

IN THE COURT OF APPEALS OF IOWA

No. 3-922 / 13-0885
Filed October 2, 2013

**IN THE INTEREST OF R.C., C.C., AND G.J.,
Minor Children,**

**D.J., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Louise M. Jacobs,
District Associate Judge.

A mother appeals the termination of her parental rights to her three
children. **AFFIRMED.**

Jeffrey S. Lavalley of Lavalley Law Firm, Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Annette Taylor,
Assistant County Attorney, for appellee State.

ConGarry Williams of the Juvenile Public Defender's Office, Des Moines,
attorney and guardian ad litem for minor children.

Considered by Vaitheswaran, P.J., and Doyle and Tabor, JJ.

VAITHESWARAN, P.J.

A mother appeals the termination of her parental rights to her three children, born in 2007, 2011, and 2012. She contends (A) the juvenile court should have extended the time for reunification with her children and (B) termination was detrimental to the children due to the closeness of the parent-child relationship.

I. Background Facts and Proceedings

In February 2012, police and other authorities jointly executed a search warrant on a Des Moines apartment. The mother was inside with her two children. Her third child had yet to be born.

Officers discovered one of the children within three feet of crack cocaine. They also found a loaded firearm in the dresser of one of the bedrooms. The mother was arrested and jailed for possession of crack cocaine and for being a felon in possession of a firearm.

The two children were removed from the mother's custody, and the mother stipulated to their adjudication as children in need of assistance. The children were eventually placed with a relative, where they remained through the balance of the proceedings.

The mother pled guilty to possession of a firearm by a felon and possession of crack cocaine with intent to deliver. Following imposition of sentence, she was transferred to a medical facility under the purview of the department of corrections pending delivery of her third child. After the birth, the child was removed from the mother's custody and placed with the same relative who was caring for the older two children. The mother was sent to prison.

Between February 2012 and the termination hearing in March 2013, the mother had one in-person contact with her children, which occurred after she was imprisoned. While the department of human services initially allowed her to have telephone contact with the older two children, that contact was curtailed after the mother disparaged the caretaking relative.

At the termination hearing, the mother testified by telephone that she would be eligible for parole in August 2013. She admitted, however, that she would not discharge her sentences until 2018.

Following the termination hearing, the juvenile court terminated the mother's parental rights pursuant to several statutory grounds. On appeal, the mother does not challenge the evidence supporting those grounds.

II. Analysis

A. Extension of Time

After a termination hearing, a court may decline to order termination and may continue the children's adjudication as children in need of assistance. Iowa Code § 232.117(5) (2013). The mother contends the juvenile court should have exercised this option, which would have afforded her additional time to engage in reunification services. She cites her "great level of interest in parenting her children once she has served her sentence." She notes that she is "taking advantage of beneficial programs, including drug treatment, while in prison," and would have participated in services offered by the department of human services had she not been incarcerated.

The record reflects significant obstacles to reunification in addition to the mother's drug use, which she minimized at the termination hearing.¹ By the mother's own admission, she did not know her youngest child. She also admitted that her conduct led to the loss of telephone contact with the older children. Paroled or not, there was much to be done before she could reunify with her children, and there was little indication that an extension of time would move her closer to that goal.

On our de novo review, we conclude the juvenile court acted appropriately in terminating the mother's parental rights to her three children rather than affording the mother more time to work towards reunification. See *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011) (setting forth the standard of review).

B. Bond with Children

A court need not terminate a parent's rights to children 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 record contains some evidence of a bond between the mother and her oldest child. Specifically, the mother testified that the older child cried during the prison visit and asked her when she was coming home. That connection was missing with the younger two children. By the mother's own admission, the second child knew who she was but did not look to her for comfort. The youngest child allowed the mother to hold and feed her but did not recognize her.

¹ The mother testified that she used marijuana and PCP but not crack cocaine. However, after the search warrant was executed, she admitted to use of crack cocaine.

Based on the mother's testimony, we conclude the bond between mother and children was not sufficiently well-established to warrant denial of the State's termination petition.

III. Disposition

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

AFFIRMED.