

IN THE COURT OF APPEALS OF IOWA

No. 23-2023
Filed February 21, 2024

**IN THE INTEREST OF C.M., J.M., L.M., T.M., and Z.M.,
Minor Children,**

S.M., Mother,
Appellant,

M.M., Father,
Appellant.

Appeal from the Iowa District Court for Poweshiek County,
Richelle Mahaffey, District Associate Judge.

Parents separately appeal the termination of their parental rights to five children. **AFFIRMED ON BOTH APPEALS.**

Denise M. Gonyea of McKelvie Law Office, Grinnell, for appellant mother.

Fred Stiefel, Victor, for appellant father.

Brenna Bird, Attorney General, and Tamara Knight, Assistant Attorney General, for appellee State.

Rebecca L. Petig of Bierman & Petig, P.C., Grinnell, attorney and guardian ad litem for minor children.

Considered by Tabor, P.J., and Badding and Buller, JJ.

BADDING, Judge.

In its termination ruling, the juvenile court found that despite more than a year of services, these parents of five children “are perhaps further away today from reunification than when the case first opened.”¹ They were further away not just because of their poor response to services, but also farther geographically. As the termination hearing drew near, the parents moved to Illinois—about three hours away from their children. The parents now separately appeal the juvenile court’s termination of their parental rights under Iowa Code section 232.116(1)(f) and (h) (2023). We affirm upon our de novo review of the record.

I. Background Facts and Proceedings

This family has a history with the Iowa Department of Health and Human Services due to concerns for physical abuse, drug use, denial of critical care, and failure to provide necessary medical care. Their most recent case started in June 2022, when the mother was still pregnant with the youngest child. At a well-child appointment for two of the children—L.M. and Z.M.—their doctor informed the mother that they needed to “be tested today in the lab for their hemoglobin and for lead” because both “appear[ed] to be pale and not very well in general.” She refused, and the department was contacted. Even with oversight from the department, it took more than a week for the parents to bring the children back for the recommended testing. When they finally did, L.M. had critically low hemoglobin levels, which required hospitalization and two blood transfusions.

¹ The children were born between 2014 and 2022. T.M., the oldest, was nine years old at the time of the termination hearing. C.M. was five, L.M. was three, Z.M. was two, and J.M. was almost one.

Medical staff also reported seeing “bugs of unknown origin” on L.M., while Z.M. had dead flies and dried food in her hair.

Law enforcement was dispatched to the family home for a welfare check. When the parents greeted them at the front door, officers could smell a strong odor of rotten food and feces coming from the apartment. Conditions inside were abysmal. The home, and the children themselves, were extremely dirty. The police removed the children and charged the parents with child endangerment. In early July, the State obtained an order for temporary removal and filed child-in-need-of-assistance petitions. Later that month, the parents stipulated to the children’s adjudication.

The parents completed mental-health evaluations in mid-November. The assessing therapist stated the parents were “not truthful at all” during their evaluations and believed they were “engaged in drug usage.” The therapist recommended that both parents participate in psychotherapy, substance-use counseling, and “frequent and random urine analysis.” The parents withheld these evaluations from the department for about eight months, during which they avoided drug testing and told their caseworker that no treatment was recommended.

The therapist’s suspicion was proven correct when the youngest child was born in late November. The mother tested positive for methamphetamine, amphetamines, and tricyclics.² The baby was also positive for methamphetamine and amphetamines. At first, both parents denied use. But then the father admitted that he and the mother had used methamphetamine just a few days before the

² Hospital staff reported the mother was not given any medications that would have caused her to test positive for the latter two substances.

child was born. Like his siblings before him, the baby was removed from the parents' custody and adjudicated as in need of assistance.

In its January 2023 permanency order for L.M. and Z.M., the court granted the parents six more months to work toward reunification.³ The department offered the parents SafeCare programming, which the caseworker described as “an in-depth program that really works with parents on the health and safety of their children, appropriate and positive interactions, as well as some general parenting information.” But the parents evaded the provider and were terminated from the program. And their participation in solution-based casework, which also focuses “on addressing the overall safety concerns,” was hit or miss. While the mother did participate in substance-use treatment using telehealth services, she and the father kept avoiding drug testing through the department.

