

IN THE COURT OF APPEALS OF IOWA

No. 0-825 / 10-1545
Filed November 10, 2010

**IN THE INTEREST OF L.C., P.S., T.B., and M.B.,
Minor Children,**

J.C., Mother,
Appellant.

Appeal from the Iowa District Court for Plymouth County, Robert J. Dull,
District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Scott L. Bixenman, LeMars, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Darin J. Raymond, County Attorney, and Amy Oetken,
Assistant County Attorney, for appellee State.

John Polifka, Sioux City, for minor children.

Considered by Eisenhauer, P.J., and Potterfield and Doyle, JJ.

DOYLE, J.

A mother appeals the termination of her parental rights to her four children, ages twelve, ten, eight, and six. She contends the State failed to prove the grounds for termination by clear and convincing evidence. We review these claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The mother's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d), (e), and (f) (2009). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(f) where:

- (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.
- (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.

There is no dispute the first three elements of these sections have been proved. However, the mother contends there is insufficient evidence to show the children cannot be returned to her care at the present time.

The children came to the attention of the Iowa Department of Human Services (Department) in October 2008, after it was reported that the family was living in, what appeared to be, an abandoned home. The front door of the home was boarded shut and the paint had worn off. Except for the kitchen, there was no sheet rock on the walls, and the insulation was exposed. The floors were filthy with dirt, and there were pets that roamed in and out of the home. It was

reported that the parents slept a lot and the children had to fend for themselves most of the time. Services were then offered to the family.

A court-appointed special advocate (CASA) talked to school personnel regarding the children in January 2009, and the report was dire. The personnel reported, among other things, that the children often came to school dirty, such that showers and clean clothes were sometimes given to the children at school. One child had come to school in clothing drenched in cat urine. Another child had come to school with cat feces rolled up in the shirtsleeve. The children had come to school with skin rashes multiple times and fleas. Teachers expressed concerns that the children's physical condition was worsening as time went on. It was noted there was evidence of high stress in the family that manifested itself in fear and panic in the children.

The CASA also visited the home on January 13, 2009. Even though the parents had been given several months to remedy the condition of the home, concerns remained. There was minimal heat in the home—the thermometer registered only thirty-two degrees in the home at two o'clock in the afternoon. Despite the low temperature, the beds in the home had inadequate bedding. Of the two beds that could be used for sleeping upstairs, one bed had one sheet; the other bed was bare. There were uncovered outlets and exposed insulation in the home. One bathroom had no ceiling. The home was cluttered and dirty, with moldy food in the trash containers and piles of dirty clothes in every room but the kitchen. There were five cats and two dogs in the home, and more dogs outside. The CASA observed that the youngest child had a bloody toe that had been cut

with glass and had not been cleaned or bandaged. The mother was unconcerned about the condition of the home.

The CASA interviewed the children at school the next day. All of the children had a moderately offensive odor, and two of the children had matted hair. The CASA expressed concerns to the court about the home's condition and the children's home environment, and the CASA recommended the children be removed. At the end of January 2009, M.B. and T.B. were placed in foster care, and P.S. and L.C. were placed with relatives.

Despite the receipt of services for over a year and a half, concerns remained regarding the condition of the house and the mother's interactions with the children. At the termination hearing, the Department's caseworker testified that although the mother had made many improvements in the home, the house was still cluttered and observed to be "filthy and unkempt." Additionally, the worker testified that, despite suggestions and advice given during her two-hour supervised visits with the children, the mother continued to struggle with maintaining structure during visits and continued to have very adult conversations with the children that were inappropriate. Most tellingly, the two oldest children testified that they did not believe their mother had changed enough for them and their siblings to be returned to the mother's care. M.B. testified that she did not think the mother could care for herself, let alone the children. T.B. testified that she believed the mother had had enough time to change, but she was not sure the mother had changed enough. Upon our de novo review of the record, we find the State presented clear and convincing evidence that the children could not be returned to the custody of the mother at

the time of the hearing, and therefore proved the grounds for termination under Iowa Code section 232.116(f). Accordingly, we affirm the termination of the mother's parental rights.¹

AFFIRMED.

¹The mother does not argue that the children's best interests were affected under Iowa Code section 232.116(2) or that the "exceptions" to termination set forth in section 232.116(3) applied to her situation. See *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). Accordingly, we find it unnecessary to address these issues.