

**IN THE COURT OF APPEALS OF IOWA**

No. 2-191 / 12-0136  
Filed March 28, 2012

**IN THE INTEREST OF J.B. and N.B.,  
Minor Children,**

**T.B., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Colin J. Witt, District  
Associate Judge.

A mother appeals the termination of her parental rights to her children.

**AFFIRMED.**

Aaron H. Ginkens of Ginkens Law Firm, P.L.C., Clive, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John Sarcone, County Attorney, and Michelle Chenoweth,  
Assistant County Attorney, for appellee.

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

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

**BOWER, J.**

A mother appeals from the termination of her parental rights to her children.<sup>1</sup> She does not dispute the grounds for termination have been proved, but contends termination is not in the children's best interest. She also contends termination should not have been ordered because two of the exceptions provided in Iowa Code section 232.116(3) (2011) were met. Because we find termination is in the children's best interest and no statutory exceptions to termination weigh against termination, we affirm.

***I. Background Facts and Proceedings.***

The children at issue are J.B., born in 2000, and N.B., born in 2004. They have been involved with the Department of Human Services (DHS) since 2008. The mother's methamphetamine use led to their removal from her care in October 2009. On November 24, 2009, they were adjudicated to be in need of assistance pursuant to sections 232.2(6)(c)(2) and (n).

The mother entered substance abuse treatment, and upon demonstrating sobriety and a commitment to her children, the children were returned to her care the spring of 2010. Sadly, the mother's recovery did not last. After testing positive for methamphetamine use in November 2010, the children were again removed from her care. Despite participation in outpatient treatment, the mother was unable to regain her sobriety, missing numerous drug tests and testing positive in July 2011. After that point, the mother stopped participating in the

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<sup>1</sup> The mother identified different putative fathers for the children, neither of whom has ever been involved in their children's lives and could not be located during the pendency of these proceedings. The juvenile court's termination of the parental rights of "all unknown and putative fathers" is not at issue in this appeal.

services designed to reunite her with the children. She has not had contact with the children since that time.

A petition to terminate the mother's rights was filed on September 22, 2011. The termination hearing was held on October 25, 2011, just days after the mother was arrested for a probation violation. The mother was also facing three new counts of credit/debit card forgery.

At the time of the termination hearing, the children were in a relative placement and were doing well. J.B. made it clear to the guardian ad litem that he did not wish to be moved again as they had already been in numerous placements. The relatives with whom the children were placed wished to adopt them.

Following the termination hearing, the juvenile court entered its order terminating the mother's parental rights pursuant to Iowa Code sections 232.116(1)(b), (d), and (e). The court determined termination was in the children's best interests and, after considering the exceptions in section 232.116(3), found none warranted preserving parental rights. The mother appeals.

## ***II. Scope and Standard of Review.***

Our review of termination decisions is de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). We give weight to the juvenile court's findings of fact even though we are not bound by them. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). We especially give weight to the juvenile court's findings when assessing witness credibility. *Id.*

We will uphold an order terminating parental rights where there is clear and convincing evidence the grounds for termination under section 232.116 have been proved. *Id.* Evidence is clear and convincing where there are no serious doubts as to the correctness or conclusions of law drawn from the evidence. *Id.*

### ***III. Analysis.***

The mother does not dispute the grounds for termination were proved by clear and convincing evidence. Instead, she challenges the juvenile court's determination that termination was in the children's best interest. She also contends two of the exceptions found in section 232.116(3) merited preserving her parental rights. Upon our de novo review, we reject her claims.

The mother abuses methamphetamine. Although she successfully completed substance abuse treatment and maintained sobriety for a short period of time, she relapsed. Subsequent treatment did not remedy the situation. The mother failed to take numerous drug tests during the first half of 2011. In July of 2011, she again tested positive for methamphetamine. At that point, she stopped participating in the services designed to reunite her with her children, did not maintain contact with the DHS, and did not participate in the CINA proceedings until the termination hearing. At the time of the termination, she was in jail on a probation violation and facing new criminal charges. She had no income and no home. The mother testified she would need additional time to become financially secure before having the children returned to her, but she did not believe any further substance abuse treatment was necessary. At the time of termination,

the mother had not seen the children in approximately two months and they had been out of her care for almost one year.

The best interest determination requires us to “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.” *P.L.*, 778 N.W.2d 33, 40 (Iowa 2010) (citing Iowa Code § 232.116(2)). In considering these factors, we conclude termination is in the children’s best interest. The mother’s prognosis for future sobriety is poor. See *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997) (holding that when considering what the future holds if the child is returned to the parent, we must look to the parents’ past behavior because it is indicative of the quality of care the parent is capable of providing in the future). It is important to fix child custody quickly as children should not be made to suffer indefinitely in parentless limbo. *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). Two years have passed since the children were adjudicated in need of assistance and, with the exception of a brief period of sobriety, the mother has not made the necessary improvements to have the children returned to her care. Delaying termination is not in the children’s best interest.

The mother also contends two of the exceptions to termination found in section 232.116(3) apply. She first argues J.B. is over ten years of age and objects to termination. See Iowa Code § 232.116(3)(b) (“The court need not terminate the relationship between the parent and child if the court finds . . . [t]he child is over ten years of age and objects to the termination.”). As the juvenile

court noted, “his attorney and GAL have not made the undersigned aware that he objects.” Rather, the guardian ad litem testified as to J.B.’s statement that he did not wish to be moved from his current placement. The record does not support the mother’s claim that the exception found in section 232.116(3)(b) applies.

The mother also claims termination should not be had because of the close bond between her and the children. See *id.* § 232.116(3)(c) (holding termination is not necessary where “[t]here is 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”). The record does not support this claim either. While the record shows the children are bonded to the mother, there is no indication the bond is so strong as to outweigh the children’s need for permanency.

Because we conclude termination is in the children’s best interest and none of the statutory exceptions found in section 232.116(3) apply to prevent termination, we affirm the order terminating the mother’s parental rights.

**AFFIRMED.**