1)(e) (2005) (child CINA, child removed for six months, and parent has not maintained significant and meaningful contact with the child) and 232.116(1)(f) (child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home). Both parents have appealed.

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).

III. Mother's Appeal—Statutory Grounds

Stacy contends the statutory grounds for termination are not supported by clear and convincing evidence. Upon our review of the record, we find no merit in this argument.

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)(f) as the basis for termination.

Stacy contends she has complied with court-ordered services to the extent possible "given the constraints of her illnesses and personal inability to handle her substance abuse problems." She also claims Lynsey could be safely returned to her custody within the "reasonably foreseeable future." We disagree. Stacy has not had visitation with Lynsey for more than a year because she has failed to address her substance abuse problems and has failed to comply with court-ordered services. Furthermore, at the time of the termination hearing, Stacy was living in a home that had been condemned. The record clearly demonstrates Lynsey could not be returned to her mother's care now or in the foreseeable future. We conclude clear and convincing evidence supports the termination of Stacy's parental rights under section 232.116(1)(f).

IV. Father's Appeal—Reasonable Efforts

Larry contends reasonable efforts were not made to reunite him with the child. Upon our review of the record, we find no merit in the father's argument.

A parent has an obligation to demand additional services prior to the termination hearing. *S.R.*, 600 N.W.2d at 65. The record reveals Larry did not demand additional services prior to the termination hearing, and we conclude he failed to preserve error on this issue. Moreover, the father was offered family centered services, parenting skill sessions, supervised visitation, substance

abuse evaluations, and substance abuse treatment. The juvenile court found Larry failed to complete treatment, failed to participate in services offered by the Department, and refused to submit to drug testing. The record reveals the Department offered the father numerous services and made reasonable efforts to reunite him with his daughter, but he failed to take advantage of most of the services offered. We reject this assignment of error.

V. Best Interests Arguments

Both parents maintain termination is not in Lynsey's best interests. 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 the child's long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Generally, once the grounds for termination of parental rights have been met, termination is in the best interests of the child even if the child is in relative placement. *See In re D.E.D.*, 476 N.W.2d 737, 738 (Iowa Ct. App. 1991).

Lynsey has been in an out-of-home placement since October 2005. Her parents have only sporadically participated in services since the child was adjudicated CINA. There is no credible evidence in the record that suggests additional time would allow Lynsey to be returned to her parental home. Lynsey deserves stability and permanency, which her parents cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). This child should not be made to wait any longer for Stacy and Larry to become responsible parents. *J.L.W.*,

570 N.W.2d at 781. We conclude termination of Stacy's and Larry's parental rights is in the child's best interests.

VI. Conclusion

We affirm the juvenile court's decision to terminate Stacy's and Larry's parental rights.

AFFIRMED ON BOTH APPEALS.