

IN THE COURT OF APPEALS OF IOWA

No. 23-2019
Filed March 6, 2024

**IN THE INTEREST OF K.C. and C.C.,
Minor Children,**

B.C., Mother,
Appellant.

Appeal from the Iowa District Court for Marion County, Steven Guiter,
District Associate Judge.

A mother appeals the termination of her parental rights to her six-year-old
son and four-year-old daughter. **AFFIRMED.**

Nicholas J. Einwalter, Des Moines, for appellant mother.

Brenna Bird, Attorney General, and Mackenzie Moran, Assistant Attorney
General, for appellee State.

Bryan P. Webber of Carr Law Firm, P.L.C., Des Moines, attorney and
guardian ad litem for minor children.

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

TABOR, Presiding Judge.

This case involves two children: C.C., born in 2017, and K.C., born in 2019. The Iowa Department of Health and Human Services removed them from the custody of their mother, Becky, in July 2021 because of her methamphetamine use. But since the early months of the case, Becky has remained drug-free. Yet, on the brink of reunification, Becky exposed her children to a new danger—a paramour who is a sex offender.

The juvenile court terminated her parental rights,¹ finding that Becky could not keep the children safe: “She entered into a relationship with a person on the sex offender registry. She allowed him to be alone with her children. She did not provide the case worker with his true name initially. Becky at the termination hearing testified she continues to have contact with him.”

On appeal, Becky contends C.C. and K.C. can safely return home because “she would choose to end that relationship if the children were placed in her care.” See Iowa Code § 232.116(1)(f) (2023). She also insists termination is not in the children’s best interests. See Iowa Code § 232.116(2). Like the juvenile court, we find clear and convincing evidence that because of Becky’s lack of protective capacity, a return to her custody would expose the children to the risk of harm. And after two years out of parental care, moving toward adoption would be in their best interests. We thus affirm.

¹ The court also terminated the father’s parental rights. He does not appeal. The termination trial also involved Becky’s two teenaged daughters. The department did not recommend termination of parental rights as the permanency goal in their cases, and they are not parties to this appeal.

I. Facts and Prior Proceedings

This case opened in July 2021 when Becky was hospitalized and tested positive for methamphetamine. The department learned the family had been camping the previous weekend; the parents used drugs at the campground while the children were in their care. Becky consented to a temporary removal of the children.² The juvenile court adjudicated them as children in need of assistance (CINA) that September.

At the start of the CINA case, Becky's visits were fully supervised. The department approved the family for overnight visitation in April 2022. But those overnight visits were moved to the grandmother's home because Becky's trailer did not have running water. Indeed, after the children's removal, stable housing was a problem for Becky. The court directed the department to help her with housing resources. She bought a trailer in 2022 but could not fix the plumbing for more than one year.

About the same time that she moved into the trailer, Becky met Byron, the son of a friend. They started dating in the summer of 2022. Becky allowed him to interact with the children, leaving them alone with him for as long as three hours several times a week. She later testified that she knew Byron had a criminal history of assault and burglary. But she denied knowing that he had a warrant for his arrest or that he had been convicted of a sex offense against a thirteen-year-old girl.³ According to her testimony, she was "livid" when she found out that Byron was a sex offender. Yet she did not break up with him.

² Their father had left Iowa for Arkansas by that time.

³ One of Becky's older daughters was thirteen at the time of the termination trial.

In the summer of 2023, Child Protective Services investigated a report that Becky had exposed her children to a registered sex offender. The children advised the social worker that their mother had a friend named Sam staying at the trailer. When the department asked to do a background check, Becky said her guest's name was Sam Woodard. But the children started referring to him as "Daddy Byron." Becky admitted lying to the department about his identity. The child protective assessment determined that the allegations of allowing access to a registered sex offender were founded.

