

IN THE COURT OF APPEALS OF IOWA

No. 9-1025 / 09-1585
Filed December 30, 2009

**IN THE INTEREST OF M.W. and M.P.,
Minor Children,**

**T.M.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Webster County, James A. McGlynn, Associate Juvenile Judge.

A mother appeals the termination of her parental rights to her children.

AFFIRMED.

Sarah L. Smith of Bennett, Crimmins & Smith, Fort Dodge, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Ricki Osborn, County Attorney, and Jennifer Bonzer, Assistant County Attorney, for appellee State.

Marcy Lundberg, Fort Dodge, for minor children.

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

POTTERFIELD, J.

A mother appeals the termination of her parental rights to her two children. She contends the State failed to prove the statutory grounds alleged as the basis for termination by clear and convincing evidence. We affirm the juvenile court's order.

M.W. was born in October 2006 and was adjudicated a child in need of assistance (CINA) in February 2007. M.P. was born in October 2008 and was adjudicated a CINA in February 2009. The children were removed from their mother's care on January 20, 2009,¹ and have not been returned to her.

The mother admits that she has mental health issues, as well as chronic substance abuse problems involving alcohol, marijuana, and methamphetamines. The juvenile court issued a detailed decision chronicling the history of this case, the services provided, and the inability of the mother to parent her children due to her on-going chronic substance abuse and failure to maintain employment or housing.

The juvenile court terminated the mother's parental rights based upon Iowa Code sections 232.116(1)(e) (2009) (child adjudicated a child in need of assistance (CINA), removed from parent's physical custody for at least six months, and parent has not maintained significant and meaningful contact and made no reasonable efforts to resume care despite being given the opportunity

¹ The older child was removed from the mother's care in December 2006 after a hair stat test indicated the presence of cocaine in the child's system. The child was returned to her mother's care from September 2008 to January 2009 for a trial home visit; the mother was then in a halfway program that allowed children. The children were removed from her custody in January 2009 after the mother was unsuccessfully discharged from the halfway program and a subsequent drug test indicated the presence of methamphetamine in the mother's system.

to do so); 232.116(1)(h) (child three years of age or younger, adjudicated CINA, removed from parent's custody for at least six of last twelve months, and cannot be returned to parent's custody at this time); 232.116(1)(l) (child adjudicated CINA, parent has a severe, chronic substance abuse problem and presents a danger to self or others, and child will not be able to be returned in a reasonable period of time).

Appellate review of parent-child termination proceedings is de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2002).

We find the mother's parental rights were properly terminated under section 232.116(1)(h). The children have been removed from their mother's custody because of her substance abuse since January 2009. The mother has been provided services to address her substance abuse; she has entered several substance abuse treatment programs, but has been unable to maintain sobriety, employment, or appropriate housing for any significant period of time. She is unable to resume care of her children at this time. Given the mother's past performance, we are not convinced additional time or services will change her. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) ("The future can be gleaned from evidence of the parents' past performance and motivations."); *In re L.L.*, 459 N.W.2d 489, 493-94 (Iowa 1990) (noting that evidence of parent's past performance may be indicative of the quality of the future care that the parent is capable of providing).

Because we have found the statutory grounds for termination under Iowa Code section 232.116(1)(h), we need not address the remaining grounds relied

upon by the juvenile court. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996) (holding that where the court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate under one statutory provision in order to affirm).

The two children have different fathers. The father of the older child lives in another state. He is in the military and had been deployed overseas, but is now able and willing to care for the child. The father of the younger child voluntarily terminated his parental rights. While both children are currently living with the same foster family, the court has ordered that the older child be returned to the father as soon as possible, and the younger is to be considered for adoption.² We acknowledge the juvenile court's ruling will likely separate these two children. However, both the father for the older child and the pre-adoptive foster family for the younger child expressed the willingness and desire to keep the children in contact with one another. Under the circumstances presented here, where the children are young and both have good homes awaiting them, we conclude the juvenile court's ruling to be in their best interests.

From our de novo review of the record, we conclude that the juvenile court correctly determined that termination was in the children's best interests. We agree with the juvenile court's findings and conclusions. We therefore affirm.

AFFIRMED.

² The foster family is interested in and willing to adopt both children.