

IN THE COURT OF APPEALS OF IOWA

No. 2-153 / 11-2118
Filed February 29, 2012

**IN THE INTEREST OF K.P.,
Minor Child,**

S.G., Mother,
Appellant.

Appeal from the Iowa District Court for Dallas County, Virginia Cobb,
District Associate Judge.

A mother appeals the district court's order terminating her parental rights.

AFFIRMED.

Steven E. Clarke of Pargulski, Hauser & Clarke, Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Wayne Reisetter, County Attorney, and Sean P. Wieser,
Assistant County Attorney, for appellee State.

Stephie Tran, Des Moines, for appellee father.

Michelle R. Saveraid of Youth Law Center, Des Moines, attorney and
guardian ad litem for minor child.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

VOGEL, P.J.

Stacey appeals the district court's order terminating her parental rights to K.P., born 2010. On March 25, 2011, Stacey voluntarily called the Iowa Department of Human Services (DHS), requesting K.P. be removed from her care. Stacey felt she could no longer care for K.P. on her own as her family was not supportive of her, she was unemployed, she did not have a driver's license, she had a restraining order against K.P.'s father, and she was living with her grandmother. On March 28, Stacey consented to temporary removal and K.P. was placed with the foster family that had previously adopted his two older siblings, following termination of Stacey's parental rights. On April 18, Stacey rescinded her consent. An ex parte removal was later entered and on June 8, K.P. was adjudicated a child in need of assistance (CINA).

The petition for termination of parental rights came on for hearing on November 7, and on December 14, 2011, Stacey's rights were terminated as to K.P. under Iowa Code section 232.116(1)(d) (adjudicated CINA, child in same family adjudicated CINA, parent offered or received services, circumstance that led to adjudication continues to exist), (g) (adjudicated CINA, court terminated parental rights with respect to another child who is member of same family, parent continues to lack ability or willingness to respond to services that would correct the situation, additional time would not correct the situation), (h) (child three or younger, adjudicated CINA, removed from physical custody for at least six months, child cannot be returned to parent at present time), and (i) (child meets definition of CINA, neglect posed significant risk to life of child or constituted imminent danger to the child, offer or receipt of services would not

correct conditions that led to neglect in reasonable amount of time) (2011).¹ Stacey appeals.

Our review of proceedings to terminate parental rights is de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). Where parental rights are terminated on more than one statutory ground, we need only find grounds under one section to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern is always the best interests of the child. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008).

Stacey alleges the State failed to prove the grounds for termination by “clear and convincing evidence” under Iowa Code section 232.116(1)(d), (g), (h), and (i). The State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Evidence is “clear and convincing” when “there are no serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence.” *Id.*

Stacey argues the State failed to prove grounds for termination under Iowa Code section 232.116(1)(g) by clear and convincing evidence, specifically referencing her ability and willingness to respond to services. At the termination hearing, DHS Case Manager Marcia Hoffman, testified that her primary concern in this case was Stacey’s inconsistency in attending weekly therapy to address

¹ K.P.’s putative father consented to the termination of his parental rights on November 7, 2011, pursuant to Iowa Code section 232.116(1)(a). The parental rights of a second putative father were terminated under Iowa Code section 232.116 (b) and (e). Neither appeals.

her mental health needs. A psychosocial evaluation performed by Susan Gauger, SCSW, LISW, in June 2011, contained the following recommendation:

[Stacey] has a long history of treatment both as a teen and as an adult. Unfortunately, she has been unable to stabilize her life and has gone from one bad situation to another. Her highly impulsive actions and decision making style are out of her control by her own admission.

. . . .
. . . . The need for therapy with a qualified mental health professional is undisputed. Unfortunately, Stacey's personality does not lend itself to long term treatment or consistent investment in change. It will require great commitment on her part to invest in the treatment she needs.

While Stacey was advised to seek mental health treatment, it was not until July 31, 2011, that she began seeing Linda Lemons, social worker, for therapy. Stacey did not attend therapy from August 23 to September 23, explaining she "didn't want to have to deal with therapy and go talk about stuff."

A case plan review from November 1, 2011, stated:

Numerous discussions have been held with Stacey and the FRSP provider as well as between Stacey and the writer of this report [(Marcia Hoffman)] regarding the importance of attending therapy on a continuous basis in order to gain emotional stability so she could safely and adequately parent [K.P.]. She has failed to keep weekly therapy appointments on a consistent basis and has failed to become adequately invested in making the needed changes in her life. Subsequently, her mental state prohibits her from providing an adequate permanent home for [K.P.] within a reasonable time frame.

In addition to concerns regarding Stacey's intermittent attendance of therapy sessions, Stacey has exhibited instability such that K.P. cannot be returned to Stacey's care at the present time. Iowa Code § 232.116(1)(h). Much of this instability stems from Stacey's mental health issues, and from her

relationship with Jerome, whom she met in February 2011 and married in May 2011, but was not living with at the time of the termination hearing.

At the termination hearing, Ms. Hoffman explained that Stacey has difficulty controlling her anger and it has often reached the point where the police were called in to manage a situation. On April 24, 2011, Stacey was in an altercation with her sister after they had been at a bar. Stacey was taken to the Perry Police Department and charged with criminal mischief in the fifth degree. On July 7, Stacey was upset with the results of a family team meeting with DHS and police were summoned. Finally, on October 17, police were dispatched to Stacey and Jerome's residence for a possible domestic assault. The matter concluded with Jerome being arrested and a no-contact order was issued against Jerome.

While Stacey displayed her love for K.P. at the visits she attended, Ms. Hoffman opined that Stacey would be unable to care for K.P. twenty-four hours a day, seven days a week. The district court also recognized Stacey's visits with K.P., "occur in a vacuum, without the ongoing issues of real life as a full-time parent." Based on the severity of Stacey's mental health issues and her reluctance to participate consistently in therapy as recommended by providers, as well as Stacey's unstable relationship with Jerome, there is clear and convincing evidence Stacey lacks an ability or willingness to respond to services and that K.P. cannot be returned to Stacey at the present time. We therefore conclude grounds for termination exist under Iowa Code section 232.116(1)(g) and (h).

Our court has recognized that under Iowa's statutory scheme, "[a] parent does not have an unlimited amount of time in which to correct his or her deficiencies." *In re H.L.B.R.*, 567 N.W.2d 675, 678 (Iowa Ct. App. 1997). Moreover, "[t]he crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re D.A., Jr.*, 506 N.W.2d 478, 479 (Iowa Ct. App. 1993). K.P. is in a stable home, where his two brothers have been adopted, and is doing very well in this placement. K.P. cannot be returned to Stacey at the present time due to the fragile state of her mental health and her many personal issues and inability to manage her own life. "At some point, the rights and needs of the child rise above the rights and needs of the parents." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997), *overruled on other grounds by In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). Because K.P. deserves a stable and permanent home, termination of Stacey's parental rights is in K.P.'s best interests. See *P.L.*, 778 N.W.2d at 37 (noting the second step in our analytical framework is to apply the best-interests framework articulated in Iowa Code section 232.116(2)).

Finally, Stacey asserts a reason not to terminate—the closeness of the parent-child relationship—exists under Iowa Code section 232.116(3)(c). While caseworkers expressed no concerns regarding Stacey's interactions with K.P. during supervised visitation, given Stacey's many unresolved problems and K.P.'s need for stability, we do not find the bond between Stacey and K.P. strong enough to militate against termination. Iowa Code § 232.116(3). We therefore affirm.

AFFIRMED.