Meanwhile, the parents' visits, which they often canceled or ended early, did not go well. A snippet describing a typical visit in April stated:

They do not interact with their kids. The children sit on electronic devices. [J.M.] sleeps in the car seat the whole time. I do re direct them. However, they seem not to listen. [J.M.] was SOAKED head to toe in poop and [the parents] were searching for their cigarettes. Mom left to go get her cigarettes and THEN changed [J.M.] when she came back. They chain smoke in their apartment with all the kids around. I tell them to go outside. No diapers are being changed unless I say something. Junk food is given to the kids the entire visit. By the end of the visits, the kids leak through their diapers and onto my car.

³ Having been born in 2020 and 2021, and being three years of age or younger, the removal requirement for L.M. and Z.M. as it related to permanency was six months. See Iowa Code § 232.116(1)(h)(4). T.M. and C.M. were born in 2014 and 2018 and, since they were four years of age or older, their removal requirement was twelve months. See *id.* § 232.116(1)(f)(4).

The State petitioned to terminate parental rights in late June. By early September, the parents were homeless. A few weeks later, the parents told their caseworker that they were moving to Illinois. The caseworker told them that they would need to return to Iowa for their visits, and she encouraged them to seek out services in Illinois. After their move, the caseworker contacted the parents several times about when they would be back in Iowa for a visit. The parents would respond “soon” or “maybe next weekend.” But they only came back once in late October, arriving two hours late for a three-hour visit. And they didn’t engage in any services in Illinois.

The termination hearing was held in November 2023. Neither parent attended. The caseworker testified that termination was in the children’s best interests because the “parents have not demonstrated the ability to adequately care for all five children on . . . an ongoing, consistent basis, as well as the children have experienced a lot of trauma and difficulties having their needs met throughout their lives.” The oldest child, T.M., was in a new placement at the time of termination. While his foster parents were unsure about adoption, they were willing to support T.M.’s relationship with his younger siblings. The other children, who were in two different homes, were thriving in their pre-adoptive placements and bonded to their foster parents. Those placements were also committed to fostering the siblings’ connections. At the end of the hearing, the guardian ad litem told the court that the children needed permanency and stability. While she had no doubt that the parents loved their children, the guardian ad litem said, “they have not been willing or able to make the progress that they need to make in order to reunify these kids.”

The juvenile court agreed and terminated the parents' rights under Iowa Code section 232.116(1)(f) and (h). The parents each appeal.

II. Analysis

Although we normally apply a three-step analysis in conducting our de novo review of terminations of parental rights, we confine our review to the steps raised by the parents on appeal. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). If those steps support termination, we consider any ancillary issues raised by the parents, such as whether additional time should be granted. See Iowa Code § 232.117(5); see also *id.* § 232.104(2)(b). We address each parent's appeal separately. See *In re J.H.*, 952 N.W.2d 157, 171 (Iowa 2020).

A. Mother

In a single paragraph in her petition on appeal, the mother claims termination was contrary to the children's best interests, she is "bonded with the children," and "[a]dditional time would have allowed [her] to obtain permanent housing and employment." From the start, we question whether the mother's petition is sufficient to allow appellate review under our rules,⁴ as the argument portion only includes conclusory statements without substantive argument or citations to the record. See *In re T.W.*, No. 22-1363, 2022 WL 10827260, at *2 (Iowa Ct. App. Oct. 19, 2022) (summarily affirming termination on waiver grounds

⁴ See Iowa Rs. App. P. 6.201(1)(d) ("The petition on appeal shall substantially comply with form 5 in rule 6.1401."); 6.1401–Form 5 ("[S]tate what findings of fact or conclusions of law the district court made with which you disagree and why, generally referencing a particular part of the record, witnesses' testimony, or exhibits that support your position on appeal. . . . *General conclusions, such as 'the trial court's ruling is not supported by law or the facts' are not acceptable.*"); *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) ("A broad, all encompassing argument is insufficient to identify error in cases of de novo review.").

because of similar deficiencies). Assuming without deciding that the briefing was adequate, we address the mother's claims in turn.

