

IN THE COURT OF APPEALS OF IOWA

No. 2-1139 / 12-2069
Filed February 13, 2013

**IN THE INTEREST OF S.G., R.G., T.G.,
D.G., T.G., AND H.G.,
Minor Children,**

**S.M., Mother.
Appellant.**

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

A mother appeals the termination of her parental rights to her six children.

AFFIRMED.

Christine Sand of Wild, Baxter & Sand, P.C., Guthrie Center, for appellant
mother.

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

Jason Hauser of Hauser Law Office, P.C., Des Moines, for appellee
father.

Kayla Stratton of the Juvenile Public Defender's Office, Des Moines,
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 her six children, born in 2003, 2005, 2006, 2008, 2010, and 2011. She contends (1) the State failed to prove the grounds for termination cited by the district court, (2) the district court should have afforded her an additional six months to work toward reunification, and (3) the district court should have declined to terminate her parental rights because five of the six children were living with a relative and she shared a bond with them.

I. The district court terminated the mother's parental rights pursuant to several statutory provisions. We may affirm if we find clear and convincing evidence to support any of the cited grounds. *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 grounds set forth in Iowa Code section 232.116(1)(f) (2011) (requiring proof of several elements including proof that a child four years or older cannot be returned to the parent's custody) and (h) (requiring proof of several elements including proof that a child three years or younger cannot be returned to the parent's custody). See *id.* (setting forth the standard of review).

The Department of Human Services became involved with the mother, father, and five of the children in 2010, based on mental health and domestic violence concerns. The father was arrested for domestic abuse assault and a no-contact order was entered preventing him from returning to the home. The charges were dropped a month later and the order was amended to allow for his return. The department recommended "close supervision of the family."

The following year, the father attempted suicide in the family apartment. The five children were placed with the maternal grandfather and his wife. Later that year, the children were adjudicated in need of assistance. The department expressed concern about the condition of the parents' apartment, the father's use of marijuana, and both parents' mental health.

Meanwhile, the mother and father had a sixth child. This child was immediately removed from the mother's care and was placed in foster care. The parties were afforded liberal supervised visitation with the five older children as well as supervised visits with the youngest child.

The parents initially cooperated with reunification services. The mother stated she would be willing to see a therapist and would do whatever she needed to facilitate a return of the children. The father agreed to provide urine samples and began attending therapy sessions.

As time passed, the parents' participation in services waned. Neither consistently visited the children, met with the service provider charged with addressing their progress, or attended individual therapy sessions. The father failed one of several drug screens. As a result, the department commented that "the current threats of maltreatment that brought DHS into the family's lives are still very present and have not been alleviated in the slightest."

The parents' progress remained stagnant as the termination hearing approached. The department reported that the parents did not visit the five older children at their relatives' home and their only contact with those children occurred during a single monthly visit at their apartment facilitated by the

grandfather. Similarly, the parents did not attempt to see their youngest child at the foster home but waited for a weekly supervised visit at their apartment.

As noted, their first apartment was poorly maintained and unsanitary. Several months before the termination hearing, the landlord evicted the parents, and they moved to a tent in a friend's back yard. After two months, they transitioned to a relative's one-bedroom apartment, where they remained through the termination hearing.

By that time, the father had accumulated three positive drug screens, missed several others, and could not remember his therapist's name. While the mother began attending weekly therapy sessions and stated she was not averse to mental health treatment, a psychosocial evaluator characterized her as "liv[ing] in an alternate reality." The evaluator commented that

her coping mechanisms are very poor. She has an inflexible life adjustment that leads to the development of psychological symptoms (anxiety) when stress is present. She is a highly dependent personality. She desires others to solve her problems and stressors. Her serious anxiety can be debilitating. She receives secondary gain from her symptoms. She appears to have little motivation to address her life circumstances or control her anxiety.

The evaluator expressed concern that the mother did "not see her anxiety as a problem. She feels it will go away once she has the children back in her care to motivate her." At the same time, the evaluator found that the mother had "the potential to be an adequate parent if she could control her anxiety consistently, increase her low energy and motivation levels, and develop a more realistic understanding of she [sic] and her children's needs." The evaluator concluded by stating, "[The mother] should be viewed as being at high risk for continued

neglect of her children. Her chances for an improved prognosis are dependent on her ability to make use of treatment resources and challenge her inaccurate reality.”

At the termination hearing, the mother did not testify, but submitted a handwritten statement to the court that confirmed she was not close to attaining the goals outlined by the psychosocial evaluator. She acknowledged experiencing depression and stress that she stated “is not even in the same ballpark as the stress of taking care of the kids.” She requested a six-month extension to address these issues. This statement, together with the other evidence of record, establishes that the children could not immediately be returned to her custody.

II. The district court denied the mother’s request for a six-month extension to work toward reunification. The mother takes issue with this aspect of the court’s ruling. On our *de novo* review, we agree the concerns that led to the children’s removal were so deep-seated and unresolved that “it cannot be said at this time that the children could be returned to her in six months.”

III. The mother contends the district court should have declined to terminate her parental rights because five of the six children were with a relative and because of the close bond that she shares with the children. See Iowa Code § 232.116(3)(a), (c). The mother did not take advantage of the relative placement by exercising the liberal visitation she was afforded with them. See *id.* § 232.116(3)(a). For that reason, we agree with the district court’s decision not to invoke this exception to termination. Additionally, because her failure to maintain regular contact with the children weakened the bond that she shared

with them, we also conclude that this exception to termination was also inapplicable. See *id.* § 232.116(3)(c).

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

AFFIRMED.