

IN THE COURT OF APPEALS OF IOWA

No. 2-753 / 12-1102
Filed September 6, 2012

**IN THE INTEREST OF K.L.J. and T.L.J.
Minor Children,**

L.G., Mother,
Appellant.

Appeal from the Iowa District Court for Johnson County, Deborah Farmer Minot, District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Maryam Kassae of the Public Defender's Office, Iowa City, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Janet M. Lyness, County Attorney, and Patricia Weir, Assistant County Attorney, for appellee State.

Anthony Haughton, Cedar Rapids, for minor children.

Considered by Eisenhauer, C.J., and Doyle and Tabor, JJ.

EISENHAUER, C.J.

A mother appeals from the order terminating her parental rights to two children. She contends the court erred in waiving reasonable efforts toward reunification and the State did not make reasonable efforts to reunify her with her children. She further contends none of the statutory grounds relied upon by the court are supported by clear and convincing evidence and termination is not in the children's best interests. On de novo review, *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011), we affirm.

These twins are the mother's sixth and seventh children. Her parental rights to the oldest four children have been terminated. The fifth child died while in the mother's care. The twins were removed from the mother's custody within days of their birth, although when the mother became aware removal was imminent, she attempted to hide the children from authorities. Soon after the twins' removal, the State sought a waiver of the requirement it make reasonable efforts to reunify the mother and children, given the mother's history. The court found aggravated circumstances existed and waived the requirement for reasonable efforts. However, the court took the extraordinary step of directing the State to continue providing services, concluding the mother should be given the maximum opportunity for assistance and, if the mother has more children, "they almost certainly will benefit from services she receives now."

Despite the continued offer and receipt of services, the mother's circumstances deteriorated, and she made no significant improvement in her ability to regain custody. She lost her job. She was evicted from her home for nonpayment of rent. Visitation was reduced because the mother had no suitable

residence where it could occur. She continued to drive without a license. The mother was not consistently attending mental health counseling or domestic violence services. The State petitioned to terminate the mother's parental rights under Iowa Code section 232.116(1)(g) and (h) (2011).

Following a hearing, the court found the State proved the statutory grounds for termination. Considering the children's best interests, the court found the mother was "unable to meet her own needs, much less those of two helpless children." It further found the children's needs as set forth in section 232.116(2) "dictate that it is in their best interests to have parental rights terminated" and "the children's need for permanency can only be met through termination of parental rights and adoption." Concerning the possible exception to termination in section 232.116(3)(c), the court acknowledged the mother loves the children and "feels a strong emotional attachment to them" but found there was not a strong parent-child bond because of "the children's removal at the age of five days and their limited visitation with their mother during the critically important early months of their life." The court also noted the children had a loving attachment to the foster parents, who were ready and willing to adopt. The court terminated the mother's parental rights under section 232.116(1)(b),¹ (g), and (h).

Reasonable Efforts. Iowa Code section 232.102(7) requires reasonable efforts to reunite children and parents. The requirement may be waived when

¹The termination order found "the Petitions to Terminate Parental Rights should be sustained with respect to both parents pursuant to Iowa Code Sections 232.116(1)(b), 232.116(1)(g) and 232.116(1)(h)." However, section 232.116(1)(b) applies only to the father. We do not consider it in the mother's appeal.

the court finds aggravated circumstances exist. Iowa Code § 232.102(12). Applicable here, reasonable efforts may be waived if a parent's parental rights have been terminated with respect to another child and "the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions" leading to the child's removal. *Id.* § 232.102(12)(c). At the time of the hearing, the mother's parental rights had been terminated with respect to her four oldest children. She had been offered and received services during various periods for a decade, but the circumstances leading to the children's removal continued to exist. We affirm the court's waiver of reasonable efforts.

