

**IN THE COURT OF APPEALS OF IOWA**

No. 23-2020  
Filed March 27, 2024

**IN THE INTEREST OF T.G. and M.G.,  
Minor Children,**

**A.G., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Kimberly Ayotte,  
Judge.

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

Eric W. Manning of Manning Law Office, PLLC, Urbandale, for appellant  
mother.

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

Lynn Marie Vogan, Des Moines, attorney and guardian ad litem for minor  
children.

Considered by Schumacher, P.J., Ahlers, J., and Carr, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206  
(2024).

**SCHUMACHER, Presiding Judge.**

A mother appeals the termination of her parental rights. We find there is clear and convincing evidence in the record to support termination of the mother's parental rights, termination is in the children's best interests, and no exceptions to termination should be applied. And an extension of time is unwarranted on these facts. We affirm the termination of the mother's parental rights.

**I. Background Facts & Proceedings**

A.G. is the mother of T.G., born in 2019, and M.G., born in 2020. The family became involved with the Iowa Department of Health and Human Services (HHS) in April 2022, when the mother bit one of the children, T.G., on the arm, breaking the skin and causing swelling. There was also an allegation that she hit T.G. on the mouth, causing his lip to bleed. She was convicted of child endangerment. A no-contact order was entered between the mother and T.G. The no-contact order permitted visitation between the mother and T.G. under the supervision of HHS. The mother agreed to the placement of the children with the maternal grandparents.<sup>1</sup>

The mother did not voluntarily cooperate with services and the State initiated child-in-need-of-assistance (CINA) proceedings. The children were formally removed from the mother's custody in September 2022 and adjudicated as CINA in October. The mother has been diagnosed with bipolar disorder, post-traumatic stress disorder, and borderline intellectual functioning. She takes medication and participates in therapy.

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<sup>1</sup> The maternal grandparents were later unable to care for the children, and the children were placed together in foster care in February 2023.

The mother has a history of being in relationships that involve domestic violence. Throughout the juvenile court proceedings, the father of T.G. was in prison for domestic abuse assault. The mother became involved with R.A., who had a history of domestic violence. When an HHS worker called the mother's home, she heard the mother and R.A. screaming at each other.

T.G. has been diagnosed with autism spectrum disorder-substantial support needed and other specific trauma related disorder. M.G. has been diagnosed with global developmental delay and other specific trauma related disorder. The children participate in occupational therapy and speech therapy. The children engaged in aggressive behavior, such as hitting and biting other children, following visits with the mother.

Based on the mother's participation in services, she began having semi-supervised visits in March 2023. But the visits were changed back to fully supervised in May when the children reported that the mother bit M.G. during a visit. She denied biting the child. The court found, "However, both children's reports are consistent with each other, and a photo of the bite mark appears consistent with an adult causing the injury." The mother continued to struggle with poor impulse control.

On September 25, the State filed a petition seeking to terminate the mother's parental rights. At the termination hearing held in November 2023, the mother testified she began domestic violence classes in October. She admitted she had previously not been addressing domestic violence. She stated she no longer had contact with the father of T.G. or with R.A. During the termination hearing, the mother refused to sign paperwork for T.G. to attend autism treatment,

although she recognized the treatment would be beneficial to him. The mother was not asking for the children to be returned to her at that time; she asked for a six-month extension to continue to work toward reunification.

The court terminated the mother's parental rights to T.G. under Iowa Code section 232.116(1)(f) (2023) and to M.G. under section 232.116(1)(h).<sup>2</sup> The court found termination of the mother's parental rights was in the children's best interests. The court applied none of the exceptions to termination found in section 232.116(3). The court also denied the mother's request for a six-month extension, finding reunification was not likely to occur within six months. The mother appeals the termination of her parental rights.

## **II. Standard of Review**

Our review of termination proceedings is de novo. *In re A.B.*, 815 N.W.2d 764, 773 (Iowa 2012). The State must prove its allegations for termination by clear and convincing evidence. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). "Clear and convincing evidence' means there are no serious or substantial doubts as to the correctness [of] conclusions of law drawn from the evidence." *Id.* Our primary concern is the best interests of the children. *In re J.S.*, 846 N.W.2d 36, 40 (Iowa 2014).

