

**IN THE COURT OF APPEALS OF IOWA**

No. 1-780 / 11-1256  
Filed October 19, 2011

**IN THE INTEREST OF A.R., H.K., and L.R.,  
Minor Children,**

**D.L.C., Mother,  
Appellant.**

---

Appeal from the Iowa District Court for Scott County, John G. Mullen,  
District Associate Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Joel Walker, Davenport, for appellant mother.

Jean Capdevila, Davenport, for father of A.R.

Dana Copell, Davenport, for father of H.K.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Michael J. Walton, County Attorney, and Julie A. Walton,  
Assistant County Attorney, for appellee State.

Steven W. Stickle of Stickle Law Firm, P.C., Davenport, for minor children.

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

**DOYLE, J.**

A mother appeals the termination of her parental rights to her three children ages five, four, and three at the time of the termination hearing. We review her claims de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

**I. GROUNDS FOR TERMINATION.** The mother's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d), (e), (f), (h), and (i) (2011). The mother specifically challenges the termination of her parental rights under section 232.116(1)(e). Additionally, the mother argues the juvenile court erred in terminating her parental rights when "the adjudicatory harm had been alleviated and there [was] not clear and convincing evidence that the [children] could not be returned to the home," implicating elements of section 232.116(1) paragraphs (d), (f), and (h). However, the mother did not challenge section 232.116(1)(i), and we could affirm the termination based on that unchallenged ground as urged by the State. See Iowa R. App. P. 6.903(2)(g)(3) ("Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue."). Nevertheless, we elect to proceed to the merits of termination of the mother's parental rights to H.K. and L.R. under paragraph (f) and to A.R. under paragraph (h), as we need only find termination proper under one ground to affirm.<sup>1</sup> *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

The legislature incorporated a twelve-month limitation for children in need of assistance aged four or older, see Iowa Code § 232.116(1)(f)(3), and a six-

---

<sup>1</sup> Under both paragraphs (f) and (h), termination is proper if the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time. See Iowa Code §§ 232.116(1)(f)(4) & 232.116(1)(h)(4). The mother does not dispute that subparagraphs (1), (2), and (3) of sections 232.116(1)(f) and 232.116(1)(h) have been met.

month limitation for children in need of assistance aged three or younger. See *id.* § 232.116(1)(h)(3). Our supreme court has stated that “the legislature, in cases meeting the conditions of [the Iowa Code], has made a categorical determination that the needs of a child are promoted by termination of parental rights.” *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990) (discussing Iowa Code § 232.116(1)(e)). The public policy of the State having been legislatively set, we are obligated to heed the statutory time periods for reunification.

Here, the children first came to the attention of the Iowa Department of Human Services (Department) in February 2009, after it was reported that the mother “locks her three-year-old daughter [H.K.] and two-year-old daughter [L.R.] into their bedroom by tying a string to their door and fails to adequately respond to their needs.” The children again came to the Department’s attention in May 2009 when it was reported that L.R. had linear bruising similar to handprints on her thighs and that H.K. had stated the mother’s then boyfriend, S.C., “did it.” The mother denied that S.C. had hurt her child or that there were even bruises on L.R. on the morning of the report. The mother claimed the children hit each other and stated she did not believe H.K.’s report. The mother also accused the daycare provider of causing the bruises. The Department’s caseworker advised the mother that a safety plan would require the children not being around S.C., but the mother stated she would not make S.C. leave the home.

The Department’s worker spoke with the mother’s parents, who reported that the mother had a history of relationships involving domestic violence. The mother’s parents agreed to take the children during the Department’s assessment, and the mother consented. H.K. and L.R. were later interviewed

with the maternal grandmother present, and both stated that S.C. had hurt L.R.'s legs. The Department determined the report to be founded, and services were offered to the family.

Despite the children's reports, the mother married S.C. in early June 2009. By the end of the month, police had been twice dispatched to the family's home due to reports of domestic assault by S.C. upon the mother. The mother ultimately did not press charges against S.C. for the incidents.

In August 2009, the ongoing domestic violence between the mother and S.C. was reported to the Department with concerns that the children had been exposed to the violence. The mother denied S.C. had hit her and stated her children were safe. The Department discussed a safety plan with the mother that required the children to have no contact with S.C., and on August 28, the mother agreed to have S.C. move out of the home. However, in the early hours of August 29, the mother called police after she and S.C. got into a dispute at their residence. The responding officer noted the mother had a bloody mouth and a "large bruised welt" on the left side of her forehead. The mother again declined to press charges against S.C., and she was angered the incident had been reported to the Department.

Based upon the mother's violent relationship with S.C., the State filed a petition in September 2009 asserting the children were children in need of assistance (CINA). Later that month, S.C. filed a petition for dissolution of marriage, and the mother and S.C.'s short relationship ended. The mother obtained a no-contact order against S.C. and agreed to abide by it. The Department identified that the mother needed, among other things, to have no

further incidences of domestic violence and that she needed to demonstrate an understanding of the concepts taught to her. The children were then returned to her care.

On December 11, 2009, the juvenile court adjudicated the children CINA after a contested hearing. The court stated:

[The mother] denies that she has a need for services. She feels fully capable of protecting her children without assistance from other sources, including the [Department] and service providers. She denies that the children observed domestic violence, stating that the children were with other care providers at the time. She denies using any type of device on the children's door to prevent the doors from opening. She has consistently denied physical abuse of [L.R.] by [S.C.] or anyone in the household, blaming it on daycare until revealed today in court by her testimony that it was, in fact, [S.C.] who disciplined [L.R.] with excessive force.

The court-ordered services to the family continue.

