

**IN THE COURT OF APPEALS OF IOWA**

No. 2-914 / 12-1344  
Filed October 17, 2012

**IN THE INTEREST OF J.G. AND C.G.,  
Minor Children,**

**C.G., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Louise Jacobs,  
District Associate Judge.

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

Karen A. Taylor of Taylor Law Offices, Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney  
General, John Sarcone, County Attorney, and Faye Jenkins, Assistant County  
Attorney, for appellee State.

Kathryn M. Miller of Juvenile Public Defender, Des Moines, attorney and  
guardian ad litem for minor children.

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

**VOGEL, P.J.**

Christy appeals the termination of her parental rights to her children, J.G. (born January 2008), and C.G. (born June 2003).<sup>1</sup> She asserts there was not clear and convincing evidence to support the district court's findings, and termination was not in the children's best interest. We affirm.

The district court terminated Christy's rights under Iowa Code sections 232.116(1)(d) (2011) (adjudicated child in need of assistance (CINA) for neglect, circumstances continue despite services); (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child); (i) (child CINA, child was in imminent danger, services would not correct conditions); and (l) (child CINA, parent has substance abuse problem, child cannot be returned home within a reasonable time).

If the district court terminates parental rights on more than one statutory ground, we need only find that the evidence supports termination on one of the grounds cited by the district court to affirm. *In re R.K.*, 649 N.W.2d 18, 19 (Iowa Ct. App. 2000). We review termination of parental rights proceedings de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

Christy's children have suffered from their mother's long history of drug and alcohol addiction. Their stability has been at the mercy of Christy's successes and failures at substance abuse treatment programs resulting in the children being moved in and out of Christy's care. In August 2009, the children were removed from the home and placed with their maternal grandfather when

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<sup>1</sup> J.G.'s biological father's parental rights were also terminated in this action and he does not appeal. C.G.'s biological father's parental rights were previously terminated by court order and are not subject to this appeal.

Christy was arrested for driving while intoxicated with the children in the vehicle. They were adjudicated CINA on September 22, 2009. They were returned to Christy's care in November, on the condition that she remained at the House of Mercy for substance abuse treatment. Unfortunately, the children had to be removed again in September 2010, after Christy was unsuccessfully discharged from the House of Marcy after relapsing on at least two different occasions. The children were placed with a close friend at that time.

Christy then participated in substance abuse treatment at Mid-Eastern Council on Chemical Abuse (MECCA) and residential programming at Bernie Lorenz. The children were again returned to her care in June 2011, however in December, the children were removed again because of another relapse. The children were returned to the same placement and have remained there since.

Christy was not participating in any substance abuse treatment from at least December 2011 until her arrest for drug charges in May 2012. She was homeless as recently as March and April 2012 and was using intravenous drugs up until the time of her arrest. A petition to terminate was filed on April 2, 2012. Initially, Christy intended to consent to the termination, but had a change of heart immediately after the pretrial conference and withdrew her consent. A hearing was held on June 6, 2012, and the district court entered an order terminating Christy's parental rights on July 13, 2012. This appeal follows.

Christy contends the State failed to prove the statutory elements by clear and convincing evidence, and that she should have more time to prove herself capable of being a responsible parent. Under Iowa Code section 232.116(1)(f), the district court found that there was clear and convincing evidence that Christy

has a severe chronic substance abuse problem and she presents a danger to herself and others.

At the termination hearing, Christy admitted to a twenty-year, chronic substance abuse problem that has been severe enough to cause her at times to be hospitalized and suicidal. She freely admitted her substance abuse causes her to be a danger to herself and to her children and her poor choices have had a negative effect on both children. While Christy made a very emotional plea for the court to give her more time to address her additions, the Family Safety, Risk, and Permanency (FSRP) service provider testified that she did not believe that Christy could address her sobriety in a reasonable amount of time to parent safely. Christy tested positive for alcohol use as recent as May 17, 2012, well within her claimed period of sobriety. The FSRP report of May 12, 2012 indicated Christy has not completed any of the family case plan goals.

We agree with the district court that there is clear and convincing evidence the statutory requirements of section 232.116(1)(f) are satisfied. “Where the parent has been unable to rise above the addiction and experience sustained sobriety in a noncustodial setting, and establish the essential support system to maintain sobriety, there is little hope of success in parenting.” *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998).

Christy also argues that the considerations found in Iowa Code section 232.116(3) apply.<sup>2</sup> The factors weighing against termination in section

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<sup>2</sup> Christy seemingly argues in her brief that that the petition should not have been filed because Iowa Code § 232.111(2)(b) provides situations where filing a petition is not mandatory and she claims at least one of those situations was applicable here. However, after a review of the record, it does not appear that Christy made this

232.116(3) are permissive. *In re D.S.*, 806 N.W.2d 458, 474-75 (Iowa Ct. App. 2011). The court has discretion, based on the unique circumstances of each case and the best interests of the child, whether to apply the factors in this section to save the parent-child relationship. *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa Ct. App. 1993). Here, the only applicable factor weighing against termination would be the closeness of the parent-child relationship under Iowa Code section 232.116(3)(c).

A Department of Human Services worker involved with this case reported that maintaining Christy's parental relationship with her children would be more detrimental to the children than any effects a termination will bring. Christy testified, "[C.G.] is very angry that he keeps getting taken from me," and that it "takes a toll on them when they're away from me." Clearly the children are bonded to Christy, but the path she has taken them down in their young lives has not been beneficial to their overall wellbeing. As the children's guardian ad litem observed in her closing arguments, for nearly three years there has been a pattern of "removal, return, relapse, removal . . . this just needs to end."

Christy has been provided services for approximately three years yet has not been able successfully to address her substance abuse issues. Children should not be asked, "continuously [to] wait for a stable biological parent, particularly at such tender ages." *In re D.W.*, 791 N.W.2d 703, 707 (Iowa 2010). At the time of the hearing the children had been at their current residence for approximately fifteen months. The children are bonded and attached to their

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argument in front of the district court. We therefore will not address this issue. An issue not presented in the juvenile court may not be raised for the first time on appeal. *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994).

care provider and all of their needs are being met in that home. We agree with the district court that termination is in the children's best interest despite any claim of exceptional closeness to Christy.

**AFFIRMED.**