In general, we follow a three-step analysis in reviewing the termination of a parent's rights. *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). First, we consider whether there is a statutory ground for termination of the parent's rights under

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<sup>2</sup> The parental rights of T.G.'s father were also terminated. The father of M.G. is unknown, and the rights of any unknown father of M.G. were also terminated. No father is a party to the present appeal.

section 232.116(1). *Id.* Second, we look to whether termination of the parent's rights is in the children's best interests. *Id.* (citing Iowa Code § 232.116(2)). Third, we consider whether any of the exceptions to termination in section 232.116(3) should be applied. *Id.* But when the parent does not raise a claim relating to any of the three steps, we do not address that step and instead limit our review to the specific claims presented. See *id.* at 40 (recognizing we do not consider a step the parent does not challenge).

### **III. Sufficiency of the Evidence**

The mother claims the State did not present clear and convincing evidence to support termination of her parental rights.<sup>3</sup> She contends the children should have been returned to her. The mother highlights that she was engaging in therapy, domestic violence education, and parenting education. She asserts she was taking positive steps to be able to safely parent the children. "We will uphold an order terminating parental rights where there is clear and convincing evidence of the statutory grounds for termination." *In re T.S.*, 868 N.W.2d 425, 434 (Iowa Ct. App. 2015).

The mother's parental rights were terminated under section 232.116(1)(f) for T.G. and section 232.116(1)(h) for M.G.<sup>4</sup> She does not dispute the first three

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<sup>3</sup> The mother challenges the termination of her parental rights under section 232.116(1)(g), but this was not one of the grounds relied on by the court for termination of her parental rights. For this reason, we do not discuss section 232.116(1)(g).

<sup>4</sup> Section 232.116(1)(f) provides for termination of parental rights if the following have occurred:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

elements of these subsections but challenges the court's findings relating to section 232.116(1)(f)(4) and (h)(4). Section 232.116(1)(f)(4) and (h)(4) require a showing by clear and convincing evidence that a child "could not be safely returned to the custody of [the child's] parents." *In re S.O.*, 967 N.W.2d 198, 206 (Iowa 2021). Under section 232.116(1)(f)(4) and (h)(4), a court considers whether a child can be returned to the parent at the time of the termination hearing. *In re A.B.*, 957 N.W.2d 280, 294 (Iowa 2021).

During the termination hearing, the mother testified:

Q. You are not asking for them to come home with you today; is that right? A. That is correct.

Q. Given the option, why is it that (sic) don't feel like you should or can't ask for them to be returned home today? A. I think the reason I'm not asking for them to be returned home today is due to the fact I would like to get into parenting classes that deal with [T.G.'s] disorder and to get [M.G.] re-evaluated to see if he is autistic.

The mother conceded the children could not be returned to her custody at the time of the termination hearing. *See id.* The evidence shows the children could not be

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(3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Section 232.116(1)(h) provides for termination under the following circumstances:

(1) The child is three years of age or younger.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

safely returned to the mother because she has not taken accountability for the physical harm to the children. She also shows limited insight into the domestic violence in her home. We conclude the court properly terminated the mother's parental rights under section 232.116(1)(f) and (h).

#### **IV. Best Interests**

The mother does not argue as a separate issue that termination is not in the best interest of the children, so we need not address this issue. But even if we were to determine that the mother raised the issue by her minimal reference under another issue heading, we conclude that termination of the mother's parental rights is in the children's best interests.

In considering the best interests of a child, we give "primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional needs of the child under section 232.116(2)." *P.L.*, 778 N.W.2d at 41. "It is well-settled law that we cannot deprive a child of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child." *Id.*

The court found,

Despite [the mother's] participation in services, she struggles to provide appropriate parenting to her children with significant special needs. She has not taken accountability for the harm she has caused her children either prior to the removal or during the life of this case. She has unresolved domestic violence issues.

