

IN THE COURT OF APPEALS OF IOWA

No. 1-589 / 11-0908
Filed August 10, 2011

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

**L.A., Mother,
Appellant.**

Appeal from the Iowa District Court for Lucas County, Monty W. Franklin,
District Associate Judge.

A mother appeals from the district court order terminating her parental
rights to her child. **AFFIRMED.**

William A. Eddy of Eddy Law Firm, Indianola, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Paul M. Goldsmith, County Attorney, for appellee.

Matthew Moore, Chariton, for father.

Dustria Relph, Corydon, attorney and guardian ad litem for minor child.

Considered by Eisenhauer, P.J., and Doyle and Mullins, JJ.

MULLINS, J.

A mother appeals the district court order terminating her parental rights to her child, L.A. (born 2009).¹ She challenges the statutory grounds for termination. Upon our de novo review, we find the grounds under Iowa Code section 232.116(1)(h) (2011) were proved by clear and convincing evidence and affirm.

I. Background Facts and Proceedings.

L.A. first came to the attention of the Iowa Department of Human Services (DHS) in November 2009 due to an incident of domestic violence in the child's home, during which the mother was arrested for domestic abuse assault. In June 2010, the mother was homeless and left L.A. at a restaurant, ultimately leading to L.A.'s placement with the family with whom she currently resides. Shortly after leaving her child, the mother was arrested on an outstanding warrant for failure to appear and jailed for thirty-four days.

At the adjudicatory hearing on July 30, 2010, the child was found to be in need of assistance and was ordered to remain at her current placement. The mother was ordered to enroll in and attend the residential program at House of Mercy in Des Moines. The mother entered House of Mercy on November 17, 2010, but left without completing the program on January 4, 2011. After leaving, she entered the Beacon of Life Center where she stayed until January 21, 2011, when she was asked to leave due to her behavior. The mother attempted to enter another facility, Bernie Lorenz, but was not admitted. DHS offered a

¹ The father's rights have also been terminated; he does not appeal.

number of services to the mother, including family-centered services, parenting skills classes and evaluations, medication management, mental health services, and substance abuse evaluations and treatment. However, the mother's participation in those services was sporadic and unsuccessful.

On February 25, 2011, the State filed a petition to terminate the mother's parental rights. At the hearing on April 29, 2011, the mother argued that she had made some improvements over the course of the case, which made termination unnecessary. The mother testified that she had found a place to live with her "stepfather," a family friend who allowed the mother to live in his home rent-free in exchange for doing work around the house. At the time of the hearing, the mother was unemployed. She had been offered a job but had no transportation, no vehicle and no driver's license as the result of an operating while intoxicated conviction. The district court terminated the mother's parental rights pursuant to Iowa Code section 232.116(1)(d), (e), (h), and (i). The mother appeals and argues that the statutory grounds for termination were not proved by the State.

II. Standard of Review.

The court reviews this claim de novo. *In the Interest of M.T.*, 613 N.W.2d 690, 691 (Iowa Ct. App. 2000). Although we give weight to the district court's factual findings, we are not bound by them. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Our primary concern is the best interests of the child. *Id.*

III. Analysis.

"In order to affirm a termination of parental rights, we need only find grounds sufficient to terminate under one of the statutory grounds the district

court cited.” *In re K.R.*, 737 N.W.2d 321, 323 (Iowa Ct. App. 2007). Among other subsections, the mother’s rights were terminated pursuant to Iowa Code section 232.116(1)(h). Under this subsection, termination is appropriate where (1) the child is three years of age or younger; (2) the child has been adjudicated a child in need of assistance; (3) the child has been removed from the parent’s physical custody for the last six consecutive months; and (4) the court has found clear and convincing evidence that the child cannot be returned to the parent’s custody. Iowa Code § 232.116(1)(h). The mother does not contest the first three elements. She contests the fourth, arguing that the State failed to prove that the child cannot be returned to her care by clear and convincing evidence.

The record shows the mother has a history of abusing alcohol and methamphetamine, and suffers from anxiety and depression. In a report to the court filed April 29, 2011, a DHS worker explained that in the past, the mother has become anxious and stressed, or intoxicated to the point that she has been unable to care for the child. At the time of the termination hearing, the child was twenty-one months old and had been out of the mother’s care for ten months. During that time, the mother failed to address her mental health and substance abuse issues. Although the mother currently has a place to live, she has resided at five different places since February 2010 and there is no indication that her current living situation is stable or suitable for the child. She is not employed, nor does she have transportation. The DHS social worker testified that the child could not be returned to the mother at that time and there was no date in the foreseeable future when she could be.

Between the beginning of the year and the termination hearing on April 29, the mother had only one visitation with L.A. and had not requested any additional contact. Despite many services, the mother has not made any meaningful effort or progress toward providing a safe and stable home for her child. We must reasonably limit the time for parents to be in a position to assume care of their children because “patience with parents can soon translate into intolerable hardship for the children.” *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). Once the statutory time limitation lapses, termination proceedings must be viewed with a sense of urgency. *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000); *see also In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987) (“It is unnecessary to take from the children’s future any more than is demanded by statute.”). The record provides clear and convincing evidence that L.A. cannot be returned to the mother’s care. Therefore, we affirm.

AFFIRMED.