

IN THE COURT OF APPEALS OF IOWA

No. 0-726 / 10-1344
Filed October 6, 2010

**IN THE INTEREST OF M.F.,
Minor Child,**

J.L., Father,
Appellant,

A.F., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Kellyann M. Lekar, Judge.

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

AFFIRMED.

Andrew Abbott of Abbott Law Office, P.C., Waterloo, for appellant-father.

Mark A. Milder, Waverly, for appellant-mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven J. Halbach, Assistant County Attorney, for appellee.

Timothy Baldwin, Waterloo, attorney and guardian ad litem for minor child.

Considered by Sackett, C.J., and Potterfield and Tabor, JJ.

TABOR, J.

A.F. appeals the termination of her parental rights to her one-year-old daughter, M.F. The mother asserts that the juvenile court should have granted her request to defer termination for six months so that she could have more time for reunification efforts. Because A.F. has not made progress in treating her chronic substance abuse and mental health problems and had not obtained safe housing in the time extended to her under the statute and because it is not in the child's best interests to defer termination, we affirm the juvenile court's decision.

When M.F. was born in April 2009, she tested positive for marijuana. In August 2009, the mother tested positive for marijuana, cocaine, and opiates. The Department of Human Services (DHS) removed M.F. from her mother's care in October 2009 because the mother took an overdose of prescription medication and stabbed herself in the leg. The mother was hospitalized for psychiatric care. A drug screen for the child dated October 12, 2010, returned positive for methamphetamine, cocaine, and other substances.

The juvenile court adjudicated M.F. as a child in need of assistance (CINA) on November 9, 2009, and placed her in the care of her maternal grandfather.¹ The mother tested positive for methamphetamine on December 5, 2009. Also in December 2009, the mother—who was having suicidal thoughts—was hospitalized for seven days. During subsequent in-patient substance abuse treatment, A.F. was rushed to the emergency room with a panic attack; the

¹ The grandfather could not provide the girl with a permanent home, but a maternal aunt living in Wisconsin offered an adoption placement option. An interstate compact study was completed and approved the aunt for that placement.

emergency room doctor stated that it appeared she was seeking pain medication. In February 2010, A.F. was again hospitalized for mental health treatment.

On March 20, 2010, A.F. tested positive for cocaine; she was a “no-show” for drug testing on March 23, 2010. On April 14, 2010, the State filed a petition to terminate A.F.’s parental rights. A.F. failed to show up for drug tests scheduled for April 26, May 17, May 20, May 28, June 6, June 29, and July 5. During the six months leading up to the July 2010 termination hearing, A.F. was arrested twice for third-degree theft and once for disorderly conduct. The DHS worker reported that A.F. fell asleep during a supervised visitation with her “very active” toddler in June; the mother blamed a new prescription medication for her drowsiness. At the time of the termination hearing, A.F. was unemployed and—after months of transient living in motels and shelters—had moved back in with a boyfriend who previously had been involved in illicit drug use.

We review termination of parental rights cases de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). While we give weight to the factual determinations of the juvenile court, we are not bound by them. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). The juvenile court terminated A.F.’s rights² under Iowa Code sections 232.116(1)(h) (child is three or younger, adjudicated CINA, removed from home for six of last twelve months, and child cannot be returned home at the present time), (k) (adjudicated CINA, parent has chronic mental illness, child cannot be returned home within a reasonable time), and (l) (adjudicated CINA,

² The juvenile court also terminated the parental rights of M.F.’s father. The Iowa Supreme Court dismissed the father’s appeal as untimely.

parent has substance abuse problem, child cannot be returned home within a reasonable time) (2009). We conclude the State offered clear and convincing evidence to support each ground for the termination ruling.

The mother raises a single issue in her appeal: did the juvenile court err in not deferring termination for an additional six months based on her progress in substance abuse and mental health treatment and the child's placement with a relative? See Iowa Code § 232.116(3)(a). The juvenile court correctly determined that A.F. could not adequately address her chronic substance abuse or mental health issues in a reasonable period of time.

Our legislature has established time periods for parents to demonstrate they can safely parent. Iowa Code § 232.116(1)(h); see *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) (quoting *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987) ("It is unnecessary to take from the child's future any more than is demanded by statute.")). This time period has elapsed, and A.F. has not shown a consistent ability to adequately provide for her daughter's needs. A.F. tested positive for cocaine four months before the termination hearing. She emphasizes that her drug screens on June 7 and July 15 did not reveal any non-prescription substances. But A.F. missed numerous drug testing appointments in the spring and summer of 2010, casting doubt on her ability and commitment to remain drug free. The DHS also expressed concern about her choice to move back in with a paramour who A.F. identified as having used illegal drugs in the past. A.F. was without a job or any source of income at the time of the hearing. Given these circumstances, a deferral of termination for six months was not warranted.

In considering whether to terminate parental rights, our primary considerations are a child's safety; her physical, mental, and emotional condition and needs; and the placement that best provides for her long-term nurturing and growth. Iowa Code § 232.116(2); see *In re P.L.*, 778 N.W.2d at 40 (holding "there is no all-encompassing best-interest standard to override the express terms of the statute"). In this case, expected placement with a maternal aunt appears to best further those statutory goals for M.F.

The State proved the grounds for termination in section 232.116(1), termination is in the child's best interests as set out in section 232.116(2), and no countervailing factors under section 232.116(3) require deferral of the termination. We affirm.

AFFIRMED.