

IN THE COURT OF APPEALS OF IOWA

No. 2-075 / 11-2032
Filed February 1, 2012

**IN THE INTEREST OF J.S. and JT.,
Minor Children,**

**J.A.W., Mother,
Appellant.**

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

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Aaron H. Ginkens of Ginkens & McConnell, P.L.C., Clive, for appellant mother.

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

M. Kathryn Miller, Des Moines, for minor child.

Considered by Eisenhauer, P.J., and Danilson and Bower, JJ.

EISENHAUER, P.J.

A mother appeals the termination of her parental rights to her two youngest children.¹ We review her claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The children—J.S., born in December 2006, and J.T., born in March 2010—were removed from the mother’s home in December 2010 after a search warrant executed at her home yielded the discovery of marijuana. Before the warrant was issued, the mother was found in possession of cocaine during a traffic stop while J.T. was in the vehicle. Criminal proceedings resulted in the mother receiving two concurrent ten-year sentences. The children were adjudicated in need of assistance (CINA) in January 2011.

A petition to terminate the mother’s parental rights was filed on June 27, 2011. Following hearing in July 2011, the juvenile court entered its December 1, 2011 order, terminating the mother’s parental rights to these children pursuant to Iowa Code sections 232.116(1)(d), (e), and (h) (2011).² The mother does not contest the State proved the grounds for termination under these sections by clear and convincing evidence. She instead challenges whether termination is in the children’s best interests and argues her close bond with them warrants leaving her parental rights intact.

In considering whether to terminate parental rights, the court shall give primary consideration to “the child’s safety, to the best placement for furthering

¹ The mother has two older children from a different father who are not at issue in this appeal.

² The father of J.S. and J.T. also had his parental rights terminated and does not appeal.

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); *P.L.*, 778 N.W.2d at 40. A review of the record shows the best interests of the children require termination. The mother has a lengthy substance abuse history and has been involved in drug dealing. When J.S. was born in 2006, he tested positive for cocaine. The mother was arrested when cocaine was found in her possession while she was driving with then eight-month-old J.T. She had marijuana in the residence she shared with both children. The mother is currently incarcerated and will be unable to parent the children for the foreseeable future.

The children are doing well in their current placement. A letter from J.S.’s play therapist was admitted at the termination hearing noted:

[J.S.] does express and display a bond with [the foster mother] and often speaks of helping her clean and her cooking good food for him. I have no doubts that he loves this woman who has brought him in and cared for him and supported him. [The foster mother] is also caring for [J.S.]’s young baby sister and appears to be balancing the role of parenting both children fine according to what [J.S.] has expressed and played out in session.

. . . .

. . . I feel [the foster mother] to be the best fit for [J.S.] and his baby sister (as she has already been placed with [J.S.] for several months). [The foster mother] has established a sense of family, she is nurturing and caring, is instilling values such as religion and manners, and genuinely shows she is willing to provide the long term needs of [J.S.]’s emotional and mental stability to help with any possible attachment concerns that surface in the future.

The foster mother is willing to adopt both children.

Given the young ages of the children, the lengthy prison sentence the mother is serving, the healthy bond the children have with the foster mother, and the foster mother’s ability to provide for the children’s best interests, we conclude

termination is in the children's best interests. Permanency is especially important here, where J.S. has been through more placements than the juvenile court "[could] even recall" since his birth.

The mother argues termination is unnecessary under section 232.116(3)(c). This section states the court need not terminate the parent-child relationship if it finds "clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship." Iowa Code § 232.116(3)(c). The juvenile court found:

The Court does not find either of these children has a close and positive bond with either parent. The mother has asserted that such a bond exists. Even if that were true, the Court cannot find it would be in either of these children's interests at this point in their young lives to not terminate their parents' rights. They are both adoptable. Neither of their parents has demonstrated an ability to provide them with a long-term safe, stable home that would meet their daily needs as well as their need for nurture.

We concur with the juvenile court's finding and adopt it as our own.

Because termination of the mother's parental rights is in the best interests of the children, we affirm.

AFFIRMED.