

IN THE COURT OF APPEALS OF IOWA

No. 3-659 / 13-0645
Filed July 10, 2013

**IN THE INTEREST OF D.L.,
Minor Child,**

**D.O.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Rachael E. Seymour,
District Associate Judge.

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

Jane M. White of Jane M. White Law Office, Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Christina Gonzalez,
Assistant County Attorney, for appellee State.

Michelle Saveraid of the Youth Law Center, Des Moines, attorney and
guardian ad litem for minor child.

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

DOYLE, P.J.

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

I. Background Facts and Proceedings.

The mother, then a minor, gave birth to D.L. in April 2011. In October 2011, the mother consented to temporary removal of the child from her care after she left the child on a doorstep of a pseudo-relative to care for the child. At that time, the mother was living on the street and using illegal drugs. A child in need of assistance (CINA) petition was filed. Thereafter, the child was placed in foster care after the pseudo-relative tested positive for cocaine.

Although the mother had some initial bumps in the road, she made progress while residing at a treatment facility. By May 2012, the child was returned to her care on the condition that she continue to reside at the treatment facility. However, the child's placement with the mother was short-lived. By August 2012, the mother left the treatment facility and agreed the child should be again placed in foster care. Although she was encouraged to reconsider her decision and return to the program, the mother declined. Her visits with the child dwindled, and she went from attending all of her visits in August 2012 to having only one visit with the child between October 2012 and February 2013.

In November 2012, the State filed its petition for termination of the mother's parental rights. A hearing on the petition was held in February 2013. Thereafter, the juvenile court entered its order terminating the mother's parental rights pursuant to Iowa Code section 232.116(1) paragraphs (b), (d), (e), and (h) (2013).

The mother now appeals. She contends the juvenile court erred in finding reasonable efforts for reunification had been made, the State proved the grounds for termination by clear and convincing evidence, additional time for continued reunification services was not warranted, and termination of her parental rights was in the child's best interests. We review her claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

III. Discussion.

A. Reasonable Efforts.

In challenging the juvenile court's finding that reasonable efforts had been made, the mother asserts she was only given a limited time to avail herself of services, and, during that time, she made progress. She also notes she did not consent to termination of her parental rights. While the State has an obligation to make reasonable efforts toward reunification, the parent has an equal obligation to demand other, different, or additional services prior to a permanency or termination hearing or the issue is considered waived for further consideration on appeal. *In re A.A.G.*, 708 N.W.2d 85, 91 (Iowa Ct. App. 2005); see also Iowa Code § 232.102(7).

Here, there is no evidence the mother demanded any other, different, or additional services during the course of the CINA proceedings. In fact, the mother was requested to reconsider her decision to leave treatment based upon the progress she had made while receiving services, but the mother chose to leave. It was not until after the petition for termination of her parental rights was filed that she sought to again avail herself of services and to reinstate visitation with the child. Accordingly, the issue of whether services were adequate has not

been preserved for our review, and we do not consider it further. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994); see also *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999).

However, even assuming, arguendo, the mother had properly preserved this issue for our review, we would still find she was provided more than adequate services to promote reunification with the child. The record here shows that the Department has offered or provided the mother numerous services to reunify her with the child, including substance abuse and mental health treatment, among other things. We conclude the State met its burden in making reasonable efforts for reunification.

B. Grounds for Termination.

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). In this case, we choose to focus our attention on section 232.116(1)(h). Under that section, parental rights may be terminated if the court finds by clear and convincing evidence that the child is three years of age or younger, has been adjudicated a child in need of assistance (CINA), has been removed from the physical custody of her parents for at least six months of the last twelve months or for the last six consecutive months and any trial period at home has been less than thirty days, and there is clear and convincing evidence that the child cannot be returned to the custody of the child's parents at the present time. Iowa Code § 232.116(1)(h). It is the later element the mother challenges here. 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 six-month limitation for children adjudicated CINA aged three and younger. See Iowa Code § 232.116(1)(h)(2), (3). Our supreme court has stated that “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.

In this case, the child was adjudicated a CINA in late 2011. Despite the offer and receipt of services in excess of the statutory six-month period, there was little evidence the mother could provide the necessary stability and sobriety to safely parent her child at the time of the termination hearing. We recognize the mother is young, and with her hard work and a support system, she was able to make some progress during the case. Nevertheless, she made the decision to throw her progress away, choosing to leave treatment and her child. While we truly hope the mother is successful in her latest attempt at treatment and can straighten out her life, her current efforts are simply too little too late for us to have any confidence in her commitment to sobriety at this time or for the foreseeable future. “A parent cannot wait until the eve of termination, after the statutory time periods for reunification have expired, to begin to express an interest in parenting.” *C.B.*, 611 N.W.2d at 494. Furthermore, since children are

not equipped with pause buttons, “[t]he crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. Children simply cannot wait for responsible parenting.” *In re C.H.*, 652 N.W.2d 144, 151 (Iowa 2002) (internal quotation marks and citations omitted). “We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children.” *In re E.K.*, 568 N.W.2d 829, 831 (Iowa Ct. App. 1997). Under the circumstances presented, we find the State proved by clear and convincing evidence the child could not be safely returned to the mother’s care at the time of the termination hearing. We therefore agree with the juvenile court that termination of the mother’s parental rights was proper under Iowa Code section 232.116(1)(h).

C. Best Interests and Additional Time.

Finally, we find the best-interests framework in Iowa Code section 232.116(2) supports termination of the mother’s parental rights, and we find no error in the juvenile court’s decision not to grant her additional time. We are not unsympathetic to the mother’s struggle to maintain sobriety, along with maintaining the adult responsibilities of employment and providing care for the child. We also recognize the mother’s love for the child. However, this child is in need of permanency. The child has been out of the mother’s care since August 2012. By all accounts, the child is doing well in her pre-adoptive foster home, and she is very attached to her foster family. In recommending the mother’s parental rights be terminated, the Department’s caseworker stated it would be less detrimental to the child to have the mother’s parental rights terminated than

it would be to continue a relationship with her. It would be unfair to this child to further delay permanency to wait to see if the mother is able to maintain her sobriety and stability this time. Further delay in permanency would also be contrary to the legislature's intent that "termination proceedings must be viewed with a sense of urgency." See *C.B.*, 611 N.W.2d at 495. Unfortunately, the record here does not establish that additional time would yield any different result, and this child cannot be deprived 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 this child. See *P.L.*, 778 N.W.2d at 41. Under the facts and circumstances of this case, and considering "the child's safety," "the best placement for furthering the long-term nurturing and growth of the child," and "the physical, mental, and emotional condition and needs of the child," we agree with the juvenile court that termination of the mother's parental rights was in the child's best interests, and we find no error in its decision to not grant her additional time.

III. Conclusion.

Upon our de novo review, we find the mother's issue of whether services were adequate has not been preserved for our review. Additionally, under the facts and circumstances presented, we find the State proved by clear and convincing evidence the child could not be safely returned to the mother's care at the time of the termination hearing, and we therefore agree with the juvenile court that termination of the mother's parental rights was proper under Iowa Code section 232.116(1)(h). Finally, we agree with the juvenile court that termination of the mother's parental rights was in the child's best interests, and we find no

error in its decision to not grant her additional time. We accordingly affirm the juvenile court's order terminating the mother's parental rights.

AFFIRMED.