

IN THE COURT OF APPEALS OF IOWA

No. 1-837 / 11-1456
Filed November 9, 2011

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

**T.J.S., Mother,
Appellant.**

Appeal from the Iowa District Court for Dallas County, Virginia Cobb,
District Associate Judge.

A mother appeals the district court's termination of her parental rights.

AFFIRMED.

Mary K. Spellman of Spellman Law, P.C., West Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Wayne Reisetter, County Attorney, and Sean P. Wieser,
Assistant County Attorney, for appellee State.

Kayla Ann J. Stratton of Juvenile Public Defender Office, Des Moines,
attorney and guardian ad litem for minor child.

Considered by Sackett, C.J., and Vogel and Eisenhauer, JJ.

VOGEL, J.

Tammi appeals the termination of her parental rights to X.S., born September 2010. In August 2011, the district court terminated Tammi's parental rights under Iowa Code section 232.116(1)(d) (child adjudicated CINA for physical or sexual abuse or neglect, circumstances continue despite services) and (g) (child adjudicated CINA; court terminated parental rights with respect to another child who is a member of the same family; parent lacks ability or willingness to respond to services; not correctable by additional period of rehabilitation) (2011). Tammi appeals.¹

X.S. was removed from Tammi's care on October 6, 2010, and adjudicated a child in need of assistance on December 20, 2010. X.S. has not been returned to Tammi's care since the removal. Tammi does not challenge the grounds upon which termination was founded but does raise two issues on appeal: whether termination was in X.S.'s best interests and whether she should have been afforded an additional six months to demonstrate the ability to care for X.S. such that he could be returned to her care.

We review termination of parental rights cases de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

I. Best Interests of X.S.

When the grounds for termination have been proved, the court next considers whether termination is in the child's best interests. Iowa Code § 232.116(2); see *In re P.L.*, 778 N.W.2d 33, 37 (Iowa 2010) (stating the primary

¹ As Tammi has refused to give any information to DHS regarding X.S.'s father, the father's identity remains unknown.

considerations in determining the best interests of a child under Iowa Code section 232.116(2) are the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child).

Tammi's parental rights to four older children have been previously terminated. The Iowa Department of Human Services social worker and case manager, Marsha Hoffman, testified that Tammi has kept every supervised visit with X.S. and has been appropriately interacting with her child. While appropriate during visitations, she continues to lack insight as to basic parenting skills that led to the 2008 removal and later termination of her parental rights to her four older children. Services provided to Tammi include assistance with multiple community resources to improve her living situation, individual counseling, and services addressing her parenting skills. Despite these services, Tammi remains secretive with service providers, and has refused workers access to her living environment. According to Hoffman, "she hasn't made any progress in the things that she needed to do in order to care for a child."

William L. Martin, Jr., Ph.D. provided an updated evaluation of Tammi, from his previous report in 2008, in which he diagnosed Tammi with personality disorder. In this updated report, Dr. Martin saw "no change" from his earlier diagnosis. He concluded Tammi has a "profound lack of insight, coupled with the previously diagnosed personality disorder, [which] would suggest [Tammi] is not capable of providing stable care for [X.S.]" and that "harm would come to [X.S.] if [he] were placed in [Tammi's] care."

When X.S. was removed from Tammi's care, he was placed in a pre-adoptive foster home where he resides with his next older sister, who has been adopted by these foster parents. A child's safety and need for a permanent home are the primary concerns in determining the child's best interests. *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially). We conclude that termination is appropriate under the factors set forth in section 232.116(2).

II. Requested Additional Time

Tammi next argues the district court abused its discretion in denying her request to continue the termination hearing in order to allow her to obtain stable employment and housing.

Tammi offered the testimony of Kelsey Chevalier, a family consultant and Family Safety, Risk, and Permanency service provider from the Mid Iowa Family Therapy Clinic. Chevalier stated that she has observed many supervised visitations between Tammi and X.S., and noted appropriate interactions between mother and child. She has also assisted Tammi in applying for jobs and seeking community resources to assist with her lack of appropriate housing. Unfortunately, Chevalier had not observed any measurable progress, and at the time of the termination hearing, was of the opinion X.S. could not be returned to Tammi's care. Moreover, when questioned whether extending the period of time for Tammi to work on services offered would help Tammi regain custody of X.S., Chevalier did not think it was reasonable that Tammi would be able to show any progress even if an additional six months were granted, adding, "I think things will remain the same based on my observation."

Kirk Bragg, MSW, LISW, has worked with Tammi since June 2009 and noted her positive characteristics. However, he commented that Tammi's upbringing by grandparents who were very poor role models gave Tammi little to draw on for parental capabilities and he summarized the current situation as follows:

Tammi would have a difficult time providing an adequate home-life for a child. If she had a house, income, and some family support and guidance she might well be able to parent [X.S.]. But those are big "ifs." Heretofore Tammi has not been able to meet these basic needs. This is a sad situation.

Tammi struggles to take care of herself, and is unable to provide a safe and stable home for her child. Her historical inability to take care of her children, with no observed progress to date, gave the district court ample basis to deny Tammi's request for an additional six months. See *In re J.A.D.-F.*, 776 N.W.2d 879, 885 (Iowa Ct. App. 2009) (noting insight into the future care a parent is capable of providing can be gleaned from evidence of the parent's past performance). We find no abuse of the district court's discretion.

We affirm the termination of Tammi's parental rights to X.S.

AFFIRMED.