

IN THE COURT OF APPEALS OF IOWA

No. 2-1045 / 12-1837
Filed December 12, 2012

**IN THE INTEREST OF J.M., A.M.,
and A.M.,
Minor Children,**

**A.L.M., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, Christine Dalton,
District Associate Judge.

A mother appeals the juvenile court order terminating her parental rights.

AFFIRMED.

Lauren M. Phelps, Davenport, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Michael Walton, County Attorney, and Julie A. Walton,
Assistant County Attorney, for appellee.

Barbara Wallace, Davenport, for father of A.M.

Jennifer Olson, Davenport, for father of J.M.

Maggie Moeller, Davenport, attorney and guardian ad litem for minor
children.

Considered by Danilson, P.J., Tabor, J., and Miller, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

MILLER, S.J.

I. Background Facts & Proceedings

Autumn is the mother of three children, born in 2007, 2009, and 2010. The State filed a petition on July 8, 2010, seeking court intervention for the two oldest children due to the mother's drug use, mental health issues, domestic violence in her relationships, and homelessness. The juvenile court entered an order adjudicating these two children to be in need of assistance under Iowa Code sections 232.2(6)(b), (c)(2), and (n) (2009). The dispositional order placed the children in the care of their mother, subject to supervision by the Iowa Department of Human Services. In a later order, the youngest child was adjudicated to be in need of assistance under the same code sections.

The children were removed from the mother's care on July 12, 2011, after she left the children and went to Chicago with her boyfriend for a week, where she smoked marijuana every day. Additionally, the mother had been inconsistent in her participation in services and was not working on treatment for substance abuse. The middle child was placed with her paternal grandmother, while the other two children were placed in foster care.

As the case progressed the two oldest children revealed they had been sexually abused by one of the mother's boyfriends. The mother became involved in a new substance abuse treatment program. She did not consistently meet with her therapist to address her mental health problems. During supervised visits the mother had difficulty watching all three children. The mother also continued to have problems with homelessness.

On July 10, 2012, the State filed petitions seeking termination of the mother's parental rights and the parental rights of the father of the oldest child and the father of the youngest child. On September 19, 2012, the middle child was also placed in foster care. The juvenile court terminated the mother's parental rights under sections 232.116(1)(d), (f) (the oldest child), (h) (the two youngest children), and (i) (2011).¹ The court found credibility was a problem for the mother. The court noted she had not been able to maintain stability for herself, let alone her children, for several years. The court concluded termination of the mother's parental rights was in the children's best interests. Autumn appeals the termination of her parental rights.

II. Standard of Review

The scope of review in termination cases is de novo. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). Clear and convincing evidence is needed to establish the grounds for termination. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Where there is clear and convincing evidence there is no serious or substantial doubt about the correctness of the conclusion drawn from the evidence. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). "The paramount concern in termination proceedings is the best interest of the child." *In re D.S.*, 806 N.W.2d 458, 465 (Iowa Ct. App. 2011).

III. Reasonable Efforts

Autumn asserts the Department did not make reasonable efforts to correct the adjudicatory harm. She claims she had been doing all the things she needed

¹ The juvenile court also terminated the parental rights of the father of the oldest child and the father of the youngest child. They have not appealed the termination order.

to do to comply with the case plan, and it was the services in this case which were deficient. She claims that if her mental health problems had been accurately diagnosed and treated it is more likely she would have been able to obtain housing.

“Reasonable efforts to reunite parent and child are required prior to the termination of parental rights.” *In re M.B.*, 595 N.W.2d 815, 818 (Iowa Ct. App. 1999). Reasonable efforts include both services to prevent the need for removal and services to implement reunification. *In re N.N.*, 692 N.W.2d 51, 55 (Iowa Ct. App. 2004). “The Department has an obligation to make reasonable efforts toward reunification, but a parent has an equal obligation to demand other, different, or additional services prior to a permanency or termination hearing.” *In re A.A.G.* 708 N.W.2d 85, 91 (Iowa Ct. App. 2005).

The record in this case does not show that the mother requested other, different, or additional services before the termination hearing. “[I]f a parent fails to request other services at the proper time, the parent waives the issue and may not later challenge it at the termination proceeding.” *In re C.H.*, 652 N.W.2d 144, 148 (Iowa 2002). We conclude Autumn has waived the issue of reasonable efforts.

IV. Additional Time

Autumn contends the record shows the children could be returned to her care within a reasonable amount of time. She states that at the time of the termination hearing she had been substance-free for approximately eleven months. She asserts, “[b]ased on her patterns throughout this case, it may take

Autumn a significant amount of time to understand what she needs to do, but when she does understand, she will continue to do what she needs to do, as she has with her substance abuse issues.” The mother claims the juvenile court should have granted her an additional period of time to work on reuniting with the children.

The juvenile court found the State “has established by clear and convincing evidence that the children can’t be safely returned to their mother now or in the near future. It would be contrary to their well-being to return them to her at this time or within the next six months.”

We agree with the juvenile court’s conclusion. The mother had been involved in services for a substantial period of time, starting before the present case was initiated. Despite years of services she remained homeless and unemployed, she continued to engage in unstable relationships with men, and she was inconsistent in attending appointments and visitation. As we have noted many times, patience with parents can soon translate into intolerable hardship for their children. *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). The children should not have to wait “a significant amount of time” for their mother to be able to adequately parent them.

V. Best Interests

Autumn does not dispute the grounds for termination of her parental rights under section 232.116(1), or raise a best interests argument under section 232.116(2). See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010) (noting that if a parent does not dispute these steps they do not have to be discussed). On

appeal, she claims that the court should have decided not to terminate her parental rights based on the closeness of the parent-child relationship. See Iowa Code § 232.116(3)(c).

This issue was not addressed by the juvenile court, and we question whether it has been preserved for our review. See *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003) (“Even issues implicating constitutional rights must be presented to and ruled upon the district court in order to preserve error for appeal.”). Even if the issue had been preserved, however, the record does not support the mother’s claims regarding the closeness of the parent-child bond. The children expressed less anxiety and had fewer behavioral problems when their contact with their mother was reduced.

We affirm the decision of the juvenile court terminating Autumn’s parental rights to her three children.

AFFIRMED.