

IN THE COURT OF APPEALS OF IOWA

No. 3-1026 / 13-1330
Filed November 6, 2013

**IN THE INTEREST OF S.T., S.T., AND S.J.,
Minor children,**

**J.T., Mother,
Appellant.**

Appeal from the Iowa District Court for Pottawattamie County, Gary K. Anderson, District Associate Judge.

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

Benjamin J. Pick, Council Bluffs, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Matthew Wilbur, County Attorney, and Eric Strovers, Assistant County Attorney, for appellee State.

Marti Nerenstone, Council Bluffs, attorney and guardian ad litem for minor children.

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

DOYLE, P.J.

A mother appeals the termination of her parental rights to her children. She contends the State failed to prove the grounds for termination by clear and convincing evidence. We review her claim de novo. *In re A.B.*, 815 N.W.2d 764, 773 (Iowa 2012).

The mother's parental rights were terminated pursuant to Iowa Code section 232.116(1) paragraphs (e), (f), (i), and (l) (2013). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). We choose to focus our attention on section 232.116(1) paragraph (f), which provides termination is appropriate where:

- (1) The child is four years of age or older.
- (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 twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

The mother only challenges the last element of paragraph (f). Upon our de novo review, we find the State has met its burden.

While the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills," this patience has been built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). The legislature incorporated a one-year limitation for children adjudicated in need of assistance (CINA) aged four and older. See Iowa Code § 232.116(1)(f)(2), (3). Our supreme court has stated "the legislature, in cases

meeting the conditions of [the Iowa Code], has made a categorical determination that the needs of a child are promoted by termination of parental rights.” *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990) (discussing Iowa Code section 232.116(1)(e)). The public policy of the state having been legislatively set, we are obligated to heed the statutory time periods for reunification.

Here, the mother has been involved with the Iowa Department of Human Services (Department) as a parent off and on since 2000. The mother has a long history of negative behaviors, substance abuse, and mental health issues. The mother also has a history of not providing her children safety and stability. The mother’s oldest child, born in 1999, has now been removed from the mother’s care four times since 2000, and each time the mother has been offered and provided services for reunification. Nevertheless, in February 2012, the mother’s children, including her two youngest born in 2004 and 2006, had to be removed from her care after it was reported the mother had attempted suicide and left the children in the care of her boyfriend, a registered sex offender, and the children had been living in filth in the mother’s home. The children have not been returned to her care since.

At the start of the most recent case, her oldest child, then twelve, had become her younger siblings’ caregiver. She got her younger siblings up for school, and she walked them home from school. She provided meals for them, though her cooking skills were generally limited to peanut-and-butter jelly sandwiches and popcorn. She reported her mother had been doing drugs, and she knew her mother was using “weed” because the mother told her so. The child stated the mother also had stopped taking her mental health medications,

and the mother told her if she told anyone, she would be taken away. The child stated she loved her mother, but “she felt like she needed to be a kid” and was not ready to go home.

Since that time, the mother has been offered numerous services for reunification, including treatment for her mental health issues and substance abuse. Despite being advised repeatedly since February 2012 she needed to participate regularly in drug screening, mental health treatment, and substance abuse treatment, as well as maintain regular visitation with the children, the mother made little progress. When the mother provided drug screens, they were either positive for marijuana or dilute, which is also considered a positive drug screen. Although the tests were positive and her child confirmed her use, she maintains her use was only “alleged.” Furthermore, she minimizes her “alleged” marijuana use, noting it has become legalized in some states. Similarly, she plays down her need for mental health and substance abuse treatment.

The problem here is that this is not the mother’s first rodeo. The mother has had issues caring for her children since 2000, and each time drugs and mental health issues have been significant issues she had to overcome. Clearly, given that her twelve-year-old child was taking care of her other children, the mother’s recreational drug use and mental health problems interfered with her parenting ability. Even the mother’s chemical dependency counselor recommended she complete inpatient substance abuse treatment by the time of the termination hearing, although the mother had denied and minimized her use throughout the case, wasting critical time for reunification with her children.

Children lack pause buttons. Their crucial days of childhood cannot be suspended while waiting for a parent to remedy a lack of parenting skills. “At some point, the rights and needs of the child rise above the rights and needs of the parents.” *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997), *overruled on other grounds by In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010); *see also P.L.*, 778 N.W.2d at 39-40. At the time of the termination hearing, the children had been out of the mother’s care for over a year. Despite the offering of treatment and other services since February 2012 and earlier, the mother has not demonstrated a period of sobriety or the ability to meet the ongoing needs of the children. Upon our de novo review, we agree with the juvenile court that the evidence presented at the termination-of-parental-rights hearing clearly established the children could not be returned to the mother’s care at that time. We therefore agree the State established termination of the mother’s parental rights was appropriate under Iowa Code section 232.116(1)(f).

We also consider the mother’s assertion that statutory exceptions to termination, including placement with a relative or the closeness of the parent-child relationship, should serve to preclude termination of her parental rights. See Iowa Code § 232.116(3)(a), (c). We have discretion, based on the unique circumstances of each case and the best interests of the children, 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).

Because the children reside with their maternal grandmother and are close with their mother, the record leaves hope the mother will be able to remain part of the children’s lives. But neither their placement with relatives nor their

bond with the mother weighs heavily enough to reverse the termination. Under the facts of this case, we cannot maintain the mother-child relationship where there exists only a remote possibility the mother will become a responsible and consistent parent sometime in the unknown future. See *In re Z.H.*, 740 N.W.2d 648, 652 (Iowa Ct. App. 2007) (describing strong bond between parent and child as militating factor, but not overriding consideration). These children deserve permanency now and should not have to wait any longer for the mother to put their needs first. See *In re D.W.*, 791 N.W.2d 703, 707-08 (Iowa 2010). Termination will provide the children with the safety, security, and permanency they deserve. See *P.L.*, 778 N.W.2d at 41. We believe the children's best interests are served by severing their legal tie with the mother, see *J.L.W.*, 570 N.W.2d at 781, and we therefore find no abuse of discretion in the court's declination to invoke section 232.116(3). Accordingly, we affirm the juvenile court's termination of the mother's parental rights.

AFFIRMED.