

IN THE COURT OF APPEALS OF IOWA

No. 2-950 / 12-1602
Filed October 31, 2012

**IN THE INTEREST OF I.W. AND O.W.,
Minor Children,**

B.W., Mother,
Appellant.

Appeal from the Iowa District Court for Warren County, Kevin A. Parker,
District Associate Judge.

A mother appeals from the termination of her parental rights. **AFFIRMED.**

Erin M. Carr of Carr & Wright, P.L.C., Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant
Attorney General, John Criswell County Attorney, and Tracie Sehnert, Assistant
County Attorney, for appellee State.

Ted Engel, Des Moines, for appellee father.

Dawn Bowman of Bowman Law Office, Pleasantville, attorney and
guardian ad litem for minor children.

Considered by Doyle, P.J., and Mullins and Bower, JJ.

DOYLE, P.J.

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

The mother has a long history of substance abuse and criminal activity involving drugs. She also has a history of involvement with the Iowa Department of Human Services (Department); her parental rights to her two eldest children, not at issue here, were previously terminated because the mother used, manufactured, and sold methamphetamine.

The mother became involved with the Department once more in August 2011, after it was reported she was again using and selling methamphetamine and that she had been recently arrested for possession of methamphetamine. The mother agreed to provide a sample for urinalysis, and she tested positive for methamphetamine in an amount indicating high or constant use of the substance. Her two youngest children at issue here were removed from her care and placed in the care of O.W.'s father, where they have since remained.¹

The children were adjudicated children in need of assistance (CINA), and the mother was offered services, including substance abuse and mental health treatment. Although she attempted several times during the case to participate in substance abuse treatment, she not only relapsed; she was arrested again in late January 2012 for possession of methamphetamine with intent to deliver. After that arrest, the State applied to waive reasonable efforts in the case, and the children's guardian ad litem agreed. In April 2012, the juvenile court granted the

¹ The children have different fathers, and those fathers' parental rights are not at issue in this appeal.

application finding that “[f]urther services would not assist in reuniting the children with [the] mother.”

Thereafter, the mother, by her own words, “went on a bender.” Although the Department continued to offer her services, including visitation with her children, she stopped participating altogether. She was arrested in May 2012 for violating her probation, and the State subsequently filed its petition for termination of her parental rights. Following a hearing, the mother’s parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d), (e), (g), (i), and (j) (2011).

The mother now appeals, contending the juvenile court erred (1) in granting the State’s application to waive reasonable efforts; (2) in failing to enter a permanency order granting her additional time for reunification, (3) and in finding termination of her parental rights was in the children’s best interests.² We review her claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

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

² We note the mother’s brief is exceptionally well-written.

received services during the pendency of that case, but the circumstances leading to the termination of her parental rights concerning those children—use and sale of methamphetamine—continued to exist, despite again being offered services and treatment. We find no error in the juvenile court’s waiver of reasonable efforts in this case.

Additional Time. The mother argues the juvenile court should have given her additional time for reunification because she showed some progress in participation in services after her arrest. Unfortunately, the record shows little to no progress in this case concerning her severe addiction to methamphetamine, particularly in light of her previous termination of parental rights case. This is not her first rodeo. The mother has had services offered to her in the past and in this case, including substance abuse treatment. She’s had multiple opportunities to complete treatment for possible reunification of her children. While the mother has expressed love for her children, those experiences were not sufficient motivation for her to make a meaningful change. An additional six months will not assist her in that effort. An additional six months would be an additional six months during which her children would be denied a permanent and loving home and a forever family. We find no error in the juvenile court’s decision not to grant the mother additional time.

Best Interests. Finally, for the reasons stated above, we find the best-interests framework in Iowa Code section 232.116(2) supports termination of the mother’s parental rights. We are not unsympathetic to the mother’s struggle to maintain sobriety, yet the interests in permanency for the children must prevail over the mother’s long and uncertain battle with drugs. *In re N.F.*, 579 N.W.2d

338, 341 (Iowa Ct. App. 1998). We cannot deprive these children of permanency after the State has proved a ground for termination under section 232.116(1) by hoping the mother will someday learn to be a parent and be able to provide a stable home for her children. See *P.L.*, 778 N.W.2d at 41. The mother has not demonstrated an ability to continue her sobriety beyond a month, and there is simply no evidence in this record to establish that additional time would yield any different result. When, as here, a parent is not capable of changing to allow her children to return home, termination is necessary. See *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). Under the facts and circumstances of this case, and considering “the [children’s] safety,” “the best placement for furthering the long-term nurturing and growth of the [children],” and “the physical, mental, and emotional condition and needs of the [children],” we agree with the juvenile court that termination of the mother’s parental rights was in the children’s best interests. We accordingly affirm the juvenile court order terminating the parental rights of the mother to her two children.

AFFIRMED.