

IN THE COURT OF APPEALS OF IOWA

No. 1-976 / 11-1798
Filed January 19, 2012

**IN THE INTEREST OF N.P. and L.P.,
Minor children,**

**B.P., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Constance Cohen,
Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights to her two
children. **AFFIRMED.**

Jane M. White of Pargulski, Hauser & Clarke, P.L.C., Des Moines, for
appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Andrea S. Vitzthum,
Assistant County Attorney, for appellee.

Andrea Flanagan, Des Moines, for father of A.G.

Christine Bisignano, Windsor Heights, for father of L.L.

Brent Pattison, Drake Legal Clinic, guardian ad litem for minor children.

Considered by Danilson, P.J., and Tabor and Mullins, JJ.

TABOR, J.

A twenty-one-year-old mother challenges the order terminating her parental rights to her two daughters, N.P., age three, and L.P., age six. The mother, Britney, contests three of the four statutory grounds for termination, asserts that termination is not in the girls' best interests, and argues the juvenile court erred in not granting her an additional six months to regain custody. Because the mother does not dispute that her substance abuse problem stands in the way of reunification, we find termination was justified under Iowa Code section 232.116(1)(f) (2011). Our de novo review of the record also reveals that the children's best interests are served by terminating the mother's rights now rather than postponing the decision for six months.

I. Background Facts and Proceedings.

Britney started using marijuana when she was thirteen years old and only stopped when she became pregnant at age fifteen. Her addiction to methamphetamine began when she was eighteen, and she used the drug once or twice a day for three years, with the exception of the time she was pregnant with her second child. It was Britney's involvement with methamphetamine that led to the children's removal and adjudication as children in need of assistance (CINA) in October 2010.

N.P. and L.P. were initially placed in foster care because N.P.'s father, Andrew, was incarcerated on felony drug convictions and L.P.'s father, Lucas, faced charges for domestic abuse assault. The girls were soon placed with a maternal aunt. The Department of Human Services (DHS) provided Family

Safety, Risk, and Permanency (FSRP) services. The DHS also allowed Lucas contact with both girls, given that he was L.P.'s biological father and had served as a parental figure for N.P. as well. Because Britney had an active warrant for her arrest during the fall of 2010, she was not allowed visitation.

At the time of the February 2011 disposition hearing, Britney was in custody at a Mount Pleasant facility. Meanwhile, Lucas was making significant progress with his reunification services. The DHS placed both girls with him in March 2011. By July 2011, they were flourishing in his care. In contrast, Britney did not make any effort to resume contact with her daughters after her release from custody on March 24, 2011. Instead, Britney started using methamphetamine again within a week of her release. In April 2011, she was arrested on a drug paraphernalia charge. Britney did not contact the DHS workers until June 2011.

During the course of the CINA case, the only hearing Britney attended was on June 14, 2011, and that hearing ended with Britney being arrested on an outstanding warrant for a forgery charge.

On July 18, 2011, the Polk County Attorney filed a petition to terminate Britney's parental rights pursuant to Iowa Code sections 232.116(1)(b), (e), (h), and (j) (2011).¹ The juvenile court held a hearing on September 8, 2011. At the time of the hearing, Britney was residing in the Polk County jail, awaiting the opening of a bed at the House of Mercy, a provider of transitional housing and clinical services for mothers with addictions. She had last seen her daughters on

¹ The petition also sought termination of the rights of N.P.'s father, Andrew. The juvenile court terminated Andrew's rights to his daughter. He does not appeal.

October 29, 2010. On October 24, 2011, the juvenile court ordered Britney's rights be terminated under all four grounds alleged in the petition.

II. Scope and Standard of Review.

Our review of the termination order is de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). The de novo standard applies to both the statutory grounds for termination under section 232.116(1) and the best-interest determination under section 232.116(2). *Id.* While we are not bound by the juvenile court's factual findings, we give them weight, especially to the extent that they provide us insight into the credibility of witnesses who appeared before the trial judge. See *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010).

III. Analysis.

A. Statutory Grounds for Termination

The juvenile court terminated Britney's parental rights pursuant to four subsections. We may affirm the termination order on any ground that we find supported by clear and convincing evidence. *Id.* at 707.

On appeal, Britney challenges only three of the four grounds. She does not contest the State's proof of section 232.116(1)(f). Accordingly, we find that uncontested ground sufficient to affirm. Even if Britney had advanced an argument under that subsection, she would not have prevailed.

Iowa Code section 232.116(1)(f) permits the juvenile court to terminate the parent-child relationship if the court finds all of the following have occurred:

- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a severe substance-related disorder and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

The juvenile court succinctly addressed the substance abuse elements:

Clearly, Britney has a chronic and severe substance abuse problem which places herself and others at risk. Given her prognosis, there is no confidence that she will be able to resolve her addiction within a reasonable time, particularly given these children's ages and need for a permanent and safe home.

Our review of the record leads us to the same conclusion. By her own admission, Britney faces a "long road" of recovery ahead. Her daughters cannot be returned to her in a reasonable time, especially considering they are now ages three and six, entering or about to enter elementary school. Termination was proper under section 232.116(1)(f).

B. Best Interests of the Children

Britney also alleges termination is not in the girls' best interests. See Iowa Code § 232.116(2). In determining best interests, we must consider the children's safety, the best placement for furthering their long-term nurturing and growth, and the physical, mental, and emotional condition and needs of the children. *Id.*; *P.L.*, 778 N.W.2d at 37.

Britney asserts that there was trial testimony regarding an emotional bond between her and the children. But there was also testimony from the FSRP provider that the girls never asked about Britney. At the time of the termination hearing, it had been almost a year since N.P. and L.P. had seen their biological mother. The juvenile court found that the girls had "no emotional attachment" to

Britney. The FSRP provider testified that the girls saw Lucas's girlfriend, Randi, as a mother figure.

By all accounts, N.P. and L.P. are doing well in the home of Lucas and Randi. Even Britney was confident that they were safe and secure in that placement. Although a juvenile court may exercise its discretion not to terminate if a child is in the custody of a relative, Iowa Code section 232.116(3)(a), we agree with the following rationale from the termination order:

Any lesser remedy would result in continual monitoring of Britney's sobriety and subject the children to constant disruptions of their mother walking in and out of their lives, leaving Lucas to explain her exits. It would also eliminate the opportunity for Randi to adopt them in the future.

The record shows termination is in the children's best interests.

C. Permanency Order Providing Six-Month Extension

In her third brief point, Britney argues the juvenile court erred in failing to enter a permanency order under section 232.104(2)(b). She contends that given an additional six months, she could have made sufficient strides in her substance abuse treatment that safely parenting the children would have been a possibility. The juvenile court carefully considered Britney's request for more time and wisely declined, reasoning as follows:

Britney testified that if she could have six more months to work with services she could be clean and sober. She knows House of Mercy is her best chance. However, she has done virtually nothing for the last year to support this verbalization. She previously failed to avail herself of the proffered opportunity to begin the House of Mercy program near the beginning of the case.

When asked at the termination hearing if she was in a place where the girls could be returned to her custody, Britney responded: "I think I'm in a place to start my process." We agree with the juvenile court that Britney's expressed commitment to substance abuse treatment comes too late to save the relationship with her daughters. It is a recurring theme of our parental termination cases: "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). The juvenile court did not err in declining to postpone permanency for these children.

AFFIRMED.