A week after the children were adjudicated CINA, it was reported to the Department that two of the children were found unsupervised in the morning at the park across from the family's home. The children did not have coats on and were not dressed for inclement weather. It was further reported that the children were returned to the home and the mother was asleep. The mother denied the allegations.

At the end of February 2010, it was again reported that two of the children were found by a passerby at the park across from the family's home unsupervised and inappropriately dressed for the weather. The passerby reported L.R. was dressed in only a sagging diaper and t-shirt and H.K. was wearing sandals and a nightgown. The Department's caseworker and a service provider went to the mother's home the next day to discuss concerns. The

mother was verbally hostile toward the staff, would not allow either worker into her home, and refused to meet at any time in the future. The mother denied the report. The Department then requested the children be removed from the mother's care.

On March 3, 2010, the juvenile court entered its order removing the children from the mother's care. L.R. and H.K. were placed in the maternal grandparents' care, and A.R. was placed in the care of her father. L.R. and H.K. were thereafter placed in foster care. The children have not since been returned to the mother's care.

Since the mother's involvement with the Department, the mother has rejected the Department's concerns and fought the Department's recommendations almost every step of the way. The mother was not cooperative in any of the early Department investigations. The mother continues to deny locking the children in their rooms, even though her then landlord took pictures of the outside lock and string on the children's bedroom door and made her remove them. She denied S.C. had abused her children until after that relationship ended. She denied that the children were outside unsupervised until much later in the case.

Despite the mother's knowledge that H.K. may have been molested, she did not seek out treatment for the child because she did not feel she could handle confirmation of the knowledge. After the children's removal, the children began therapy, in which the mother has not participated. In play therapy, the older children have indicated they had been left alone by the mother, which the mother denies. H.K. indicated S.C. may have sexually abused her, but the mother

denied that S.C. could have done it. The therapist has described H.K. as being “parentified,” acting as a caretaker and oftentimes taking care of L.R.

The mother refused to have a mental health evaluation and to attend domestic violence counseling until the juvenile court ordered her to do so. The mother eventually completed a six-month educational domestic violence group, and she began seeing a therapist. However, the mother continued to demonstrate anger management issues throughout the case, including an incident in May 2010 where the mother was escorted from hospital premises after the mother was confrontational with hospital staff and the mother threatened to injure A.R.’s stepmother. That same month, the mother began dating a man with a substantial criminal history and then pending domestic assault charges. The relationship ended after a domestic dispute between in the couple in which the mother punched the man in the face.

The mother has been involved with other men during the course of the case but has denied the relationships until the relationships ended, or she has simply refused to provide the names of persons she was associating with to the Department and service providers. The mother told one service provider that she would not provide a name because the Department would not approve of the person she was seeing. The mother also reported that she had gained employment, but she refused to say who her employer was.

In December 2010, the mother was arrested for theft. The mother reported that she was with a “friend of a friend” and that individual had shoplifted without the mother’s knowledge. The individual got into the mother’s vehicle with the stolen goods, leading to the mother’s arrest.

As late as April 2011, the mother was arrested for possession of drug paraphernalia, two hours after she cancelled a parenting session due to "illness." The mother admitted to the police officer that the pipe found in her vehicle was hers, but later claimed it belonged to her male friend driving her car. Thereafter, the mother refused to submit a urine sample for testing to show she had not used illegal substances.

These actions and choices by the mother demonstrate not only that she continues to put her own needs before her children's, but that the children could not safely be returned to her care at the time of the termination hearing. At the time of the termination hearing, the children had been out of the mother's care for almost a year and a half. The Department, the children's guardian ad litem, and the court-appointed special advocate all recommended the mother's rights be terminated based on the mother's lack of progress. The children's therapist also recommended that the mother's parental rights be terminated. Although the mother points to the facts that she had participated in parenting classes and domestic violence counseling, she had divorced S.C. who had physically abused L.R., and she had supposedly gained employment, her actions show she did little more than go through the motions.

The mother's choices are most unfortunate, because there is no doubt the mother loves her children, and they love her too. The mother was generally consistent in her supervised visits with the children, and her visits with them were generally appropriate. Additionally, the mother had begun attending college classes and had secured appropriate housing in early 2011. Nevertheless, despite these positive changes, we find the mother's lack of insight into her

relationships with men and her continued focus on herself as the victim, rather than the children as the victims, caused the mother to fail to progress in the case. Upon our thorough review of the voluminous record, we conclude there was clear and convincing evidence the children could not be safely returned to the mother's care at the time of the termination hearing.

**II. BEST INTERESTS.** The mother also asserts that termination of her parental rights was not in the children's best interests. We disagree.

If a statutory ground for termination is determined to exist, the court may terminate a parent's parental rights. *P.L.*, 788 N.W.2d at 37. In considering whether to terminate, the court must then apply the best-interest framework established in section 232.116(2). *Id.* The legislature highlighted as primary considerations: the child's safety, the best placement for furthering the long-term nurturing and growth of the children, and the physical, mental, and emotional condition and needs of the children. *Id.*

Taking these factors into account, we agree with the juvenile court that the children's best interests require termination of the mother's parental rights.

It is well-settled law that we cannot deprive a child of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child.

*Id.* at 41.

The record reveals that the children cannot be returned to the mother at this time, and the children should not be forced to wait for permanency. *See In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987) (“[P]atience with parents can soon translate into intolerable hardship for their children.”). “At some point, the rights

and needs of the child[ren] rise above the rights and needs of the parents.” *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). 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). We agree with the juvenile court that termination was in the children’s best interests. Accordingly, we affirm the decision of the juvenile court terminating the mother’s parental rights.

**AFFIRMED.**