

**IN THE COURT OF APPEALS OF IOWA**

No. 8-445 / 98-0355  
Filed August 28, 1998

**IN THE INTEREST OF N.W. and K.W.,**  
Minor Children,

**C.W.,** Father,  
Appellant.

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Appeal from the Iowa District Court for Des Moines County, Thomas R.  
Brown, District Associate Judge.

Father appeals from an order terminating his parental rights. **AFFIRMED.**

Michael J. Burdette of Cook, Gotsdiner, McEnroe & McCarthy, Des Moines,  
for appellant.

Thomas J. Miller, Attorney General, and Stephen C. Robinson, Assistant  
Attorney General, for appellee-State.

Michael J. Rashid, Fort Madison, guardian ad litem for minor children.

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

**HUITINK, J.**

Cecil and Stacie are the parents of Nicole, born in July 1987; and Kim, born in August 1988. Cecil appeals the decision of the juvenile court terminating his parental rights to these two children. Stacie has not been part of the children's lives for many years and is not a party to this appeal.

In 1992, the parents agreed Cecil would care for the children. He brought them to Iowa. Eventually, Cecil and the children moved to the home of Cecil's girlfriend, Monica. Cecil has a history of drug use.

In May 1995, Cecil was sent to a residential facility due to a conviction for driving while barred. He absconded to California for a period of time. When he returned he was sent to jail, and in November 1995 he was returned to the residential facility.

During this time, Nicole and Kim were left in the care of Monica. The Department of Human Services (DHS) became involved in February 1996 due to allegations Kim had been physically abused by Cecil while he was on a weekend furlough. DHS issued a founded report of physical abuse. The children were removed from Monica's care and placed in foster care. They were adjudicated to be children in need of assistance pursuant to Iowa Code sections 232.2(6)(j) (child is without parent or guardian) and (n) (parent is imprisoned). Cecil was ordered to remain drug and alcohol free, become employed, and refrain from illegal activity.

Cecil began family skill development sessions in March 1996. He also participated in supervised visitation. Cecil was scheduled to be released in May 1996, but had a drug test which showed positive for marijuana, and he was sent back to the residential facility. In July 1996, he was sent to a correctional facility for having too many violations at the residential facility. Services were then discontinued.

Services were reinitiated in November 1996, when Cecil was released from the correctional facility. Cecil was inconsistent in attending family skill development sessions. He was appropriate during supervised visits with the children. In August 1997, Cecil was again convicted of driving while barred and he was sent to a correctional facility.

Nicole and Kim feel secure in their foster home. They treat their foster parents as grandparents. The daughter and son-in-law of the foster parents are interested in adopting them. Nicole and Kim want to be adopted.

In August 1997, the State filed a petition for the termination of Cecil's parental rights. At the time of the termination hearing Cecil was at a residential facility. The juvenile court terminated Cecil's parental rights under section 232.116(1)(e) (child cannot be returned to parent's home). A separate hearing on the best interests of the children was held. The juvenile court determined it was in the children's best interests to terminate Cecil's parental rights. The court found Cecil had the desire to parent the children, but lacked the ability to be the kind of parent the children need. Cecil has appealed.

The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Cecil admits the State met its burden to prove the statutory grounds for termination under section 232.116(1)(e). He contends termination is not in the best interests of the children. He asserts termination would be detrimental to the children due to the closeness of the parent-child relationship. He states he loves his daughters and maintained contact with them, even while he was in prison.

In determining the best interests of the children, a court looks to the children's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional condition and needs of the children in deciding whether to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

We determine it is in the best interests of Nicole and Kim to terminate Cecil's parental rights. Cecil was not able to do what was required to regain care of his children. Cecil was ordered to remain drug and alcohol free, obtain full-time employment, and refrain from illegal activities. He did not accomplish any of these goals. The children should not be required to wait any longer for Cecil to become a

law-abiding citizen. The children do not want to return to Cecil's care. Each child has clearly stated she would like to be adopted.

We affirm the decision of the juvenile court terminating Cecil's parental rights to Nicole and Kim.

**AFFIRMED.**

Vogel, J., concurs; Sackett, P.J., concurs specially without opinion.