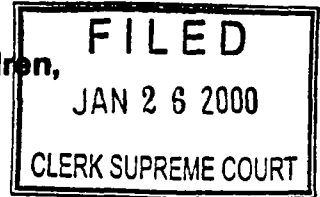


**IN THE COURT OF APPEALS OF IOWA**

No. 1999-519 (9-776) / 99-827  
Filed January 26, 2000

**IN THE INTEREST OF A.H., A.C., A.C., and L.H., Minor Children,**

**J.H., Mother,  
Appellant.**



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Appeal from the Iowa District Court for Polk County, James D. Birkenholz,  
District Associate Judge.

Mother appeals the juvenile court order terminating her parental rights to  
her four children. **AFFIRMED.**

Cynthia Tofflemire, Des Moines, for appellant.

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

Kim Ayotte of the Youth Law Center, Des Moines, guardian ad litem for  
minor children.

Heard by Sackett, C.J., and Vogel and Hecht, JJ.

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**VOGEL, J.**

**Janette H.** appeals the termination of her parental rights of four minor children; Ashley, born in 1987; Amber, born in 1988; Aaron, born in 1990; and Lacy, born in 1992. The children have four different fathers. With the exception of Ashley, the parental rights of the fathers have been terminated. In August of 1997, Ashley reported to Janette that both Ashley and Amber had been sexually abused by their step-father, George. The children were removed from the home and placed as pairs into two separate foster homes. A temporary order of no contact between George and the children was established. Janette received her children back for several days in November of 1997 but they were removed within a week due to a violation of the no-contact order with the step-father. Janette was offered and received services as indicated in the DHS case permanency plan.

A petition to terminate Janette's parental rights was filed on October 6, 1998. After hearing, the juvenile court entered an order terminating Janette's parental rights pursuant to Iowa Code sections 232.116(1)(b), (1)(c), (1)(d), (1)(e), and (1)(h) (1997). Janette now appeals.

**Scope of review.** The scope of review in termination cases is de novo. See *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa App. 1998). 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 child; we look to both the child's long-range and immediate interests. *M.N.W.*, 577 N.W.2d at 875.

***I. Petition states incorrect code section.*** Janette alleges that the petition to terminate parental rights incorrectly stated the applicable code section as Iowa Code section 232.166 (with subsections) as opposed to section 232.116. The error is compounded as the termination order fails to specify which code sections are proven, but simply states, "The factual allegations of the petition . . . have been sustained by clear and convincing evidence. . . ." We find the state did plead the wrong code sections and the order terminating therefore refers back to the incorrect code sections but this error is an obvious typographical error. The error does not prejudice Janette as the full text of the correct code sections plead is clearly contained within the petition to adequately advise her of the allegations.

***II. Reasonable services.*** Janette contends her parental rights were improperly terminated because she was not provided reasonable services. She alleges that the DHS requirement that she participate in the House of Mercy or Gateway program did not constitute an offering of services because these programs were not available to her. Janette feels that the waiting list at House of Mercy and the drug abuse requirement at Gateway combined to deny her the services required under the DHS case permanency plan to obtain custody of her children.

In order to effectively raise this issue on appeal, Janette must have challenged the adequacy of the services offered during the termination hearing. An issue may not be raised for the first time on appeal. *In re Robbins*, 230 N.W. 2d 489, 494 (Iowa 1975). Issues, even constitutional ones, which have not been raised at the trial level cannot be raised on appeal. *See Long v. Long*, 255

N.W.2d 140, 144 (Iowa 1977). Accordingly, Janette has failed to preserve error on this issue.

***III. Substantial compliance with the services offered.*** Janette was offered various services including a psychosocial evaluation, individual therapy, therapy with her children, assertiveness training class, periodic drug testing, and visitation with her children. She contends that her substantial compliance with these requirements was sufficient to retain her parental rights.

We acknowledge that Janette did make a partial effort in participating in the services offered. She attended an assertiveness training class. She obtained a psychological evaluation and participated in therapy but was not consistent in attending her therapy sessions. She did not consistently attend her children's therapy sessions, causing harm to their progress. She complied with the drug testing requirement sporadically, even missing for periods of a month or more. She visited her children but the frequency of the visits was reduced throughout the process because of Janette's inability to adequately manage the children at the visitations and her lack of progress in developing adequate parenting skills.

Although Janette did partially comply with the services offered, unbeknownst to DHS, she continued to have contact with the children's abuser throughout this whole process. She planned to continue to deceive DHS by living with her sister until she was granted custody of her children and then moving back into the home with the perpetrator. Iowa Code section 232.116(1)(c) allows for permanent termination of parental rights when circumstances which led to the

adjudication continue to exist despite the offer and receipt of services. See *In re S.O.*, 483 N.W.2d 602, 603 (Iowa 1992). That is clearly the case in this situation.

Therefore, we conclude there was clear and convincing evidence to terminate Janette's parental rights to all four children. Having reviewed all other issues raised, we affirm.

**AFFIRMED.**