First, the mother "disagrees with the court's finding that termination of her parental rights is in the best interests of the children." She does not, however, address the statutory best-interests factors in section 232.116(2). Instead, she argues that termination would sever the children's sibling bonds since they are placed in three separate homes. Indeed, "[t]he importance of sibling relationships is emphasized by statute and case law." *In re L.S.*, No. 23-1511, 2024 WL 111105, at *1 (Iowa Ct. App. Jan. 10, 2024). Here, that will be served by the children's foster parents, all of whom were willing to continue sibling interactions. One placement had already hosted a get-together for all the children, and another was considering sending some of them to a camp together. Post-termination sibling bonds are also protected by statute. See *In re C.C.*, No. 23-1266, 2023 WL 7391819, at *2 (Iowa Ct. App. Nov. 8, 2023) (discussing Iowa Code section 232.108(6)). And, all else considered, we agree with the juvenile court that termination is in the children's best interests because it will satisfy their long-deserved needs for safety and permanent homes—the defining elements of a child's best interests. See *In re H.S.*, 805 N.W.2d 737, 748 (Iowa 2011).

Second, we interpret the mother's claim that she is "bonded with the children" as a request to apply the permissive exception to termination in section 232.116(3)(c) based on "the closeness of the parent-child relationship." The only child with an arguably close bond to the mother was T.M., the oldest child. Despite that bond, his guardian ad litem believed termination was "definitely in his best interest" so that he can "move on and find some permanency and stability."

We agree and conclude the mother failed to meet her burden to show this exception applied. See *In re D.W.*, 791 N.W.2d 703, 709 (Iowa 2010) (noting the critical question is “whether the child[ren] will be disadvantaged by termination, and whether the disadvantage overcomes [the mother’s] inability to provide for [the children’s] developing needs”).

Finally, the mother’s request for more time to obtain “permanent housing and employment” ignores that she already received an extension for two of the children, which she squandered. See Iowa Code § 232.104(2)(b) (stating additional time is appropriate only if “the need for removal . . . will no longer exist at the end of the additional six-month period”). Moreover, the mother’s housing and employment were unstable throughout the proceedings. Even if she could obtain stability in those areas, those were not the main concerns that led to removal—it was instead the mother’s drug use and her inability to safely parent. She failed to adequately address either of those issues. While the mother did complete the technical requirements of her substance-abuse program, her provider believed that she was still using drugs after her treatment ended. And the mother evaded all drug testing by the department. She also avoided services aimed at improving her parenting. For these reasons, we find giving the mother more time is unwarranted.

B. Father

Like the mother, the father’s petition on appeal has little substance. He only challenges the department’s reasonable efforts at reunification once the parents moved to Illinois, arguing “all meaningful services and visitation ceased” after that. From the get-go, we agree with the State that error was not preserved, as the

father never raised this complaint with the juvenile court. See *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002) (stating that if a parent is not satisfied with the department's response to a request for services, "the parent must come to the court and present this challenge").

In any event, the parents knew their move to Illinois would interfere with services and reunification, yet they still opted to leave. See, e.g., *In re R.S.*, No. 20-1699, 2021 WL 1399767, at *3 (Iowa Ct. App. Apr. 14, 2021) (rejecting claim of insufficient services after parent moved across state lines because the parent "knew her move to South Dakota would be a barrier to services and, consequently, reunification"). The parents still had the opportunity for visits in Iowa, which they declined. And the father's participation in visitation-related services even before the move was lackluster at best. In evaluating the reasonableness of the department's efforts at reunification, our focus is on the services provided and the parent's response to those services, not on the services the parent now claims the department failed to provide. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). The father's failure to meaningfully avail himself of the visitation services he was offered defeats his reasonable-efforts challenge. See *In re C.M.*, No. 22-0867, 2022 WL 3421390, at *1 (Iowa Ct. App. Aug. 17, 2022).

III. Conclusion

We affirm the termination of both parents' parental rights.

AFFIRMED ON BOTH APPEALS.