

IN THE COURT OF APPEALS OF IOWA

No. 2-1130 / 12-1807
Filed February 13, 2013

**IN THE INTEREST OF T.K., T.W., AND T.S.,
Minor Children,**

**S.K., Mother.
Appellant.**

Appeal from the Iowa District Court for Linn County, Susan Flaherty,
Associate Juvenile Judge.

A mother appeals the termination of her parental rights to three children, contending (1) the State failed to prove the grounds for termination cited by the juvenile court and (2) the juvenile court should have declined to terminate her parental rights in light of the bond she shared with her children. **AFFIRMED.**

Sharon D. Hallstoos, Dubuque, for appellant mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, Jerry Vander Sanden, County Attorney, and Kelly Kaufman, Assistant County Attorney, for appellee State.

Jean Lawrence of Clinical Law Program of University of Iowa College of Law, Iowa City, for appellees intervenors.

Ellen Ramsey-Kacena, Cedar Rapids, attorney and guardian ad litem for minor children.

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

VAITHESWARAN, J.

A mother appeals the termination of her parental rights to three of her four children, born in 2003, 2005, and 2008. She contends (1) the State failed to prove the grounds for termination cited by the juvenile court and (2) the juvenile court should have declined to terminate her parental rights in light of the bond she shared with her children.

I. The juvenile court terminated the mother's parental rights pursuant to several grounds. We may affirm if we find clear and convincing evidence to support any of them. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review, we are persuaded that the State proved the elements of Iowa Code section 232.116(1)(*l*) (2011) (requiring proof of several elements including proof that the parent "has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts" and "the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home"). *See id.*

The mother was twenty-five years old at the time of the termination hearing. Department of Human Services records disclose that she began using marijuana at the age of fourteen. The mother testified that she also began consuming alcohol in her junior year of high school and cocaine at the age of nineteen or twenty. She admitted she was addicted to cocaine and admitted to participation in a variety of substance abuse treatment programs, none of which led to sustained sobriety.

The department became involved with the family in 2008, based on the mother's drug use. In the ensuing years, the children were removed from her care on four separate occasions.

At the time of the final removal in November 2011, the mother was pregnant with her fourth child and disclosed she had used cocaine during the pregnancy. She began intensive outpatient treatment and soon returned to an inpatient treatment program she had previously completed. Commendably, the mother actively engaged in the program and gave birth to a drug-free child.¹ By the time of the second of two termination hearings, the mother had been a resident of the facility for six months. She testified that she maintained her sobriety the entire time.

This snapshot of the mother's progress boded well for her reunification prospects with the older three children. But similar positive snapshots from her past ended badly. The mother acknowledged this fact, stating, "[I]n order for you guys to see that I am real this time, I would need to be out of [the treatment facility] for over six months to show you guys that I am able to do it." She also acknowledged that she did not plan to become totally independent for two to five years, as she was hoping for an imminent placement at a transitional housing facility. The mother's testimony alone supports termination under section 232.116(1)(f).

In addition, the record contains similar testimony from professionals who worked with the mother. A department social worker who proactively assisted

¹ That child was allowed to remain with the mother at the facility and is not a subject of this termination proceeding.

the family for several years, categorically opined that the mother could not maintain her sobriety “outside of the treatment facility.” A service provider who supervised visits testified that the mother “has had services since 2008” with “multiple trial home placements” and “her substance abuse seems to be a consistent concern.” While she acknowledged that the mother regularly attended visits, had recently graduated to unsupervised visits with drop-ins, and interacted well with the children, she nonetheless recommended termination of her parental rights. The program manager at the treatment facility characterized the mother as an addict. While she stated that the mother appeared to have matured since her prior stay at the facility, the fact remained that the same facility successfully discharged her, only to see her relapse following her release.²

Based on this record, we agree with the juvenile court that termination of the mother’s parental rights to her oldest three children was warranted under Iowa Code section 232.116(1)(f).

II. A court may decline to terminate a parental-child relationship if “[t]here is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.” Iowa Code § 232.116(3)(c). The department social worker conceded that the children shared a bond with their mother. As the juvenile court stated, the countervailing considerations were the children’s safety and security. The mother compromised both when the children were in her care. For that reason, we conclude the court

² The mother points out that, this time, the programming included a mental health component that was not previously available to her. She acknowledged, however, that other professionals over the years had focused on her depression and stress as triggers for relapse.

appropriately terminated the mother's parental rights notwithstanding the close bond she shared with the children.

We affirm the termination of the mother's parental rights to these children.

AFFIRMED.