IN THE COURT OF APPEALS OF IOWA

No. 3-283 / 13-0249
Filed March 27, 2013

**IN THE INTEREST OF J.S., S.S., AND B.M.,
Minor Children,**

**T.S., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

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

Tammy L. Banning of Tammy L. Banning, P.L.C., Waterloo, for appellant mother.

Thomas J. Miller, Attorney General, and Katherine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven J. Halbach, Assistant County Attorney, for appellee State.

Michael Bandy of Bandy Law Office, Waterloo, for appellee father.

Linnea Nicol of the Waterloo Juvenile Public Defender Office, Waterloo, attorney and guardian ad litem for minor children.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

DOYLE, J.

The mother appeals the termination of her parental rights. She contends the State failed to prove the grounds for termination by clear and convincing evidence. She also contends termination was not in the children's best interests. We review her claims de novo. *See In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

In August 2012, the State filed its petition for termination of the mother's parental rights to her children J.S., born 2004, S.S., born 2009, and B.M., born April 2011. Following a hearing, the mother's parental rights were terminated pursuant to Iowa Code section 232.116(1) paragraphs (e), (g), (h), and (*l*) (2011). 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).

We choose to focus our attention on section 232.116(1) paragraph (g). Under that paragraph, termination of parental rights is authorized where (1) the child has been adjudicated in need of assistance, (2) the court has terminated parental rights to another child who is a member of the same family, (3) "[t]here is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation," and (4) an additional period of rehabilitation would not correct the situation. The mother does not dispute the first two elements have been met. Rather, she asserts elements (3) and (4) have not been met. Upon our de novo review, we find the State has met its burden.

Here, the mother is not a stranger to involvement with the Iowa Department of Human Services (Department). She has three older biological children to whom her parental rights were terminated in 2003 as a result of her

continued drug abuse. She again came to the attention of the Department in April 2011, following B.M.'s birth, after B.M. tested positive for marijuana at birth. A safety plan was completed, and the mother was offered services.

In December 2011, there was a domestic dispute between the mother and her paramour, requiring police intervention. Both parties violated their existing no-contact orders, and both parties were arrested. The mother then left the children in the care of a person who was also involved with the Department and did not have custody of her own children. B.M. reported she was on the couch during the fight, and she "put the pillow over her head so she would stay safe." The mother's home was found splattered with blood. The Department sought removal of the children from the mother's care, and they were placed in foster care, where they have since remained.

The children were adjudicated children in need of assistance in December 2011, and services continued to be offered to the mother. Following a psychological evaluation in January 2012, the mother was found to have antisocial personality disorder and polysubstance dependence. The psychologist set forth numerous recommendations "in an attempt to boost [the mother's] ability to parent her children," but noted in her report:

> [The mother] had little or no acknowledgment of past parenting mistakes or motivation for changing her parenting practices in the future. Rather, she was forthcoming in stating that she would deceive service providers in an attempt to maintain custody of her children. Therefore, her engagement and participation in any services provided to her are likely to be minimal and perhaps disingenuous.

The psychologist recommended the mother participate in random drug testing; secure stable, appropriate, and safe housing; and disallow others to cohabit in

her residence. Additionally, the psychologist recommended the mother participate in an anger management program, finding "improved management of negative emotions would be of great benefit in regard to her relationships and parenting abilities" because the mother possessed "minimal coping strategies."

Following her evaluation, the mother was offered mental health treatment, along with substance abuse treatment and drug testing, but her participation was sporadic at best. Despite the psychologist's recommendations, the mother moved back into the home of her paramour in February 2012, even though a no-contact order between the two still existed. In March 2012, the Department learned the mother was pregnant with her paramour's child. Additionally, it was reported the mother had been using methamphetamine during the pregnancy. A drug test was requested, but she ultimately refused. At the end of March 2012, there was another incident of domestic violence between the mother and her paramour; however, the mother continued the relationship.

By the time of the permanency hearing in June 2012, the district court determined reasonable efforts should be waived, and it directed the State to file a petition for termination of her parental rights. The court found the mother had placed her relationship with her paramour above her efforts at regaining custody of the children as well as placing the children at risk of physical abuse as a result of her on-going relationship with the paramour. The children's individual therapist had recommended decreasing visitation with the mother because of the children's behaviors and emotional issues following their visits. The mother still had not followed through with domestic violence counseling, as well a mental health and substance abuse treatment.

The State filed its petition for termination of the mother's parental rights in August 2012. Thereafter, the mother began to participate in some services. By October 2012, she had begun participating in domestic violence services, and she worked with the Department to develop a safety plan in relation to her new baby. She stated she had ended her relationship with her paramour, and she had moved into her cousin's residence.

Despite her overall lack of participation in necessary services prior to the filing of the termination petition, as well as her previous involvement with the Department concerning her older biological children, the mother claimed at the termination hearing that she was now "truly invested" in all of the offered services and fully committed. Although we hope this is true for the mother, her latest assurance that she is now interested in treatment is simply too little, too late for J.S., S.S., and B.M. A parent cannot sit back and "wait until the eve of termination . . . to begin to express an interest in parenting." *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000). Upon our de novo review of the record, we find the State proved by clear and convincing evidence that the mother continued to lack the ability or willingness to respond to services which would correct the situation, and an additional period of rehabilitation would not correct the situation. Accordingly, we agree with the juvenile court that termination of the mother's parental rights was proper under Iowa Code section 232.116(1)(g).

Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2). *P.L.*, 778 N.W.2d at 37, 40. We consider "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." *Id.*

By the time of the entry of the district court's termination of parental rights order, the children had been out of the mother's care for over a year. Children are not equipped with pause buttons. "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). "At some point, the rights and needs of the children rise above the rights and needs of the parents." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997); *P.L.*, 778 N.W.2d at 39-40. A child should not be forced to endlessly suffer the parentless limbo of foster care. *See In re J.P.*, 499 N.W.2d 334, 339 (Iowa Ct. App. 1993).

The children are doing well in foster care, and J.S. is beginning to address her "parentification" issues, whereby she acted as the parent and cared for her two younger siblings. These children deserve stability. Given the mother's late attempt to address her numerous issues despite her previous involvement with the Department, as well as the children's need for permanency, we agree with the juvenile court that termination of the mother's parental rights was in the children's best interests as set forth under the factors in section 232.116(2).

Because we agree with the juvenile court the State proved the ground alleged for termination and termination of the mother's parental rights was in the children's best interests, we affirm the juvenile court's order terminating the mother's parental rights.

AFFIRMED.