

IN THE COURT OF APPEALS OF IOWA

No. 0-336 / 10-0526

Filed May 26, 2010

**IN THE INTEREST OF I.B., D.B., B.I., and B.I.,
Minor Children,**

**L.S.L., Mother,
Appellant.**

Appeal from the Iowa District Court for Muscatine County, Gary P. Strausser, District Associate Judge.

A mother appeals the termination of her parental rights to her children.

AFFIRMED.

Mark J. Neary of Neary Law Office, Muscatine, for appellant mother.

Gregory A. Johnston, Muscatine, for appellee father of B.I. and B.I.

Dennis R. Mathahs, Marengo, for appellee father of I.B. and D.B.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Gary Allison, County Attorney, and Korie L. Shippee, Assistant County Attorney, for appellee State.

Esther J. Dean, Muscatine, for minor children.

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

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

VAITHESWARAN, P.J.

Lela appeals the termination of her parental rights to four children, born in 1997, 2000, 2004, and 2006. She contends the juvenile court (1) should not have terminated her parental rights “based primarily on the Court’s determination that [her] likelihood of relapse is high” and (2) should have established a long-term guardianship in lieu of termination. On our de novo review, we disagree.

The Department of Human Services became involved with the family in 2002 and its involvement continued through the termination hearing in 2010. The most recent proceeding began in 2008 with indications of drug use and domestic violence. The children were removed and placed with the paternal grandparents of the younger two children. Although consideration was given to returning them to the parents, episodes of domestic violence and drug use continued. The department reported that “[t]here has not been an entire year of no involvement with the Department of Human Services since the services started in 2002.” Based on this record, we agree with the juvenile court that the children could not be returned to Lela’s custody. See Iowa Code § 232.116(1)(f), (h) (2009) (requiring proof of several elements in order to terminate parental rights, including that the children cannot be returned to the parent’s custody).

The real issue in this case is whether the juvenile court should have opted for a long-term guardianship rather than termination. See *id.* § 232.116(3) (allowing the court to forgo termination if one of several alternatives is met). Lela is correct that certain factors augured in favor of this option, including the fact that one of the children wished to be reunited with his mother, the younger two children were placed with their grandparents and the grandparents treated the

older two children as their grandchildren, the children did not view the options as materially different, and the financial assistance to the foster parents would be the same whether they adopted the children or served as their permanent guardians. Nonetheless, we are mindful of the Iowa Supreme Court's admonition that "[o]nce the limitation period lapses, termination proceedings must be viewed with a sense of urgency." *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000). And, we concur with the juvenile court that "[l]ong term relative placement would give the children the false hope that return to their parent's custody is possible." For these reasons, we conclude termination was in the children's best interests.

We affirm the termination of Lela's parental rights to her children, born in 1997, 2000, 2004, and 2006.

AFFIRMED.