

IN THE COURT OF APPEALS OF IOWA

No. 3-952 / 13-1178
Filed November 6, 2013

**IN THE INTEREST OF J.H. and S.H.,
Minor Children,**

T.H., Mother,
Appellant,

J.H., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Colin J. Witt, District Associate Judge.

A mother and father appeal separately from the order terminating their parental rights. **AFFIRMED.**

Tammi M. Blackstone of Harrison & Dietz-Kilen, P.L.C., Des Moines, for appellant-mother.

Christopher R. Kemp of Kemp & Sease, Des Moines, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellee.

Kimberly Ayotte of Youth Law Center, Des Moines, attorney and guardian ad litem for minor children.

Considered by Potterfield, P.J., and Mullins and Bower, JJ.

BOWER, J.

A mother¹ and father appeal separately from the order terminating their parental rights. The father contends the State did not prove one statutory ground for termination and termination is not in the children's best interests. We affirm.

When the children were removed in March 2012, the mother had just tried to commit suicide by driving her car into a bridge, and the father was incarcerated for domestic abuse assault against the mother. There also were concerns both parents were using methamphetamine. The children initially were placed with their maternal grandmother, but soon moved to foster care when the grandmother said she was not a long-term placement option.

During his incarceration, the father did not maintain contact with the children because he was informed the no-contact order in effect included the children. He participated in services addressing substance abuse and family violence while in prison. The father was released on parole in February 2013 and, at the time of the termination hearing, lived in a halfway house where he could not have the children.

The court terminated the parental rights of both parents under Iowa Code section 232.116(1)(d) (2013), (f) as to the older child, and (h) as to the younger child. Concerning the children's best interests, the court determined

it is in the best interest of these children that parental rights be terminated. The children need safety, stability. No parent has provided that for these children since these . . . cases opened in Spring 2012. There is not record or reason to believe that either

¹ During the pendency of this appeal the mother died, and her attorney filed a voluntary dismissal of her appeal.

parent will any time soon be at all able to provide a safe, stable, and progressive placement to meet these children's needs.

The court also determined no exception in section 232.116(3) "should rule the day and overturn the appropriate grounds statutorily and reasons found herein for termination."

We review terminations of parental rights de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). We examine both the facts and law and adjudicate anew those issues properly preserved and presented. *In re L.G.*, 532 N.W.2d 478, 480-81 (Iowa Ct. App. 1995). We accord considerable weight to the findings of the juvenile court, especially concerning the credibility of witnesses, but are not bound by them. *Id.* at 481. Our main concern lies with the children's welfare and best interests. *In re L.G.*, 532 N.W.2d 478, 480-81 (Iowa Ct. App. 1995).

The father contends the court erred in finding the circumstances leading to the children's adjudication continued to exist despite the offer or receipt of services. See Iowa Code § 232.116(1)(d)(2). He does not challenge the other statutory grounds cited by the court. When the juvenile court terminates parental rights on more than one statutory ground, we only need to find the evidence supports termination on one of the grounds to affirm. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). The juvenile court cited section 232.116(1)(f) concerning the older child and 232.116(1)(h) concerning the younger child. Both require proof the children cannot be returned to the parent's custody at the present time. See Iowa Code § 232.116(1)(f)(4), (h)(4). The father testified the children could not be returned to him at that time. He expressed hope the children could be returned to him in six months, recognizing he "would need to be reintegrated with

them.” He thought the reintegration should start with supervised visits and therapy sessions with them. Clear and convincing evidence supports termination of the father’s parental rights under section 232.116(1)(f) and (h).

The father also contends termination is not in the children’s best interests. He points to the progress he has made in turning his life around and to the classes he completed in prison. He argues he has “gained substantial insight” and now “can be a safe and stable parent” for the children.

The best interests of the children are determined by looking at the children’s long-range as well as immediate interests. See *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa Ct. App. 1998). We consider what the future likely holds for the children if returned to their parents. *In re J.K.*, 495 N.W.2d 108, 110 (Iowa 1993). Insight for that determination is gained from evidence of the parents’ past performance, for that performance may indicate the quality of future care the parent is capable of providing. *In re L.L.*, 459 N.W.2d 489, 493-94 (Iowa 1990). By the time of the second day of the termination hearing, the father had been out of prison for about ten weeks. He did not have steady employment or income. He had not moved from the halfway house to a residence where the children could live with him. Considering the factors in section 232.116(2), we conclude termination of the father’s parental rights is in the children’s best interests. We affirm the order terminating the father’s parental rights.

AFFIRMED.