

IN THE COURT OF APPEALS OF IOWA

No. 1-321 / 11-0344
Filed May 11, 2011

**IN THE INTEREST OF J.F. and L.F.,
Minor Children,**

**B.L.A., Mother,
Appellant.**

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

A mother appeals the juvenile court's order terminating her parental rights.

AFFIRMED.

Brett H. Schilling of Schilling Law Office, P.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, and Charles K. Phillips, Assistant Attorney General, for appellee.

Shane A. Fink, Fort Dodge, appellee pro se.

Tammy L. Banning of Tammy L. Banning, P.L.C., Waterloo, attorney and guardian ad litem for minor children.

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

POTTERFIELD, J.

Brandy appeals from the juvenile court's order terminating her parental rights to two children, ages eleven months and nearly two years at the time of trial. The family has been involved on a voluntary basis with the Iowa Department of Human Services (DHS) since September 2009. Brandy has a history of substance abuse and had her parental rights to three older children terminated previously in another state. Both children involved in this case tested positive for drugs at birth. Shortly before the termination hearing, Brandy was convicted of possession of methamphetamine with intent to deliver. At the time, she was on probation for possession of marijuana and possession of crack cocaine base. Her probation was revoked, and she was serving a ten-year sentence at the time of the termination hearing in January 2011.

The juvenile court terminated Brandy's parental rights pursuant to Iowa Code section 232.116(1)(e), (g), (h), (j), and (l) (2009). Brandy appeals, asserting the court should have placed guardianship of the children with her aunt or, in the alternative, delayed permanency to allow placement of the children with her aunt. She also asserts the court erred in finding the State had proved statutory grounds for termination. After a de novo review, we affirm. See *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

We agree with the juvenile court that the State proved grounds for termination under section 232.116(1)(h).¹ The children are younger than three years of age; they have been adjudicated children in need of assistance; they

¹ Though the juvenile court terminated Brandy's parental rights as to each child on multiple statutory grounds, we need only find that termination is appropriate on one ground to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

have been removed from Brandy's care for the last six consecutive months; and, due to Brandy's incarceration and substance abuse, there is clear and convincing evidence they cannot be returned to Brandy's custody at the present time. See Iowa Code § 232.116(1)(h).

Brandy asserts the children's best interests would be best served by creating a guardianship with her aunt, which would allow her the opportunity to maintain contact with her children. We agree with the juvenile court that a guardianship is not in the children's best interests. Brandy is presently incarcerated and will be unable to parent the children for an extended period of time. She also has an extensive history of substance abuse, which she has been unable to overcome. It is not in the children's best interests to establish a guardianship with a relative who admitted she had "no existing relationship with these children" in the hopes that once Brandy is eventually released from prison, she will become a responsible parent.

We determine the best interests of the children would be served by a termination of Brandy's parental rights. The children are at an adoptable age and deserve stability and permanency. See *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially) ("A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests."). The children's physical, mental, and emotional needs will best be met by termination of Brandy's parental rights. See Iowa Code § 232.116(2).

We further agree with the juvenile court's finding that delaying permanency was not an option for the children in this case. The children have been out of the home since they were removed in March 2010. Iowa courts have

been emphatic that after statutory limits in Iowa Code chapter 232 have passed, the case must be viewed with a sense of urgency. See *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000). This is so because “patience with parents can soon translate into intolerable hardship for their children.” *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). The children “should not be forced to endlessly suffer the parentless limbo of foster care.” *In re J.P.*, 499 N.W.2d 334, 339 (Iowa Ct. App. 1993). The juvenile court properly declined to delay permanency for these children.

AFFIRMED.