

IN THE COURT OF APPEALS OF IOWA

No. 9-575 / 09-0943
Filed August 6, 2009

**IN THE INTEREST OF A.G. and K.B.,
Minor Children,**

T.L.G., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Karla Fultz, District Associate Judge.

A mother appeals the termination of her parental rights. **AFFIRMED.**

Jared C. Harmon, Des Moines, for appellant mother.

Christine Bisignano, Windsor Heights, for appellee father J.G.

Jason Hauser, Des Moines, for appellee father D.G.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Faye Jenkins, Assistant County Attorney, for appellee State.

Nicole Garbis Nolan of Youth Law Center, Des Moines, for minor children.

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

POTTERFIELD, J.

The children at issue in this case first came to the attention of the court on March 3, 2008, when their mother, T.G., consented to temporary removal.¹ The juvenile court entered an order on March 24, 2008, adjudicating K.B. and A.G. to be children in need of assistance. T.G. had a history of substance abuse prior to the removal of her children.

Following removal, T.G. initially attended supervised visits with her children. However, in September of 2008, T.G.'s visits were suspended because of concerns regarding her mental health and substance abuse issues. T.G. was allowed to visit her children on October 9, 2008, to celebrate one of the children's birthdays, but she has not seen the children since that date because her visits continued to be suspended.

T.G. initially submitted drug screens as required according to the juvenile court's order. However, in July of 2008, T.G. provided two positive drug screens. T.G. then sporadically complied with the requirement for drug screens until September 16, 2008, when she quit providing drug screens.

T.G. has struggled with prescription drug abuse throughout the life of this case. She has been unsuccessfully discharged from two treatment programs since her children were removed. T.G. was admitted to medical facilities four times during September and October of 2008 because of mental health and substance abuse issues. T.G. has failed to follow through with necessary services.

¹ The children were living with T.G. and A.G.'s father, D.G., at the time. D.G.'s parental rights have not been terminated, and only T.G.'s parental rights are at issue on appeal. The children currently reside with D.G.

T.G. has also had problems with the criminal justice system. She was arrested in October of 2008 and January and February of 2009 for theft charges and probation violation. On February 25, 2009, T.G. was sentenced to two years in prison.

Tina Christensen, the caseworker from the Iowa Department of Human Services (DHS) assigned to this case, testified the children could not be returned to T.G.'s care "due to her unresolved substance abuse, unresolved mental health concerns, and incarceration." Christensen further stated, "Additional rehabilitative services would not be likely, within a reasonable period of time, to correct the conditions which led to [the children's] removal from [T.G.'s] care and custody." Christensen also reported that T.G. places blame on others and does not take responsibility for her actions. We agree with Christensen's assessment that the children cannot be returned to T.G.'s care at the present time and that additional services would not be likely to resolve the situation in a reasonable period of time.

Upon our de novo review of the record, we find clear and convincing evidence supports termination of T.G.'s parental rights under Iowa Code section 232.116(1)(1) (2009). The children have been adjudicated children in need of assistance and removed from T.G.'s physical custody. See Iowa Code § 232.116(1)(1)(1). T.G. has a severe, chronic substance abuse problem and presents a danger to herself, as evidenced by her frequent hospitalizations. See *id.* § 232.116(1)(1)(2). There is clear and convincing evidence the children will not be able to return to T.G.'s custody within a reasonable period of time

considering their ages and need for a permanent home. See *id.* § 232.116(1)(3).

We also find it is in K.B.'s and A.G.'s best interests that T.G.'s parental rights be terminated. See *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981) ("Appellate review of proceedings to terminate a parent-child relationship is de novo."). The primary concern in termination proceedings is the best interests of the children. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa Ct. App. 1995). In determining the children's best interests, we look to their long-range as well as immediate best interests. *Id.* In considering what the future likely holds for the children, we can gain insight from the parent's past performance, which "may be indicative of the quality of the future care the parent is capable of providing." *Id.*

T.G. is currently incarcerated and will be unable to parent the children for an extended period of time. She has an extensive history of substance abuse, which she has been unable to overcome. "Where the parent has been unable to rise above the addiction and experience sustained sobriety in a noncustodial setting, and establish the essential support system to maintain sobriety, there is little hope of success in parenting." *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). Further, at the time of trial, T.G. had not seen her children for nearly seven months. The DHS caseworker involved and the children's guardian ad litem both recommended termination of T.G.'s parental rights. While we do not doubt that T.G. loves her children, as she argues in her brief, we find she cannot provide them with a stable and permanent home. "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). We agree with the juvenile court that terminating T.G.'s parental rights is in the children's best interests.

AFFIRMED.