

IN THE COURT OF APPEALS OF IOWA

No. 2-1074 / 12-1799
Filed January 9, 2013

**IN THE INTEREST OF J.J. JR.,
Minor Child,**

J.R., Mother,
Appellant,

J.A.J. SR., Father,
Appellant.

Appeal from the Iowa District Court for Clinton County, Phillip J. Tabor,
District Associate Judge.

A mother and father separately appeal the termination of their parental
rights to their child. **AFFIRMED ON BOTH APPEALS.**

Victoria D. Noel of The Noel Law Firm, P.C., Maquoketa, for appellant-
mother.

Clayton E. Grubb, Davenport, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Mike Wolf, County Attorney, and Cheryl J. Newport, Assistant
County Attorney, for appellee.

Marsha Arnold, Davenport, attorney and guardian ad litem for minor child.

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

BOWER, J.

A mother and father separately appeal the termination of their parental rights to their child. They each contend the State failed to prove the grounds for termination by clear and convincing evidence and failed to make reasonable efforts to reunify them with the child. They also contend termination is not in the child's best interests and request additional time to demonstrate they can safely parent the child.

Because the parents do not challenge the termination under sections 232.116(1)(h), and (l) (2011), we may affirm on these grounds. The parents failed to raise a challenge to the reasonableness of the efforts to reunify them with the child, and therefore error has not been preserved for our review. We find termination is in the child's best interests and granting the parents additional time to demonstrate they can safely parent the child is unwarranted. Accordingly, we affirm.

I. Background Facts and Proceedings.

The child was born in September 2010 and first came to the attention of the Department of Human Services (DHS) in August 2011 after testing positive for cocaine. The child, who had delays in speech and motor skills, was placed in foster care in September 2011 and was adjudicated to be in need of assistance (CINA) in October 2011.

Services were offered to both parents. The mother tested positive for illegal substances when she first became involved with the DHS, but successfully completed substance abuse treatment and has maintained sobriety. The mother

also received services to address her mental health. She was taking her prescribed medication at the time of the termination hearing, but has not always been consistent in this regard. Although the mother received services to address her domestic abuse issues, there were concerns that the mother and father would resume a relationship; their relationship has been marked with domestic violence.

The father has been sporadic in his participation in services. He did complete a substance abuse evaluation, but not until June 27, 2012, and by the time of the termination hearing, he had just begun to receive the treatment recommended. The father ceased participating in mental health treatment in March 2012, and, further, he has not consistently attended visitation with the child.

At the time of removal, the child had suffered a number of ear infections and some of his developmental delays were believed to be attributed to that. Surgery in January 2012 reduced the number of ear infections the child suffers, but did not assist with the speech delays. However, the child's speech skills are improving in foster care. Improvements have also been shown in the child's fine and gross motor skills, and social skills.

The State filed a petition seeking to terminate both parents' rights in July 2012. The termination hearing was held in August and September 2012. On September 18, 2012, the juvenile court entered its order terminating both the mother and father's parental rights pursuant to Iowa Code sections 232.116(1)(d), (h), and (l).

II. Scope and Standard of Review.

We review termination of parental rights proceedings de novo. *In re D.S.*, 806 N.W.2d 458, 465 (Iowa Ct. App. 2011). While we are not bound by the juvenile court's fact-findings, we do give them weight, especially when assessing witness credibility. *Id.*

An order terminating parental rights will be upheld if there is clear and convincing evidence of grounds for termination under section 232.116. *Id.* Evidence is "clear and convincing" where there is no "serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence." *Id.*

III. Analysis.

The mother and father both contend the State failed to prove the grounds for termination by clear and convincing evidence. The juvenile court terminated the parents' rights under sections 232.116(1)(d), (h), and (l). We need only find grounds to terminate under one of these sections to affirm. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa 1999). Neither the mother nor the father make arguments that termination was improper under sections 232.116(1)(h) and (l). Therefore, we can affirm termination under these sections. See Iowa R. App. P. 6.903(2)(g)(3).

If the grounds for termination exist, the court may terminate a parent's parental rights. *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). In determining whether to terminate, "the court shall 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.” *Id.* (citing Iowa Code § 232.116(2)).

We find termination is in the best interests of the child’s safety, long-term nurturing and growth, and physical, mental, and emotional condition. The child has not demonstrated a bond with the mother or father. Although she has demonstrated sobriety, the mother is low-functioning and is only now learning how to meet her own needs. She is unable to meet her child’s needs as well. During visits, the child looks to the service provider for comfort or to have unmet needs attended to and appears more bonded with the provider than the mother.

The father has a history of criminal activity, substance abuse, and domestic abuse. He has not adequately dealt with these issues or addressed his mental health. The child cannot now or in the future be safely returned to his care.

Our supreme court has held that it is not in the best interests of children to continue to keep them in foster homes. *In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989). “Child custody should be quickly fixed and little disturbed. Children should not be made to suffer indefinitely in parentless limbo.” *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). Terminating the parents’ rights will allow the child permanency.

Both parents contend the State failed to make reasonable efforts to reunify them with the child. “The State must make reasonable efforts to provide services to a parent before termination proceedings may be instituted.” Iowa Code § 232.102(7), 10(a); *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002). However, to

preserve error on the question of reasonable efforts for appellate review, the parent must request different or additional services prior to the termination proceeding. See *In re C.H.*, 652 N.W.2d at 148 (stating the parent must request services at the proper time or the parent “waives the issue and may not later challenge it at the termination proceeding”); *In re L.M.W.*, 518 N.W.2d at 807 (indicating a parent must demand services if he or she feels they are inadequate before termination). It is incumbent upon the parent to voice an objection to the reasonableness of the services being offered at the removal hearing, review hearings, when the case permanency plan is entered, or when the services are offered or denied; it is too late to launch the challenge at the termination hearing. *C.H.*, 652 N.W.2d at 148; *In re L.M.W.*, 518 N.W.2d at 807. It is not enough for a parent to voice complaints to the social worker; the parent must inform the juvenile court of their objection to the sufficiency of the services being offered. *C.H.*, 652 N.W.2d at 148. The parents here failed to request additional services and, therefore, have not preserved error on this issue.

Finally, both parents request an additional six months to demonstrate their ability to safely parent the child. While we recognize the law requires a “full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” Iowa has built this patience into the statutory scheme of Iowa Code chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). The crucial days of childhood cannot be suspended while the mother experiments with ways to face up to her own problems. See *id.* Children should not be forced to endlessly await the maturity of a natural parent. *Id.* Once the limitation period

set forth in section 232.116(1) lapses, termination proceedings must be viewed with a sense of urgency. *Id.* at 495. The time for termination of these parents' rights is now. Accordingly, we affirm.

AFFIRMED ON BOTH APPEALS.