

IN THE COURT OF APPEALS OF IOWA

No. 17-1471
Filed December 20, 2017

**IN THE INTEREST OF J.H., A.H., & N.H.,
Minor Children,**

A.R., Mother,
Appellant.

Appeal from the Iowa District Court for Pottawattamie County, Craig M. Dreismeier, District Associate Judge.

A mother appeals an order terminating her parental rights. **AFFIRMED.**

Roberta J. Megel of State Public Defender Office, Council Bluffs, for appellant mother.

Thomas J. Miller, Attorney General, and Kathryn K. Lang, Assistant Attorney General, for appellee State.

Marti D. Nerenstone, Council Bluffs, guardian ad litem for minor children.

Considered by Danilson, C.J., and Doyle and Mullins, JJ.

MULLINS, Judge.

A mother appeals a juvenile court order terminating her parental rights to her three children, born in 2010, 2013, and 2016, respectively.¹ She contends the State failed to prove by clear and convincing evidence the statutory grounds for termination.²

The mother and children came to the attention of the Iowa Department of Human Services (DHS) in July 2016—the youngest child was recently born at that time and tested positive for various controlled substances that the mother later admitted using during her pregnancy, including methamphetamine, marijuana, and sedatives. She also revealed she frequently visited the emergency room for treatment of injuries resulting from domestic violence. One of the other children subsequently tested positive for drugs.

On August 1, the juvenile court ordered the children be removed from the family home. The children were adjudicated children in need of assistance (CINA) in October 2016, and the court ordered them to be placed with their maternal grandparents. From November 2016 through March 2017, the mother

¹ The father's parental rights were also terminated. The father filed a timely notice of appeal but failed to timely file his petition on appeal. As a result, the supreme court dismissed the father's appeal. See Iowa R. App. P. 6.201(1)(b), (2).

² The mother also passively states she should be given additional time to work toward reunification and termination is not in the best interests of the children. Because she provides no supportive facts, argument, or analysis on these assignments of error, we consider the arguments waived. See Iowa R. App. P. 6.903(2)(g)(3); see also *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.”); *Hylar v. Garner*, 548 N.W.2d 864, 876 (Iowa 1996) (“[W]e will not speculate on the arguments [a party] might have made and then search for legal authority and comb the record for facts to support such arguments.”); *Ingraham v. Dairyland Mut. Ins. Co.*, 215 N.W.2d 239, 240 (Iowa 1974) (“To reach the merits of this case would require us to assume a partisan role and undertake the appellant's research and advocacy. This role is one we refuse to assume.”).

did not cooperate with services offered by DHS. She began participating in a substance-abuse program in early March but left the program without successful completion. Thereafter, her whereabouts were unknown until she was arrested in May on charges of possession of a controlled substance and drug paraphernalia, as well as interference with official acts. In July, the mother was sentenced to prison. At the termination hearing on August 24, 2017, the mother testified she expected to be granted parole in October but her ultimate discharge date was to be in June of 2018. In September 2017, the juvenile court terminated the mother's parental rights pursuant to Iowa Code section 232.116(1)(e), (f), (h), and (l) (2017). This appeal followed.

We review termination-of-parental-rights proceedings de novo. *In re M.W.*, 876 N.W.2d 212, 219 (Iowa 2016). "We are not bound by the juvenile court's findings of fact, but we do give them weight, especially in assessing the credibility of witnesses." *Id.* (quoting *In re A.M.*, 843 N.W.2d 100, 110 (Iowa 2014)). Our primary consideration is the best interests of the child. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

As noted, the juvenile court terminated the mother's parental rights pursuant to Iowa Code section 232.116(1)(e), (f), (h), and (l). "On appeal, we may affirm the juvenile court's termination order on any ground that we find supported by clear and convincing evidence." *In re D.W.*, 791 N.W.2d 703, 707 (Iowa 2010).

Under section 232.116(1)(f), the court may terminate parental rights if it finds the State has proven by clear and convincing evidence the child (1) is four years of age or older; (2) has been adjudicated CINA; (3) has been removed

from the physical custody of the parent for the last twelve consecutive months and any trial period at home has been less than thirty days; and (4) cannot be returned to the parent's custody at the time of the termination hearing. Similarly, under section 232.116(1)(h), the court may terminate parental rights if it finds the State has proved by clear and convincing evidence the child (1) is three years of age or younger; (2) has been adjudicated CINA; (3) has been removed from the physical custody of the parent for the last six consecutive months and any trial period at home has been less than thirty days; and (4) cannot be returned to the parent's custody at the time of the termination hearing.

It is undisputed that, at the time of the termination hearing, elements one through three of section 232.116(1)(f) were satisfied as to the two older children, N.H. and A.H. It is also undisputed that elements one through three of section 232.116(1)(h) were satisfied as to the youngest child, J.A. The only question is whether there is clear and convincing evidence the children could not be returned to the mother's custody at the time of the termination hearing. Iowa Code § 232.116(1)(f)(4), (h)(4); see *A.M.*, 843 N.W.2d at 111 (indicating the statutory language "at the present time" refers to the termination hearing).

At the time of the termination hearing, the mother was serving a term of imprisonment. Although she expected to be granted parole in approximately two months, that expectation does not change the fact that she was incarcerated at the time of the termination hearing. The mother's status at the time of the hearing is clear and convincing evidence that the children could not be returned to her custody at that point in time. We therefore affirm the termination of the

mother's parental rights as to N.H. and A.H. under section 232.116(1)(f) and as to J.H. under section 232.116(1)(h).

AFFIRMED.