

**IN THE COURT OF APPEALS OF IOWA**

No. 3-1129 / 13-1643  
Filed December 5, 2013

**IN THE INTEREST OF A.F., A.F., and N.L.,  
Minor Children,**

**B.L., Mother,**  
Appellant,

**N.F., Father,**  
Appellant.

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Appeal from the Iowa District Court for Wright County, Paul B. Ahlers,  
District Associate Judge.

A mother and father appeal separately from the order terminating their  
parental rights. **AFFIRMED.**

Jane Wright, Forest City, for appellant mother.

Barbara Westphal, Belmond, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney, and Eric Simonson, County Attorney, for appellee State.

Alesha Sigmeth Roberts of Elberg Law Office, P.L.C., for minor children.

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

**McDONALD, J.**

Brooke and Nicholas appeal an order terminating their parental rights to their children, A.F. and A.F. Brooke also appeals the termination of her parental rights to her child, N.L., a child from a prior relationship whose father's rights are not at issue in this proceeding. On appeal, Brooke and Nicholas contend that they did not knowingly, voluntarily, and with good cause give consent to the termination of their parental rights.

## I.

This family came to the attention of the Iowa Department of Human Services (hereinafter "DHS") following an incident of domestic violence in which Nicholas strangled Brooke in the presence of the children. Ultimately, the children were adjudicated in need of assistance pursuant to Iowa Code section 232.2(6)(c)(2) (2011), and a protective order was issued prohibiting contact between Brooke and Nicholas. The protective order was deemed appropriate because Nicholas repeatedly choked, hit, slapped, and punched Brooke in front of the children. On one occasion, Nicholas threw Brooke down a staircase while she was pregnant. Despite the existence of the protective order, Brooke and Nicholas continued to have contact with each other to the detriment of their children.

In October 2012, during a home visit by DHS, Nicholas was found to be at Brooke's home. Brooke and Nicholas tried to conceal Nicholas's presence from DHS by having him hide in a closet. This violation of the protective order caused the children to be removed from the home and placed in the custody of DHS. On another occasion, Brooke and Nicholas jointly traveled to Las Vegas to get

married. They had no contact with the children for one month during their absence. In July 2013, the parents were both ordered to serve ten days' incarceration in jail after being found in contempt of court for violating the protective order. According to DHS, each time Brooke and Nicholas violated the protective order, they would stop visiting the children and meeting with service providers for fear of getting arrested. According to DHS, this sporadic contact with the children was confusing and difficult for the children. Of additional concern was Nicholas's conduct and attitude. Nicholas was often verbally abusive. On one occasion, he threatened to put a gun in the face of one worker if she stepped on his property. This behavior, combined with the physical abuse to Brooke, put the children's safety in jeopardy.

In September 2013, it came to the juvenile court's attention that Brooke and Nicholas had once again likely violated the protective order. Contempt proceedings were initiated. The juvenile court scheduled a show cause hearing to occur on the same date as the previously scheduled final pretrial conference for these termination proceedings. On the date of the hearing, after speaking with their respective attorneys, Brooke and Nicholas notified the juvenile court that they desired to consent to the termination of their parental rights with respect to the children, pursuant to Iowa Code section 232.116(1)(a) (2013). After a hearing on the matter, the court accepted Brooke's and Nicholas's consents to the termination of their parental rights and entered an order to that effect. As the protective order was put in place only to protect the children, the court dismissed the contempt proceedings and cancelled the protective order.

## II.

We review de novo proceedings terminating parental rights. See *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). We examine both the facts and law, and we adjudicate anew those issues properly preserved and presented. See *In re L.G.*, 532 N.W.2d 478, 480-81 (Iowa Ct. App. 1995). We give weight to the findings of the juvenile court, especially concerning the credibility of witnesses, but we are not bound by them. See *id.* at 481. While giving weight to the findings of the juvenile court, our statutory obligation to review termination proceedings de novo means our review is not a rubber stamp of what has come before. We will thus uphold an order terminating parental rights only if there is clear and convincing evidence of grounds for termination. See *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Evidence is “clear and convincing” when there are no “serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence.” *Id.*

## III.

As relevant here, the court “may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child” where the “parents voluntarily and intelligently consent to the termination of parental rights and the parent-child relationship and for good cause desire the termination.” Iowa Code § 232.116(1)(a). The parents contend that their consent was not voluntary and was not for good cause. Specifically, the parents contend that they felt compelled to consent to the termination of their parental rights due to the pendency of the contempt proceedings. After reviewing the

record, we conclude that Brooke and Nicholas for good cause voluntarily and intelligently consented to the termination of their parental rights.

