

IN THE COURT OF APPEALS OF IOWA

No. 2-696 / 12-1139
Filed August 22, 2012

**IN THE INTEREST OF A.M.,
Minor Child,**

H.P., Mother,
Appellant.

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

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

AFFIRMED.

Nathan W. Tucker, Davenport, for appellant.

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

David J. Zimmerman, Clinton, for father.

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

Considered by Vaitheswaran, P.J., and Potterfield and Bower, JJ.

BOWER, J.

A mother appeals from the termination of her parental rights to her child. She contends the State failed to prove the grounds for termination by clear and convincing evidence. Because we find termination was proper under Iowa Code section 232.116(1)(h) (2011), we affirm.

I. Background Facts and Proceedings.

The child was born four weeks premature in August 2011. The child tested positive for opiates. The child was removed from the mother's care the following month along with two siblings after the mother threw a book at an older child and attended a supervised visit while under the influence of a drug. The mother consented to the termination of her parental rights to the two older children.

The mother has been involved with the Department of Human Services (DHS) since 2005. She has a long history of substance abuse and has been through substance abuse treatment a number of times. The mother also has mental health issues, having been diagnosed with depression, suicidal tendencies, post-traumatic stress disorder, and attention deficit hyperactive disorder.

Following the child-in-need-of-assistance adjudication, the mother failed to consistently attend mental health appointments and group sessions. She tested positive for drug use. The mother failed to attend the review hearing in January 2012.

In March 2012, the mother was arrested for driving with a suspended license. She reported that she had tried to commit suicide earlier in the day, but later claimed this was a lie. She also reported that she tried to take her life in November 2011, which she later admitted was true. The mother was placed on suicide watch at the jail, at which time she attacked jail staff.

A termination hearing was held on March 13, 2012 while the mother was still in jail. Her attorney requested a continuance, which the juvenile court denied. The juvenile court terminated the mother's parental rights. On appeal, this court reversed the termination order, finding denial of the motion to continue was an abuse of discretion. See *In re A.M.*, No. 12-0530, 2012 WL 1864795, at *1 (Iowa Ct. App. May 23, 2012).

Upon her release from jail, the mother contacted her estranged husband in spite of a no-contact order between them to ensure the mother's safety. He and the mother used methamphetamine and cocaine and her husband physically abused her. He was later arrested.

The mother relocated to Des Moines from May 7 until May 31 to seek a "fresh start." While there, she stayed at a shelter and participated in a mental health intake. When she learned the termination order had been reversed, the mother returned to Dubuque.

A second termination hearing was held on June 6, 2012. The mother admitted the child could not be returned to her care at that time. Instead, she sought an additional two or three months to prove herself. The juvenile court entered its order terminating the mother's parental rights on June 11, 2012. The mother filed a timely appeal.

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.*

We will uphold termination order if clear and convincing evidence supports the grounds for termination under section 232.116. *Id.* Evidence is "clear and convincing" where there lacks "serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence." *Id.*

III. Analysis.

The juvenile court terminated the mother's parental rights pursuant to sections 232.116(1)(d), (e), (g), (h), (i), (k), and (l). The mother contends the State failed to prove the grounds for termination by clear and convincing evidence. 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).

Termination is appropriate under section 232.116(1)(h) where the following have occurred:

- (1) The child is three years of age or younger.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

We find clear and convincing evidence establishes these elements. The child is less than one year of age and was adjudicated to be a child in need of assistance. The child has been out of the mother's care since September 2011—nine months at the time of termination. When asked at the termination hearing whether the child could be returned to her custody, the mother testified, "At this very moment, no."

The mother seeks additional time to demonstrate she can be a parent. 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. Evidence of a parent's past performance may be indicative of the quality of the future care that parent is capable of providing. *Id.*

This mother has been provided services to assist her with her substance abuse and mental health issues since 2005. Yet, the child still cannot be returned to her care. Additional time is not likely to change the situation. Accordingly, we affirm the termination of the mother's parental rights.

AFFIRMED.