As noted above, although the court waived the legal requirement for reasonable efforts, it ordered the DHS to continue providing services to the mother. The mother contends reasonable efforts were not made. In particular, she argues DHS "demonstrated its unwillingness" to make reasonable efforts to reunify the family in the areas of visitation, housing, and a mental health evaluation "even before" the court waived reasonable efforts. In considering the State's application to waive reasonable efforts, the court found:

From 2000 through 2007, DHS offered or provided a wide array of services to [the mother], including: DHS case management; Department of Correctional Services probation supervision; United Action for Youth Teen Parenting Program; House of Mercy residential program for mothers and children; Families, Inc. services; Visiting Nurse Association visitation supervision; parenting instruction; supervised visitation; budgeting assistance; protective day care; Family Team Meetings; mental health evaluation; individual therapy; substance abuse evaluation, treatment, and drug testing; domestic violence counseling, shelter, and support; paternity testing; foster family care. In addition, DHS made referrals and/or assisted [her] with applications for a number of services through federal, state and/or local agencies, including: Women's Resource and Action Center; Domestic Violence Intervention Program; Community Mental Health Center; Grant

Wood Area Education Authority; Title XIX medical care; Family Investment Program financial subsidies; food stamps; HACAP Housing Program; HACAP Head Start; Iowa City Housing Authority Family Unity Program (“FUP”) referral; and Section 8 housing.

During the current child-in-need-of-assistance (CINA) case, the mother was offered or received a variety of services including Family Safety, Risk, and Permanency services; parenting instruction; transportation assistance; substance abuse evaluation and treatment; assistance with housing, including paying her December 2011 rent and making a FUP referral; mental health evaluation; and supervised visitation. The visitation was reduced after the mother was evicted for nonpayment of rent and the visitation had to be at the office of the service provider. At times the mother resisted services. We conclude the State made reasonable efforts toward reunification and affirm on this issue.

Statutory Grounds. The court terminated the mother’s parental rights to the twins under section 232.116(1)(b), (g), and (h). When the court terminates a parent’s rights on more than one statutory ground, we only need find evidence supporting termination on one of the grounds cited by the court to affirm. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010).

We find clear and convincing evidence supports termination under paragraph (h). The children were under one year of age, adjudicated CINA, had been removed from the mother’s care for nine months at the time of the termination hearing, and could not safely be returned to her care. See Iowa Code § 232.116(1)(h)(1)-(4). Since the children’s removal, the mother had not made any significant improvement in her ability to regain custody of the children.

In fact, in almost every way, her situation has deteriorated. She lost her job. She was evicted due to non-payment of rent and there

is a \$1200 claim pending against her. She is again living with her sister, . . . with whom she has had a conflictual relationship over the years. . . . She has not been regularly attending mental health counseling as recommended in her psychological evaluation. She has not even scheduled the neuropsychological evaluation that was recommended. She has not been following through with domestic violence services. . . . [She] continues to drive without a valid license, putting herself at risk of arrest.

Clear and convincing evidence supports the court's findings, and we adopt them.

We affirm the termination of the mother's parental rights under section 232.116(1)(h).

Best Interests. The mother contends termination is not in the children's best interests, but only argues she has a strong bond with the children and the court erred in concluding breaking the bond would not be detrimental to them. See Iowa Code § 232.116(3)(c). This argument does not address the best-interests framework set out in section 232.116(2), but rather one of the discretionary factors in section 232.116(3) that may serve to preclude termination. While it is true a strong parent-child bond can militate against an otherwise appropriate termination, a parent's love for a child is not enough. Our "consideration must center on whether the child[ren] will be disadvantaged by termination, and whether the disadvantage overcomes" the parent's inability to provide for the child[ren]'s developing needs. See *D.W.*, 791 N.W.2d at 709

These children were removed from the mother's care when only five days old. Although the twins enjoy visitation with the mother, the bond they have with her is not the strong parent-child bond contemplated by the statute. We agree with the court the bond between the mother and these children is not so close that severing it would be detrimental to them. The disadvantage to the children

in this case does not overcome the mother's inability to provide for their needs.

Accordingly, we affirm the termination on this ground.

AFFIRMED.