Brooke and Nicholas were represented by separate counsel during the entirety of these proceedings, including the date of the hearing. Both Brooke's attorney and Nicholas's attorney advised the juvenile court that they had the opportunity to discuss the termination proceedings and contempt proceedings with their respective clients and that Brooke and Nicholas wanted to consent to the termination of their parental rights.

The juvenile court engaged in an extensive colloquy with Brooke and Nicholas at the hearing. Each confirmed they were voluntarily consenting to the termination of their parental rights after speaking with counsel:

THE COURT: . . . have you had sufficient time to talk with your attorneys and think about this and consider it before making this decision, Brooke?

[BROOKE]: Yes, Your Honor.

THE COURT: And [Nicholas]?

[NICHOLAS]: Yes, Your Honor.

THE COURT: And are you giving your consent to termination of your rights with respect to all three children in your case, [Brooke], and with respect to A.F. and A.F. in your case, [Nicholas], are you doing that without force, threats, or promises being made to you in any way?

[BROOKE]: Yes, Your Honor.

[NICHOLAS]: Yes, Your Honor.

The juvenile court then specifically addressed the issue of whether the pending contempt proceedings were in any way compelling Brooke and Nicholas to consent to the termination of their parental rights:

THE COURT: . . . I want to make sure that you aren't feeling that you're being pressured into making this decision in order to avoid potential contempt of court sanctions, are you making this decision without feeling any pressure in that regard . . . ?

[BROOKE]: Yes, Your Honor, I'm doing this, because I think it's what best for the children. It's going to be very hard to bring children home when I'm not healthy myself, so I'm going to continue with my counseling.

THE COURT: And then the same question for you, [Nicholas], in terms of whether you feel any pressure to enter this consent based on any desire to get rid of the looming contempt charges:

[NICHOLAS]: No, Your Honor.

After establishing that Brooke and Nicholas's consents were voluntary, the juvenile court then made sure that Brooke and Nicholas understood the consequences of their decision. The court advised Brooke and Nicholas of the rights they were giving up by consenting to the termination of their parental rights. Brooke and Nicholas confirmed that they understood the various rights they were giving up by consenting to the termination of their parental rights. The court again made sure that each parent had the opportunity to confer with counsel. Brooke and Nicholas confirmed they had the opportunity to discuss this decision with their respective attorneys and that they wanted to move forward with the termination of their parental rights. Brooke and Nicholas then signed written consent forms that explained their rights. In the written consent forms, Brooke and Nicholas agreed that they were "voluntarily, intelligently, and for good cause" consenting to the termination of their parental rights.

There is no evidence in this record from which it could be inferred that Brooke or Nicholas consented to the termination of their parental rights other than voluntarily and intelligently. They had notice and the assistance of counsel. They were advised by the juvenile court of their rights. The juvenile court wisely engaged them in a colloquy to determine whether they felt any pressure to consent due the pendency of the contempt proceeding, and they denied any

pressure. Although the cases are not controlling authority, this court has found parental consent to the termination of parental rights to be knowing and voluntary under similar circumstances. See, e.g., *In re J.M.*, No. 00-0901, 2001 WL 803867, at \*2 (Iowa Ct. App. July 18, 2001) (finding a voluntary and intelligent release of parental rights where mother was questioned extensively concerning her understanding of the rights she was giving up, was represented by an attorney throughout the termination proceedings, and testified that the termination was in the child's best interests); *In re C.J.*, 674 N.W.2d 685, No. 03-1595, 2003 WL 22701266, at \*1 (Iowa Ct. App. Nov. 17, 2003) (finding a voluntary and intelligent decision by a father to give up parental rights, despite the father's argument that the stress of being in prison made his consent involuntary and unintelligent, where the father signed a consent to terminate his rights, reaffirmed his consent at the termination hearing, and was advised by his attorney regarding this consent).

We also conclude that Brooke and Nicholas had good cause to desire the termination of their parental rights. Brooke told the juvenile court that it would be tough to have the children at home because she was not healthy. In addition, both parents, on the record and in their written consent forms, admitted it would be in the best interests of the children for the parent-child relationship to be terminated. We have found good cause exists under similar circumstances. See, e.g., *In re B.M.*, No. 00-1361, 2001 WL 804043, at \*9 (Iowa Ct. App. July 18, 2001) (finding good cause to be shown, in part, by parent's stated belief that the termination was in the best interests of the child); *In re H.G.*, No. 00-1504, 2001 WL 427646, at \*2 (Iowa Ct. App. Apr. 27, 2001) (finding good cause to be

shown when mother “was unable or unwilling to put her relationships with abusive men ahead of her relationship with and protection of her daughter”).

Finding clear and convincing evidence establishing a basis for the termination of Brooke’s and Nicholas’s parental rights, we affirm the judgment of the juvenile court.

**AFFIRMED.**