

IN THE COURT OF APPEALS OF IOWA

No. 3-1028 / 13-1405
Filed November 6, 2013

**IN THE INTEREST OF D.D., B.D.,
and A.D.,
Minor Children**

**M.D., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Judge.

A mother appeals termination of her parental rights, arguing she should have been granted an additional six months before termination. **AFFIRMED.**

Michael H. Bandy of Bandy Law Office, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven J. Halbach, Assistant County Attorney, for appellee.

Melissa Anderson-Seeber of Public Defender Office, Waterloo, attorney and guardian ad litem for minor children.

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

MULLINS, J.

A mother appeals termination of her parental rights to three children, D.D., B.D., and A.D.. The juvenile court terminated parental rights to D.D. under Iowa Code section 232.116(1)(f) and to A.D. and B.D. under Iowa Code section 232.116(1)(h) (2013). The mother argues because she has made recent progress with services, this court should reverse termination and grant her an additional six months to regain care of her children. We affirm.

I. Facts and Background Proceedings.

The family came to the attention of the juvenile court in 2008, when D.D. (d.o.b. March 2007), the eldest child at issue in this appeal, was removed from the mother's and father's care following a founded child abuse report. In May 2010, the court terminated the case and returned D.D. to the mother's care. However only two months later, in July 2010, there was another founded child abuse report. The mother and father had two more children: B.D. was born December 2010 and A.D. was born November 2011. The parents have had a violent relationship history, substance abuse issues, and mental health issues. Throughout the case, the parents have been in and out of a relationship. At various periods, due to violence, there have been no-contact orders between the parents, but they have repeatedly violated and cancelled the no-contact orders against DHS advice. Although the children have at times been returned to the mother, the father has never resumed custody. Throughout the case, the father had little contact with DHS and has not participated regularly in services.

On March 8, 2012, the State filed a petition to adjudicate all three children in need of assistance based on six prior founded child abuse reports. On April 11, 2012, the juvenile court adjudicated the children in need of assistance. The court ordered the children continue to reside with their mother. However, on June 21, 2012, the State filed an application for temporary removal based on social workers' observations of conditions and behaviors in the mother's home that posed a risk to the children.¹ On June 22, 2012, the juvenile court removed the children from the mother and has not returned the children at any time since. The court ordered the mother to continue participating in services and allowed visitation with the children. The State filed a petition to terminate parental rights on June 7, 2013. The court held the termination hearing on June 28, 2013, and filed an order terminating parental rights on August 23, 2013.

Since the 2008 removal, the record in this case is replete with evidence of the mother's mental health and substance abuse issues, violent and volatile relationship with the father, repeated arrests, unstable housing, dishonesty with DHS, and inconsistency with services. The mother has a long history of drug and alcohol abuse, mental health issues, and violent relationships. The mother has lied to DHS about her participation in services. Multiple service providers have declined to assist the family further due to their cancelling or failing to

¹ For example, prescription medications were accessible to the children; the children's father, who was not supposed to have contact with the mother, visited the home; a social worker observed the maternal grandmother forcefully slap D.D.; screwdrivers were in a toy box accessible to the younger children; the mother had stopped taking her medication for treatment of schizophrenia; the mother refused to participate in drug testing; the mother refused to take medication for bipolar disorder; the mother had three episodes of sleep walking, including removing A.D. from her crib and cooking.

appear for appointments, including services for the children. The mother, who suffers from schizophrenia, bipolar disorder, and depression, has gone without mental health treatment for months at a time.

The parents told DHS workers they did not think services were as important as spending time with the children. However, both parents frequently missed visitations with the children by calling and cancelling or not appearing for scheduled visits. Upon the advice of D.D.'s therapist that the parents' cancelling or failing to appear for visits so frequently was unhealthy for D.D., DHS stopped the visits in September 2012.² The parents were told if they became more consistent in their participation with mental health and substance abuse treatment, DHS would reinstate visitation. When DHS reinstated visitation in March 2013, the parents failed to attend regularly.

The mother has changed residences so frequently that DHS workers have not been able to find her at times. At the time of the termination hearing, she did not have stable housing. In the three months preceding the termination hearing, the mother began to be more consistent with participation in services. But, at the termination hearing, the Department of Human Services (DHS) worker testified the mother demonstrated a lack of commitment to the services she needed to regain custody of her children.

² The DHS worker testified B.D. and A.D. were too young to notice or understand when the parents cancelled or failed to appear, but D.D. was old enough and had said her mother was "naughty" or "not doing her job." D.D. consoled the younger children when the parents fail to appear. The DHS worker testified this was possibly a way for D.D. to comfort or console herself.

On June 7, 2013, the State filed a petition to terminate parental rights. The court held the termination hearing on June 28, 2013, and filed an order terminating parental rights of both parents on August 23, 2013. The court terminated parental rights as to D.D. under Iowa Code section 232.116(1)(f) and as to B.D. and A.D. under Iowa Code section 232.116(1)(h). The mother appeals; the father does not appeal.

II. Standard of Review.

We review a juvenile court order terminating parental rights de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). We give weight to the factual determinations of the juvenile court but are not bound by them. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Analysis.

The mother requests an additional six months to continue working with services. However, it is well-established that once the statutory time frames are satisfied, termination must be viewed with a sense of urgency. *C.B.*, 611 N.W.2d at 495. “When the statutory time standards found in section 232.116 are approaching, and a parent has made only minimal progress, the child deserves to have the time standards followed by having termination of parental rights promptly pursued.” *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 1020). Beyond those limitations, “patience with parents can soon translate into

intolerable hardship for their children.” *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987).

The mother provides no reason why she might be in a position to resume care of the children in six months other than she has made recent progress with services. The mother has been involved with services since the first time the court removed D.D. from her care in 2008. At the time of the termination, she was still inconsistent with visitation, her housing was unstable, and she had only in the preceding three months begun to attend substance abuse and mental health treatment consistently. A parent’s past performance is the best evidence of what the future holds for the child if returned to the parent. *In re A.Y.H.*, 508 N.W.2d 92, 94 (Iowa Ct. App. 1993). We find the mother has had ample time to address the issues leading to the removal of the children and has failed to do so. There is no evidence to support a finding that an additional six months would result in changes sufficient to return the children to the mother’s care. We agree with the juvenile court that the children have waited long enough for stability and permanency. Therefore, we affirm termination of parental rights.

IV. Conclusion.

Because the mother has had ample time to address the issues leading to the removal of the children and has failed to do so, we affirm termination of parental rights.

AFFIRMED.