

IN THE COURT OF APPEALS OF IOWA

No. 3-316 / 13-0250

Filed April 24, 2013

**IN THE INTEREST OF P.I.-N.,
Minor Child,**

R.I., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Constance Cohen,
Associate Juvenile Judge.

A mother appeals the juvenile court order terminating her parental rights to
her daughter. **AFFIRMED.**

Yvonne C. Naanep, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John Sarcone, County Attorney, and Andrea S. Vitzthum,
Assistant County Attorney, for appellee.

Paul White, Des Moines, attorney and guardian ad litem for minor child.

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

TABOR, J.

Citing her years of substance abuse, mental health issues, exposure to domestic violence, neglectful parenting, and hoarding behaviors, the juvenile court terminated a mother's parental rights to her four-year-old daughter, P.I.-N. The mother, Rhonda, appeals—pointing to her new therapist's testimony that he was “cautiously optimistic” she would be successful in treatment.

After a complete review of the record, we share the juvenile court's belief that the child cannot wait to see if her mother's most recent attempt at therapy succeeds. Because the record includes clear and convincing evidence Rhonda is incapable of providing a safe and stable home for her daughter, we affirm the termination order.

I. Background facts and proceedings

P.I.-N. was born in July 2008. Her parents, Rhonda and Troy, were never married. When she was three months old, the juvenile court adjudicated her as a child in need of assistance (CINA) based on Troy's violent acts toward Rhonda and Rhonda's substance abuse and hospitalizations for mental health emergencies. The court terminated Troy's parental rights in 2009, and P.I.-N. remained in her mother's care with the support of services offered by the Department of Human Services (DHS).

P.I.-N.'s welfare became an issue for the juvenile court again in May 2012. The State filed a CINA petition based on a domestic violence call to the home Rhonda shared with her boyfriend Ed. Police officers believed Rhonda was using methamphetamine, and they described the condition of the home as

“abject squalor.” The termination ruling summarized the child’s environment as follows:

The officer likened what he observed to the television show “Hoarders.” He observed garbage and rotting food everywhere. There were at least seven cats running about and animal feces everywhere. The pungent aroma of car urine filled the air. In a back room, police discovered evidence of methamphetamine and marijuana use, including several drug pipes and numerous baggies laced with methamphetamine residue. This paraphernalia was in plain view and accessible to [P.I.-N.], who was only three years of age. When the Department of Human Services took [P.I.-N.] to the hospital for a physical examination, they concluded [she] had likely not been to the doctor in years.

From the time of her removal in May 2012 until September 2012, P.I.-N. could not visit her mother at the family home because of safety concerns. The social worker reported to the court: “the home was very unclean and appeared that mother struggled with hoarding, as well as the home had an infestation of roaches.” When visits resumed at the mother’s home, they remained fully supervised due to Rhonda’s difficulty managing her anger and unresolved mental health issues.

Rhonda has been diagnosed with a number of disorders: dissociative identity, oppositional defiance, post-traumatic stress, antisocial personality, borderline personality, impulse control, schizoaffective, depressive, and bipolar. She has been repeatedly hospitalized for mental health treatment and suicide attempts. She also has a long history of methamphetamine abuse, attempting substance abuse treatment approximately eleven times. Rhonda also has repeatedly been the victim of domestic violence, including abuse perpetrated by Ed, the father of her new baby and a father figure to P.I.-N.

The social worker believed Rhonda was unable to organize her home due to hoarding tendencies. Rhonda stored gas masks, flares, water purifiers, and canned goods. Rhonda would tell the worker she wanted to share some of her supplies for the “end of the world survival” with P.I.-N.’s foster family. Rhonda also collected craft supplies for a women’s support group she planned to organize. During the summer of 2012, Rhonda welcomed two homeless young people to live in her cluttered residence. In late June Rhonda went to the hospital after ingesting roach killer. The juvenile court found “credible evidence” Rhonda consumed the substance to abort her pregnancy. But Rhonda blamed the “homeless kids” for leaving the poison in her refrigerator.

The State filed a petition for termination of Rhonda’s parental rights on July 19, 2012, citing her long struggles with mental health and substance abuse.

In early October 2012, Rhonda—who was then pregnant—was jailed on a disorderly conduct charge after she and Ed, the expectant father, participated in a fist fight with other patrons at a neighborhood bar.

The juvenile court started hearing evidence regarding termination of Rhonda’s parental rights on October 26, 2012. After delaying for five months, Rhonda set up therapy appointments the week before the termination hearing. Rhonda started seeing psychologist Randal Reynolds in November 2012. In December, Rhonda gave birth to a son. On January 3, 2013, the court held a hearing to consider both the removal of the baby boy and severing Rhonda’s legal ties to P.I.-N. Dr. Reynolds testified at the hearing.

On January 30, 2013, the court issued an order terminating Rhonda's parental rights to her daughter on four statutory grounds: Iowa Code section 232.116(1)(d) (circumstances leading to adjudication of CINA still exist despite offer or receipt of services), (g) (parent lacks ability to respond to services and rehabilitation period would not correct the situation), (k) (parent has chronic mental illness and prognosis indicates child cannot be returned to her custody within reasonable time), and (l) (parent has severe substance abuse disorder and prognosis indicates child cannot be returned to her custody within reasonable time). Rhonda challenges that order in this appeal.

