

IN THE COURT OF APPEALS OF IOWA

No. 2-652 / 12-0850
Filed August 8, 2012

**IN THE INTEREST OF N.G.,
Minor Child,**

**M.G., Mother,
Appellant.**

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

A mother appeals the order terminating her parental rights. **AFFIRMED.**

Stephie N. Tran, Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Jon E. Anderson, Assistant County Attorney, for appellee State.

Nicole Garbis-Nolan of Youth Law Center, Des Moines, attorney and guardian ad litem for minor child.

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

VOGEL, P.J.

The mother, Michelle, appeals the termination of her parental rights to her daughter, N.G., born in June 2011.¹ She asserts there was not clear and convincing evidence to support the juvenile court's findings and termination is not in the best interests of the child. We affirm.

We review termination of parental rights decisions de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Weight is given to the fact findings of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those findings. *In re K.M.R.*, 455 N.W.2d 690, 690 (Iowa Ct. App. 1990).

The district court terminated Michelle's rights under Iowa Code sections 232.116(1)(d) (2011) (adjudicated child in need of assistance (CINA) for physical abuse, circumstances continue despite services); (h) (child three or younger, adjudicated CINA, removed from home for six of last twelve months, and child cannot be returned home); and (l) (adjudicated CINA, parent has severe, chronic substance abuse problem, and clear and convincing evidence exists that child will not be able to return to parent's custody). When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

¹ The biological father of the child has not identified himself nor does it appear from the record that he has had any contact with the child. Any efforts to identify the father have been unsuccessful. The parental rights of N.G.'s unknown biological father were terminated and not at issue in this appeal.

The Iowa Department of Human Services (DHS) became involved with N.G. in June 2011, when N.G. was born testing positive for methamphetamine in her system. Even though Michelle initially denied using any illegal drugs during her pregnancy or for the previous five years, she also tested positive for methamphetamine after giving birth to N.G. After being discharged from the hospital, N.G. went to live with an extended family member with only supervised contact between her and Michelle. N.G. was later moved to an aunt's home, where she remained through the date of the termination hearing. On July 18, 2011, N.G. was adjudicated CINA as defined in Iowa Code sections 232.2(6)(b), (c)(2), (n), and (o). N.G. was confirmed CINA on August 9, 2011, as a result of the mother's unresolved substance abuse. Many services, including substance abuse evaluation and treatment, were offered to Michelle. Michelle even testified at the termination hearing that everything that could possibly have been offered to help her was offered and available.

Michelle last saw N.G. at Christmas time in 2011. Michelle was arrested and jailed on January 22, 2012, charged with conspiracy to deliver methamphetamine, failure to affix a drug tax stamp, possession with intent to deliver methamphetamine, and driving while barred, all stemming from an event that took place on December 20, 2011. An enhancement to the charges was also filed due to Michelle's prior convictions. Her criminal case was still pending at the time of the termination hearing.

In the termination order, the juvenile court found Michelle unwilling to address her substance abuse problems, noting acknowledged drug use during the pendency of the CINA and termination proceedings as well as her inability to

avoid the criminal drug culture, as evidenced by her recent arrest and pending charges.

In this appeal, Michelle argues the State failed to prove that, with the proper assistance, N.G. could not be returned to her custody. We find there is clear and convincing evidence that at least one of the statutory grounds found by the juvenile court is supported by the record. Michelle has a long history of substance abuse. She has not been sincere with service providers about the extent of her usage. Michelle continued to use throughout the pendency of this proceeding as evidenced by failed and missed drug screens, as well as her arrest for several drug-related offenses. Even at the termination hearing, while admitting to being an addict, Michelle testified that her most recent arrest was a “set-up” and that she was hopeful “the person whose drugs it is, they are going to account for their drugs.” Michelle has shown a continued unwillingness to make a commitment to sobriety, and there is clear and convincing evidence that she has a severe, chronic substance abuse problem, presenting a danger to herself or others. This prognosis indicates that the child will not be able to be returned to her custody within a reasonable amount of time. Iowa Code § 232.116(1)(l).

Michelle further argues the juvenile court erred in terminating her parental rights as the termination was not in the best interests of the child. Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). We consider “the child’s safety,” “the best placement for furthering the long-term nurturing and growth of the child,” and “the physical, mental, and emotional condition and needs of the child.” *Id.* In the last

visit with N.G., Michelle kept falling asleep, including an instance where N.G. fell over without Michelle noticing. N.G. is currently thriving in her aunt's home, which is a promising adoption placement. Michelle claims that she has just now begun to address her substance abuse issues and should be allowed an additional six months to better her parenting skills. We find this argument unpersuasive as Michelle has had ample opportunity to address her issues during the pendency of this proceeding and has failed to do so. See *In re D.W.*, 791 N.W.2d 703, 707 (Iowa 2010) (holding a child should not be asked to continuously wait for stable biological parent, particularly when the child is of a tender age). We conclude termination of Michelle's parental rights is in N.G.'s best interests as set forth under the factors in Iowa Code section 232.116(2). We therefore affirm the juvenile court's termination of Michelle's parental rights.

AFFIRMED.