At the termination hearing, Becky told the juvenile court:

I trusted him. I trusted his family. I trusted him around my children. I made many mistakes. All I care about is getting my kids—being able to have my children back. . . . [U]ntil this happened, I was on the right track to getting my children back and doing everything I was asked to do in every way, shape, and form, having stumbled with the plumbing and everything and until this instance, things were progressing very well, and so I messed up, and I'm just hoping that I can come back from it because I want my kids.

But she also continued to believe Byron is safe. And she admitted that she spoke to him only a week earlier and planned to stay with him. Still, she insisted that she would end the relationship if her children were returned to her custody.

At the close of the hearing, the children's guardian ad litem (GAL) "reluctantly" recommended termination. He offered candid observations of Becky's strengths and weaknesses:

I really am proud of Becky's success in being able to address the issues regarding her substance abuse. That is an incredible accomplishment, and regardless of what happens here today, she should be very proud of that. Further, I was involved significantly in the odyssey about trying to address the residence and trying to fix that and dealing with that contractor, and that got addressed, but fundamentally the problem remains. I just don't believe that the court

can in good faith trust her to make appropriate choices about who she allows around her children.

The juvenile court agreed with the GAL's assessment and ordered the termination of Becky's parental rights under Iowa Code section 232.116(1)(f). Becky challenges that order.

II. Scope and Standard of Review

We review terminations de novo. *In re M.D.*, 921 N.W.2d 229, 232 (Iowa 2018). Although we give weight to the juvenile court's fact findings, they do not bind us. *Id.* Our review follows a three-step process. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). We first examine whether the State proved a ground for termination under section 232.116(1) by clear and convincing evidence. *Id.* If so, we consider whether it is in the children's best interests under section 232.116(2) to terminate parental rights. *See id.* at 706–07. Third, we determine whether any factors in section 232.116(3) weigh against termination. *Id.* at 707. We may skip a step if it is not argued on appeal. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). Becky challenges the first and second steps.

III. Analysis

A. Statutory Ground

The juvenile court terminated under Iowa Code section 232.116(1)(f), which requires proof that (1) the children are four or older; (2) they have been adjudicated as CINA; (3) they have been removed from home for the last twelve straight months; and (4) they cannot be returned to the parent's care at the present time. Becky challenges only the fourth element. She contends that she could resume

care of C.C. and K.C. because “she has taken the steps to alleviate the problems in the case.”

Her contention is partially true. She impressively addressed her substance use early in the CINA case. And after some frustrating delays, she improved the condition of her housing. But her lack of insight into the risk posed by inviting a sex offender into the family’s home rightly concerned the juvenile court. See *In re D.D.*, 955 N.W.2d 186, 193 (Iowa 2021) (noting the mother dismissed “dangers of having her children around sexual offenders”); see also *State v. Wade*, 757 N.W.2d 618, 626 (Iowa 2008) (recognizing “sex offenders present a special problem and danger to society”). True, she testified that she would end her relationship with Byron if the children were returned to her custody. But the juvenile court was not required to believe her, especially given her efforts to shield his identity from the department. The State offered clear and convincing evidence that the children could not safely be returned to Becky’s custody at the time of the termination hearing. See *In re M.W.*, 876 N.W.2d 212, 224 (Iowa 2016).

B. Best Interests

Moving to best interests, we give primary consideration to the children’s safety; to the best placement for furthering their long-term nurturing and growth; and to their physical, mental, and emotional condition and needs. Iowa Code § 232.116(2). The best-interests determination also embraces the concept of permanency. *In re W.M.*, 957 N.W.2d 305, 313–14 (Iowa 2021) (reiterating that children should not be deprived of permanency “by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child”).

Becky maintains that her home had no safety concerns. And she has a strong bond with the children. Indeed, the record supports those points. But we return to the GAL's insights. More than two years after their removal, Becky has shown an inability "to make appropriate choices about who she allows around her children." Given her deception and dangerous decisions, termination is in the children's best interests. So we affirm.

AFFIRMED.