II. Scope and Standard of Review

We review an order terminating parental rights de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). Although we are not bound by the juvenile court's findings of fact, we give them weight, especially when considering the credibility of witnesses. *Id.* We will uphold a termination order if the State presented clear and convincing evidence of the grounds under Iowa Code section 232.116. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). Evidence is "clear and convincing" when we perceive no "serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence." *Id.*

III. Analysis

Chapter 232 envisions a three-step analysis. *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). First, the court must determine if the State has established a ground for termination under section 232.116(1). *Id.* Second, the court must apply the best-interest framework set out in section 232.116(2) to decide if

termination is in the child's best interests. *Id.* Third, if the statutory best-interest framework supports termination, the court must consider if any factors set out in section 232.116(3) preclude termination of parental rights. *Id.*

On appeal Rhonda contends the State failed to prove the statutory grounds for termination. She also asserts it is not in P.I.-N.'s best interests to lose the bond with her mother. Rhonda argues the juvenile court should have continued placement for six months to allow her to work toward reunification with her daughter.

We are convinced the State met its burden of proof under subsection (g).¹ *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) (indicating if the juvenile court terminates on several bases, we need only rely on one of them to affirm). The State offered ample evidence to show the mother continues to lack the ability or willingness to respond to services and an additional period of rehabilitation would not correct the situation. *See* Iowa Code § 232.116(1)(g).

Rhonda's involvement with DHS dates back more than a decade. Her parental rights to an older son were terminated in 1998. She has been in and out of substance abuse treatment without finding a lasting commitment to remaining drug free. Rhonda admitted being "an alcoholic for 27 years and a meth head for 10," and acknowledged relapsing into methamphetamine abuse in March 2012. But Rhonda did not recognize any connection between her unaddressed mental health issues and her substance abuse.

¹ In her petition on appeal, the mother contests the State's proof supporting elements of sections 232.116(1) (d), (k), and (l), but does not appear to challenge subsection (g).

Rhonda also failed to perceive any problem in keeping thirteen cats at her home at the time of the termination proceedings: “The commitment I made is not to let these babies freeze to death outside. But if DHS deems that the cats have to go today, I’ll find a home for them today.” The juvenile court highlighted Dr. Reynolds’s testimony that Rhonda struggled with the decision to get rid of the cats. In addition, Rhonda had no insight into her “open door” policy for homeless youths. When asked at the termination hearing whether she saw a problem in allowing people to stay at her apartment when she knew very little about their background or behaviors, she responded: “They’re all God’s children.” Moreover, the juvenile court described an unhealthy relationship between Rhonda and Ed. The DHS providers reported the couple frequently argued during visitation and Rhonda spoke negatively about Ed in her daughter’s presence.

Rhonda hinges her appellate hopes on the opinion of Dr. Reynolds, who was convinced that she was committed to making a change in her life and was “cautiously optimistic” about her progress after eight sessions. Dr. Reynolds testified that he qualified his opinion with the word “cautiously” because

[I]t’s probably evident to everybody that Rhonda has a long history of a lot of big problems. . . . [I]t would be easy for a misstep to occur, for a relapse to occur. . . . [S]he’s going to have to be very vigilant in making sure that she stays on course here. I think it would be naïve to imagine this is an easy path.

We first note Rhonda procrastinated until the eve of the termination proceedings before engaging in meaningful mental health treatment. And while her current efforts appear to be in earnest, they are too nascent to justify postponing

termination. In the wise words of the juvenile court: “she has participated in treatment with other providers for many years, and it is too early to see a pattern of compliance and healing.” We share the juvenile court’s lack of confidence that additional time would yield any result other than delayed permanency for P.I.-N. The record includes clear and convincing evidence Rhonda lacks the ability to respond to services to remedy the dangers her parenting poses to P.I.-N. and an additional period of rehabilitation will not correct the situation.

Although our review is *de novo*, we recognize the juvenile court’s superior vantage point. See *In re E.H. III*, 578 N.W.2d 243, 249 (Iowa 1998) (relying on the juvenile court’s assessment of the credibility of witnesses in weighing the evidence on appeal). The termination ruling emphasized “[d]uring several hours of testimony, Rhonda’s behaviors were erratic and her emotions were difficult to control. Her testimony was riddled with inconsistencies and minimization for the problems as they exist.” The court explained: “She often rambled, interrupted and was unresponsive to the questions asked. She was very unfocused and vacillated between laughter and tears.” The juvenile court’s description of the mother’s demeanor on the witness stand bolsters its conclusion that she is not capable of providing a stable home for P.I.-N.

We also agree with the juvenile court’s best-interest analysis. The court considered the framework of Iowa Code section 232.116(2) in deciding P.I.-N. “deserves to have her long-term needs for nurturing and growth met with consistency and predictability. Continued exposure to the chaotic environment in her mother’s home will also pose a problem for [P.I.-N.] to be able to develop

healthy and safe relationships throughout her life.” The record does not reflect clear and convincing evidence that termination would be detrimental to P.I.-N. due to the closeness of her relationship with Rhonda. See Iowa Code § 232.116(3)(c). We accept the juvenile court’s observation: “There is certainly a bond between Rhonda and [her daughter] but that bond is not as strong as Rhonda perceives it to be. . . . The bond with the foster parents is far healthier and stronger than the bond with Rhonda.”

Finding evidence to satisfy the statutory ground under section 232.116(1)(g) and termination is in the child’s best interest, we affirm the juvenile court order.

AFFIRMED.