

IN THE COURT OF APPEALS OF IOWA

No. 1-243 / 11-0272

Filed April 27, 2011

**IN THE INTEREST OF F.S. and I.W.,
Minor Children,**

L.W., Mother,
Appellant,

C.S., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother and father separately appeal the district court's order terminating their parental rights. **AFFIRMED.**

Jesse A. Macro, Jr. of Guadineer, Comito & George, L.L.P., West Des Moines, for appellant mother.

Bryan P. Webber of Carr & Wright, P.L.C., Des Moines, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin J. Brownell, Assistant County Attorney, for appellee State.

Kayla Stratton of Juvenile Public Defender's Office, Des Moines, attorney and guardian ad litem for minor children.

Considered by Vogel, P.J., and Doyle and Tabor, JJ.

VOGEL, P.J.

Lacretia and Clarence separately appeal the district court's order terminating their parental rights to their children, I.W., (born 2003), and F.S. (born 2009).¹ The district court terminated Lacretia's rights under Iowa Code section 232.116(1)(d) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services), (f) (child four or older, adjudicated CINA, removed from home for twelve of last eighteen months, and child cannot be returned home), and (h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). The district court terminated Clarence's rights under section 232.116(1)(b) (abandonment), (d), (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), and (f). We affirm.

Our review of termination of parental rights cases is *de novo*. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

Lacretia appeals, asserting the State failed to prove by clear and convincing evidence any of the grounds the district court terminated under, specifically section 232.116(1)(d), (f), and (h). Lacretia has an extensive history of substance abuse. She voluntarily entered the House of Mercy in May 2009, but after being unsuccessfully discharged in June, I.W. was removed from her

¹ Clarence is the biological father of I.W., and therefore only appeals the termination of his parental rights to her. The biological father of F.S. is unknown, but the rights of any unknown and putative fathers were terminated. No appeal was filed.

care; F.S. was then removed from Loretia's care at birth. In July, Loretia attempted an inpatient treatment program at Clearview in Prairie City, but also failed to complete that program. Loretia then participated in an outpatient treatment program at Broadlawn Medical Center, which she did complete.² Loretia also suffers from bipolar disorder and a personality disorder, and has failed to address her mental health needs.

Iowa Department of Human Services (DHS) caseworker, Katie Obert, testified that Loretia lacked a stable living environment, had difficulty in finding a job, and had anger issues. Obert was concerned as to Loretia's impulsive and often violent behaviors and the impact those outbursts would have on the children. The district court listed the litany of services Loretia had been provided, and found, "[Loretia] has not demonstrated that she can consistently meet her own needs." The court found that the children were in safe placements, and Loretia had

delayed and resisted fully accessing services and sabotaged obtaining timely substance abuse treatments. When it appeared there was a path to reunification, instead of moving forward with haste to address her mental health needs, she sabotaged her mental health treatment delaying that.

Loretia has continually struggled with substance abuse and her mental health needs, and we agree with the district court's conclusion that she remains unable to parent these children safely. We conclude clear and convincing evidence supports termination under 232.116(1)(f) as to I.W., and (h) as to F.S.

² Iowa Department of Human Services social worker Katie Obert was unclear whether Loretia completed the outpatient substance abuse treatment program or was discharged on maximum benefits.

Clarence argues the State failed to prove by clear and convincing evidence that he abandoned I.W., that the circumstances at the time of adjudication still existed, and that he failed to maintain significant contact. Clarence left the state of Iowa prior to I.W.'s birth, and was subsequently incarcerated in Colorado. He was granted parole in December 2009, and afterwards met I.W. for the first time; she was six years old. After violating his conditions of parole by coming to Iowa, he was again incarcerated in Colorado, where he remained at the time of trial. Clarence concedes that I.W. could not be returned to his care at the time of trial. We conclude clear and convincing evidence supports termination under 232.116(1)(f). Further, even if Clarence were not incarcerated, we find he abandoned I.W. under 232.116(1)(b), only having seen her once during her lifetime.³

Both parents assert termination of their parental rights is not in the child[ren]'s best interests. Even if a statutory ground for termination is met, a decision to terminate must still be in the best interest of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider 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. *Id.* Prior to the hearing, the district court had already granted Loretia six additional months for reunification, yet she was still not able to provide a stable home. Clarence was in prison at the time of the hearing, and even had he not been, he did not show he could parent I.W. I.W. is

³ Clarence argues he maintained contact with I.W. when he broke parole and had visitations with her outside of DHS supervision, but we have no documentation of that interaction.

living with her grandfather, and F.S. with a foster family, and both are doing well in their current placements. We conclude termination of Loretia and Clarence's parental rights was in I.W. and F.S.'s best interests as set forth under the factors in section 232.116(2).

AFFIRMED.