

IN THE COURT OF APPEALS OF IOWA

No. 2-646 / 12-1055
Filed August 8, 2012

**IN THE INTEREST OF Q.P.,
Minor Child,**

**Q.G., a/k/a Q.S., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Judge.

A mother appeals the order terminating her parental rights. **AFFIRMED.**

Brett H. Schilling of Schilling Law Office, P.C., Waterloo, for appellant mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kathleen Hahn, Assistant County Attorney, for appellee State.

L.P., Fort Dodge, pro se father.

Linnea Nicol of Juvenile Public Defender's Office, Waterloo, attorney and guardian ad litem for minor child.

Considered by Eisenhauer, C.J., and Doyle and Tabor, JJ.

DOYLE, J.

The mother appeals the termination of her parental rights. We review her claims de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011).

L.P. is the father¹ and Q.G. is the mother of Q.P., born in October 2009.² The parents have a history of criminal activity. The mother has a history of involvement with the Iowa Department of Human Services (Department), including a founded report of child abuse in February 2009 for failing to provide her children with adequate supervision.³

In March 2011, the family again came to the attention of the Department after it was reported the father had inappropriate sexual contact with the child's half-sister. There were reports of continued domestic violence between the parents, though a no-contact order was still in existence from a previous domestic incident between the parents in 2010. It was also discovered that the mother had been charged with possession of a firearm by a felon for having guns in the family home. The child was removed from the parents' custody and placed in foster care, where he has since remained. Thereafter, the child was adjudicated a child in need of assistance (CINA).

Services were initially offered to the parents. However, the mother continued to have contact with the father, violating the no-contact order. It was also learned that the child's half-sister had reported the sexual abuse to the mother, and the mother did not believe her and did nothing. The children were

¹ The termination of the father's parental rights is not at issue in this appeal.

² The mother has three other children, Q.P.'s half-siblings, not at issue in this appeal.

³ The maternal grandmother was also found to have failed to provide the children with adequate supervision in April 2009.

present during many domestic disputes, including seeing the father choke the mother and the mother hit the father with a baseball bat. Several of the mother's children knew the "secret" locations of the mother's guns in the home.

In June 2011, the father was placed in jail after being charged with lascivious acts with a child, indecent contact with a child, and domestic abuse assault third. In July 2011, the mother was arrested for second offense driving while under the influence. The mother's probation was revoked, and she was then placed in jail. The mother pleaded guilty to the possession of firearms by a felon charge, and she was sentenced in September 2011 to five years in prison. Her tentative discharge date is January 2014. The father was found guilty of his three charges, and he was sentenced to ten years in prison in August 2011.

In March 2012, the State filed its petition to terminate the parents' parental rights. Following a hearing, the juvenile court entered its order terminating the mother's parental rights pursuant to Iowa Code section 232.116(1)(h) and (j). The mother now appeals, contending the State failed to prove the grounds for termination, she should have been given additional time for reunification, and a guardianship with the child's maternal grandmother should have been established and termination of her parental rights avoided.

We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). In this case, we choose to focus our attention on section 232.116(1)(h). Under that section, parental rights may be terminated if the court finds by clear and convincing evidence that the child is three years of age or younger, has been adjudicated a CINA, has been removed from the physical custody of his parents for at least six months of the

last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days, and there is clear and convincing evidence that the child cannot be returned to the custody of the child's parents at the present time. Iowa Code § 232.116(1)(h).

At the time of the termination hearing, the child had been out of the mother's care for over a year. The child had not seen his mother since July 2011. Although the mother testified that she believed she would be paroled any day, she had not been at the time of the termination hearing. Clearly the child could not have been returned to the mother's custody at that time. Additionally, we agree with the juvenile court's findings:

Up to and including the time of the termination hearing, [the mother] denies any culpability for her children's abuse and neglect. She denies that her children have been exposed to violence, although that exposure is clearly documented. She denies that [the child's] behaviors are anything but "typical" and does not express any concern for his aggressive behaviors. She fails to appreciate the effect that the parents' violent behavior can have on children, even infants.

Even if [the mother] was available to work to resume custody of her child, it is unlikely that she would seek out the therapy that [the child] needs. Until [the mother] comes to terms with the violence that has affected her, it is unlikely she can be any kind of role model for this child.

We affirm the juvenile court's conclusion the State proved by clear and convincing evidence ground 232.116(1)(h) for the termination of the mother's parental rights.

The mother also asserts that the juvenile court should have granted her additional time for reunification, based upon her belief that she would soon be paroled. We find no error.

If a statutory ground for termination is determined to exist, the court may terminate a parent's parental rights. *In re P.L.*, 778 N.W.2d 33, 37 (Iowa 2010). In considering whether to terminate, the court must then apply the best-interests framework established in section 232.116(2). *Id.* The legislature highlighted as primary considerations: the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child. *See id.* at 40; *see also* Iowa Code § 232.116(2). "A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests." *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially). Those best interests are to be determined by looking at the child's long-range as well as immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). We are to consider what the future likely holds for the child if the child is returned to their parents. *In re J.K.*, 495 N.W.2d 108, 110 (Iowa 1993). Insight for that determination is to be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing. *In re L.L.*, 459 N.W.2d 489, 493-94 (Iowa 1990).

The mother had services offered to her by the Department before this child was even born. The mother was arrested prior to the initiation of this case for possession of firearms. She was arrested during the case for drunk driving. While the mother has expressed love for the child, that love has not been sufficient motivation for her to make a meaningful changes in her life, particularly her continuing involvement in violent relationships and her denial of violence and its effects. An additional six months will not assist her in that effort. However, an

additional six months would be an additional six months during which the child would be denied a permanent and loving home and a forever family. We affirm the juvenile court's denial of the mother's request for an additional six months for reunification.

Finally, the mother argues a guardianship should have been established with her mother, the maternal grandmother, and the termination of her parental rights avoided. Again, for the reasons above, we find no error. The maternal grandmother was not sure she could care for all of the mother's children, though she was willing to try. We applaud her desire to reunite the family, but a guardianship would only further delay permanency for this child. We therefore affirm the termination of the mother's parental rights.

AFFIRMED.