The mother has not shown she is able to meet the children's needs, as exemplified by her refusal to sign a form to permit T.G. to attend treatment for autism. Although she recognized the treatment would be helpful for the child, she allowed her

displeasure with the foster parents to outweigh the child's best interests. Termination of the mother's parental rights is in the children's best interests.

#### **V. Permissive Exception to Termination**

The mother contends the court should have applied the exception to termination found in section 232.116(3)(c), which provides the court may decide not to terminate a parent's rights if the termination would be detrimental due to the closeness of the parent-child relationship.

The exceptions to termination found "in section 232.116(3) are permissive, not mandatory." *In re W.T.*, 967 N.W.2d 315, 324 (Iowa 2021) (citation omitted). "The court may exercise its discretion in deciding whether to apply the factors in section 232.116(3) to save the parent-child relationship based on the unique circumstances of each case and the best interests of the children." *In re A.R.*, 932 N.W.2d 588, 591 (Iowa Ct. App. 2019). "[O]nce the State has proven a ground for termination, the parent resisting termination bears the burden to establish an exception to termination under Iowa Code section 232.116(3) . . . ." *In re A.S.*, 906 N.W.2d 467, 476 (Iowa 2018). The children's best interests remain our first consideration. *Id.* at 475.

There were continuing concerns about the mother's anger management issues and her inability to understand the children's mental health challenges. A psychosocial evaluation reported that the mother was at high risk in parenting the children full time due to her problems regulating her emotions. We find the mother has not met her burden to show termination of her parental rights would be detrimental to the children. *See id.* at 476.



## VI. Extension of Time

The mother claims the district court should have granted her a six-month extension of time to work on reunification with the children. She asserts she “was not given adequate time and opportunity to demonstrate the skills required of a guardian or parent.” She states that she made the maximum effort she could, considering the circumstances.

A six-month extension of time may be granted under sections 232.104(2)(b) and 232.117(5) if parental rights are not terminated following a termination hearing. *In re D.P.*, No. 21-0884, 2021 WL 3891722, at \*2 (Iowa Ct. App. Sept. 1, 2021). An extension of time may be granted if the court “determin[es] that the need for removal of the child from the child’s home will no longer exist at the end of the additional six-month period.” *In re A.A.G.*, 708 N.W.2d 85, 92 (Iowa Ct. App. 2005) (quoting Iowa Code § 232.104(2)(b)). “The judge considering [the extension] should however constantly bear in mind that, if the plan fails, all extended time must be subtracted from an already shortened life for the children in a better home.” *Id.* (citation omitted). And to grant an additional six months, the court must identify “specific factors, conditions, or expected behavioral changes” that provide a basis for determining “that the need for removal of the child from the child’s home will no longer exist at the end of the additional six-month period.” *In re S.H.-M.*, No. 23-1706, 2023 WL 8806153, at \*4 (Iowa Ct. App. Dec. 20, 2023) (citation omitted).

On this issue the court found:

[T]here has not been the type of progress necessary for the court to find that an extension now would be appropriate. [The mother] has not shown the necessary insight into the needs of her children, the

ability to parent her children on a full-time basis, the accountability for her actions towards the children, nor truly addressed her history of domestically abusive relationships. Reunification is not likely to occur within six months given her lack of progress in those areas. Further, delaying permanency is not in these children's best interests. They struggle with increased aggressive behavior following visits. [The mother] is not able to manage their behaviors and needs consistently, and the children's individual special needs require safety, stability, routine, and predictability.

We agree with the court's assessment that the mother has not shown that it is likely the children could be returned to her custody within six months. The mother waited until after the termination petition was filed to begin to address the issue of domestic violence. Furthermore, she has not taken full accountability for the incident that led to her conviction of child endangerment, giving several different stories about what happened. She denied the later incident where M.G. was bitten during semi-supervised visitation. The mother attended therapy but continued to have problems regulating her emotions.

We affirm the termination of the mother's parental rights.

**AFFIRMED.**