

IN THE COURT OF APPEALS OF IOWA

No. 1-889 / 11-1506
Filed November 23, 2011

**IN THE INTEREST OF K.E., K.B., K.B., and K.E.,
Minor Children,**

S.E., Mother,
Appellant.

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

A mother appeals from a juvenile court order terminating her parental
rights to four children. **AFFIRMED.**

Caitlin L. Slessor of Nazette, Marner, Nathanson & Shea, L.L.P., Cedar
Rapids, for appellant.

Thomas J. Miller, Attorney General, Diane M. Stahle, Assistant Attorney
General, Jerry Vander Sanden, County Attorney, and William Croghan, Assistant
County Attorney, for appellee.

Robert Davison, Cedar Rapids, for appellee-father K.B.

Cory Goldensoph, Cedar Rapids, for appellee-father G.W.

Douglas Davis, Cedar Rapids, for appellee-father D.M.

Julie Trachta, Linn County Advocate, Cedar Rapids, attorney and
guardian ad litem for minor children.

Considered by Danilson, P.J., and Tabor and Mullins, JJ.

MULLINS, J.

A mother appeals from a juvenile court order terminating her parental rights to four children.¹ She argues the State failed to prove the statutory grounds by clear and convincing evidence and that termination was not in the children's best interests. Upon our de novo review, we affirm. See *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010) (reviewing termination of parental rights proceedings de novo).

The mother has four children, an eldest daughter, K.E. (born June 2000), twin daughters, K.B. and K.B. (born August 2004), and a son, K.E. (born July 2007). On October 29, 2009, the children came to the attention of the Iowa Department of Human Services (DHS) for concerns the mother was not meeting the eldest daughter's mental health needs. The eldest daughter had been diagnosed with ADHD, depression, and anxiety, and it was reported that the child was not taking her prescribed medications nor attending her mental health appointments. During the subsequent child protective assessment, it was reported the mother was also allowing a registered sex offender around her children and had hit one of the twins with a belt. Child protective assessments were later determined to be founded on each of these three grounds. Additional concerns were also raised during the assessments that the mother was in an abusive relationship and the paramour had a pending charge for sex abuse in the third degree.

¹ The juvenile court also terminated the parental rights of the fathers of the four children. The three fathers have not appealed.

Voluntary services were initiated. On February 26, 2010, the oldest daughter disclosed to school counselors that she was being physically abused by her mother. All of the children underwent physical examinations, where two of the children were found to have linear marks on their lower back and upper thighs. The three oldest children each reported that their mother hit them with a belt or cord. A child protective assessment was determined to be founded. The children were removed from the mother's care through a temporary removal order and placed into the custody of DHS for family foster care. The removal order was confirmed on March 4, 2010, when the mother stipulated to the children being adjudicated children in need of assistance under Iowa Code section 232.2(6)(c)(2) (2011).

Following removal, the oldest daughter was hospitalized twice for her behaviors and mental health issues. On May 3, 2010, she was admitted to Four Oaks, a psychiatric medical institute for children, for residential treatment. The three other children were also found to have behavioral concerns, and the youngest child had developmental speech delays. Each of the three younger children received play therapy and remedial services. The twins were also given individualized education plans, while the youngest child was provided special preschooling.

Following removal, the mother underwent Allen testing, which indicated she has a mild cognitive impairment, which could result in her having difficulties in performing complex tasks, like scheduling appointments, managing long-term finances, and following a medication schedule.

Throughout the case, the mother has been inconsistent in visiting with the children, attending only 91 out of 127 total offered visits. She often called and cancelled visits claiming the cancellations were due to work or illness. However, when the mother did attend visits, her interactions were always noted to be appropriate. Visits were semi-supervised for two hours, two times a week.

The mother has also been inconsistent in her attendance and follow-through in parenting and support services. The mother initially participated in parenting and domestic violence classes, but stopped attending after she decided the classes were not helpful. The mother also only sporadically attended monthly family therapy sessions with the oldest child at Four Oaks.

In December 2010, the mother was arrested and charged with burglary in the third degree. The mother was placed on probation.

In March 2011, the mother left her apartment under threat of eviction for nonpayment of rent, and moved into a five-bedroom house with her mother, her two sisters, and their seven children. By the time of the termination hearing, her mother had moved out of the house.

On April 5, 2011, the State petitioned for the termination of parental rights. The petition was heard on July 28, 2011. At the hearing, the DHS worker testified that each of the children continue to have behavioral issues. The oldest child has improved and was scheduled to be discharged from Four Oaks in the next month, but would require monitoring and medication management. The three youngest children also have concerns for inappropriate touching and

sexually acting out, and must be fully supervised when together. The twins were also being retained in the first grade.

The mother testified she works for a landscaping company, and that she simply calls whenever she feels like working. She further testified she is currently in a relationship with a man with a history of domestic abuse and a current drug possession charge. The mother also testified she is unsure of what future treatment or counseling the children may need. Her testimony also revealed a lack of insight into why the children were removed from her care in the first place.

On September 7, 2011, the juvenile entered an order terminating the mother's parental rights to the three older children under Iowa Code sections 232.116(1)(d) and (f), and to the youngest child under sections 232.116(1)(d) and (h). The mother appeals.

The mother first argues the State failed to adequately prove the statutory grounds for termination. When the juvenile court terminates parental rights on more than one statutory ground, we need only find termination appropriate under one of the grounds to affirm. *In re D.W.*, 791 N.W.2d 703, 707 (Iowa 2010). We find the juvenile court properly terminated the mother's parental rights to her four children under sections 232.116(1)(f) and (h). Under both of these sections, the State was required to prove by clear and convincing evidence that the children cannot presently be returned to the mother's care without being exposed to any harm that would amount to a child in need of assistance adjudication. See Iowa Code § 232.116(1)(f)(4), (h)(4). We find that the State met its burden.

The children were removed from the mother's care due to concerns of physical abuse and risk of harm resulting from inappropriate persons being around the children. However, when offered parenting and domestic abuse classes to directly address these concerns, the mother did not follow through. The mother has not gained the necessary parenting skills to show she can adequately protect and discipline her children. In addition, all four of the children have behavioral concerns that will need to be closely monitored. Given the mother's lack of consistency in visitation and counseling sessions, significant concerns remain regarding the mother's ability to meet the children's mental and emotional needs. The record shows clear and convincing evidence that the children could not be returned to the mother's care at the present time without being subject to the threat of neglect. See *id.* § 232.2(6)(c)(2).

Although the statutory ground has been shown, termination must still be in the best interests of the children. *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). In determining this issue, we “give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child.” *Id.* (quoting Iowa Code § 232.116(2)).

By the time of the termination hearing, the children had been removed from the mother's care for almost seventeen months. Each of the children has significant behavioral needs that must be closely monitored. The mother's lack of consistent participation in visits, classes, and counseling makes her unable to provide a safe and nurturing home for her children. “It is well-settled law that we

cannot deprive a child of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child.” *Id.* at 41. “Once the limitation period lapses, termination proceedings must be viewed with a sense of urgency.” *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000). When considering the statutory factors, we agree with the juvenile court that termination is in the children’s best interests.

Accordingly, we affirm the juvenile court order terminating the parental rights of the mother to her four children.

AFFIRMED.