

IN THE COURT OF APPEALS OF IOWA

No. 1-779 / 11-1255
Filed October 5, 2011

**IN THE INTEREST OF T.N. and T.N.,
Minor Children,**

**A.M.G., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

A mother appeals from the juvenile court order terminating her parental rights. **AFFIRMED.**

David A. Roth of Gallagher, Langlas & Gallagher, P.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kathleen A. Hahn, Assistant County Attorney, for appellee.

Heather Feldkamp, Waterloo, attorney and guardian ad litem for minor children.

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

MULLINS, J.

A mother appeals a juvenile court order terminating her parental rights to two children, T.N. (born March 2008) and Te.N. (born August 2009).¹ The mother argues termination is not in the children's best interest and that she should be given additional time to work towards reunification. Upon our de novo review, we affirm. See *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006) (reviewing termination of parental rights proceeding de novo).

The mother has a history of mental health issues and has been diagnosed with bipolar disorder, schizophrenia, depression, and generalized anxiety. Prior to juvenile court involvement, the mother did not consistently take medication or participate in counseling.

The children first came to the attention of the Iowa Department of Human Services (DHS) on December 12, 2009 when it was reported that the mother had threatened to jump off her third floor balcony while holding T.N. There were also reports that the mother had recently taken ecstasy and smoked marijuana. Following the incident, the mother admitted herself to a hospital psychiatric unit for three days where she tested positive for marijuana and amphetamines. At the hospital, the mother admitted to hearing voices on a regular basis telling her to do harmful acts. The children were voluntarily placed with maternal grandparents at which time Te.N. was found with unexplained injuries to her left foot and ankle. The temporary removal and placement was confirmed by a

¹ The juvenile court also terminated the parental rights of the children's father. He has not appealed.

juvenile court order on January 5, 2010.² In March 2010, the children were adjudicated children in need of assistance under Iowa Code sections 232.2(6)(c)(2) and (n) (2009).

Following the children's removal, the mother was offered mental health services at Black Hawk Grundy Mental Health Center, including individual mental health counseling and psychiatric medication management services. The mother was also offered supervised visitations, a substance abuse evaluation, drug testing, and family safety, risk, and permanency services.

Over the next several months, the mother was inconsistent in her attendance at individual mental health counseling and medication management. She was also inconsistent in her outpatient substance abuse treatment and was sporadic or defiant in her drug testing. The mother tested positive for marijuana in June 2010.

On August 2, 2010, the State filed a petition to terminate parental rights. Around this time, the mother was given a new mental health medication that she responded well to and seemed to control her mental health concerns. The mother also began attending group substance abuse treatment sessions, and was successfully discharged in September 2010.

The termination petition came to a hearing on October 8, 2010. At the hearing, the mother's individual mental health counselor testified to seeing a "drastic improvement" in the mother and her follow through with medication

² Although the children were originally placed with their maternal grandparents, their placement was modified to family foster care on July 15, 2010, where the children have remained to date.

management and stability. The guardian ad litem also recommended the mother be given an additional three months to follow through with services and to prove her sobriety. While the case was submitted to the court, the mother was further provided increased visitation to two, six-hour, semi-supervised visits per week.

On December 16, 2010, the juvenile court entered an order denying the termination petition. The juvenile court found that proceedings should be suspended for up to six months to see if the mother could comply with certain listed factors and conditions that would enable the children to be returned to her care. Another order filed February 16, 2011, deferred permanency pursuant to section 232.104(2)(b) for ninety days so the mother could comply with services and work towards the transitional plan.

In March 2011, the mother regressed. She missed several appointments for individual counseling and medication management, and as a result was placed on the do not schedule list. She also tested positive for cocaine on one occasion, and had several no shows for drug tests. Due to the positive drug test, visits were returned to fully supervised. It was also noted that the mother left several of the supervised visits thirty minutes to an hour early.

On April 20, 2011, the State filed a second petition for the termination of parental rights. A hearing on the petition was held on June 23, 2011. On July 26, 2011, the district court filed an order terminating the mother's parental rights under Iowa Code sections 232.116(1)(e), (h), and (i) (2011).

On appeal, the mother does not challenge the statutory grounds for termination, but whether termination is in the children's best interest and whether she should be given additional time to work towards reunification.

In determining whether termination is in the best interests of the child, we are guided by the factors set forth in Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). Accordingly, we give primary consideration to "the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child." Iowa Code § 232.116(2).

At the time of the termination hearing, the mother continued to have significant unresolved mental health and substance abuse issues. These issues present a clear safety risk to her children. In addition, the children had been removed from the mother's care for nineteen months, and are doing well in family foster care. "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). "At some point, the rights and needs of the child rise above the rights and needs of the parents." *Id.* We find the juvenile court did not err in determining it was in the children's best interests to terminate the mother's parental rights.

Further, the mother has already been provided an extension of time to work toward reunification. During that time, she relapsed on cocaine and stopped attending her mental health counseling and medication management sessions. To grant an additional extension after she failed during the initial

extension would deprive the children of much needed permanency and would be contrary to their best interest. *In re A.A.G.*, 708 N.W.2d 85, 92 (Iowa Ct. App. 2005) (holding extensions could be appropriate, but all extended time must be subtracted from an already shortened life for the children in a better home). Moreover, the short time frame during which the mother was able to make limited improvements is insufficient to show that the need for removal would no longer exist at the end of an additional six-month period. Iowa Code § 232.104(2)(b).

For the foregoing reasons, we affirm the juvenile court order terminating the mother's parental rights.

AFFIRMED.