

IN THE COURT OF APPEALS OF IOWA

No. 0-300 / 10-0427
Filed May 12, 2010

**IN THE INTEREST OF O.D., D.D., A.D., and A.D.,
Minor Children,**

A.D., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Louise Jacobs,
District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Joey T. Hoover of Kragnes & Associates, P.C., Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, John P. Sarcone, County Attorney, and Christina Gonzalez, Assistant
County Attorney, for appellee State.

M. Kathryn Miller, Des Moines, for minor children.

Considered by Vaitheswaran, P.J., Doyle, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

DOYLE, J.

A mother appeals the termination of her parental rights to her children. She contends the State failed to establish termination was in the best interests of the children and the district court erred in failing to do a proper balancing test for the best interests of the children under Iowa Code section 232.116(2) (2009). We review her claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The children first came to the attention of the Iowa Department of Human Services in December 2008 when two of the children were found out in sub-zero cold weather without proper clothing or supervision. The children were attempting to get food. At that time, the mother was living in Virginia, and the children were in their father's care. Thereafter, the children were removed from the father's custody and adjudicated as children in need of assistance. The father moved to Texas and then back to Sudan.

The mother returned to Iowa in February 2009 and was offered services to reunify her with the children. The mother minimally participated in services and sporadically participated in visits with the children. The mother failed to address her mental health issues. Throughout the eleven months from the date of the adjudication to the termination hearing, the mother had problems maintaining stable housing and employment. The mother then moved to South Dakota in October 2009, which limited her ability to participate in services and visits with the children. As a result, a petition for termination was filed in January 2010, and parental rights were terminated pursuant to Iowa Code sections 232.116(1)(b), (d), (e), (f), (g), and (h).

The mother does not dispute the State proved the grounds for termination. Instead, she contends the State failed to establish termination was in the best interests of the children and that the district court erred in failing to do a proper balancing test for the best interests of the children under Iowa Code section 232.116(2). Specifically, she notes the children are in a new foster home that is no more stable than the home she could potentially provide them in six months. However, she acknowledged at the termination hearing that the children could not be returned to her care at that time.

In determining the best interests, this court's primary considerations are "the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child." *P.L.*, 778 N.W.2d at 37 (citing Iowa Code § 232.116(2)). Considering the aforementioned factors, we conclude termination is in the children's best interests.

The mother has mental health issues that remain unresolved. She failed to fully participate with the services offered her and sporadically visited with the children. Insight into the children's future if returned to the mother's custody can be gained from evidence of her past performance, for that performance may be indicative of the quality of the future care that parent is capable of providing. *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989).

Although the mother seeks an additional six months to pursue reunification, we note she has had almost a year to demonstrate she can appropriately care for her children. While the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,"

this patience has been built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). Children should not be forced to endlessly await the maturity of a natural parent. *Id.* At some point, the rights and needs of the children rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The children need and deserve permanency. *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J., concurring specially). We affirm the termination of the mother's parental rights.

AFFIRMED.