

IN THE COURT OF APPEALS OF IOWA

No. 3-694 / 13-0789

Filed July 24, 2013

**IN THE INTEREST OF L.H. AND C.H.,
Minor Children,**

**K.H., Mother,
Appellant.**

Appeal from the Iowa District Court for Clinton County, Philip J. Tabor,
District Associate Judge.

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

AFFIRMED.

J. David Zimmerman, Clinton, for appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant
Attorney General, Mike Wolf, County Attorney, and Cheryl J. Newport, Assistant
County Attorney, for appellee State.

Nathan Tucker, Davenport, for appellee father.

Matthew Noel, Dubuque, attorney and guardian ad litem for minor
children.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ. Tabor, J.,
takes no part.

VAITHESWARAN, J.

A mother appeals the termination of her parental rights to her two children, born in 2010 and 2011. She contends termination is not in the children's best interests given the closeness of the parent-child bond. See Iowa Code § 232.116(3)(c) (2013). She seeks additional time to work towards reunification.

Our de novo review of the record reveals the following facts. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010) (setting forth the standard of review). The Iowa Department of Human Services became involved with the family shortly after the younger child's birth, based on domestic violence and drug and alcohol use. The mother agreed to have the children placed in foster care.

The children were returned to the mother's care a few months later and remained with her for approximately six months. In March 2012, the mother advised the department she could not handle the children anymore and could not afford to take care of them.¹ She again agreed to have them placed in foster care. They remained out of her care for the ensuing year.

During that year, the mother made minimal efforts to regain her children. She missed approximately half her parenting sessions, conceded she did not undergo substance abuse treatment, and acknowledged that a urine test scheduled two months before the termination hearing would be positive for marijuana.

¹ The mother received social security disability benefits of \$875 per month for two mental health diagnoses. When she had the children, she received additional financial, food, and medical assistance. The mother does not argue, and we find scant if any evidence to suggest, that her parental rights were terminated because she could not afford to care for the children. See *In re R.M.*, 431 N.W.2d 196, 198 (Iowa Ct. App. 1988) ("Courts are not free to take children from parents simply by deciding another home offers more advantages.") (quoting *In re Burney*, 259 N.W.2d 322, 324 (Iowa 1977)).

Most critically, the mother missed regularly-scheduled visits with her children. She failed to attend close to twenty-eight percent of the three, three-hour sessions per week and freely admitted her absences were “killing [the children] emotionally.”

The professionals who worked with the children confirmed that they were hurt by their mother’s inconsistent attendance. The department’s case manager testified:

I think the kids are happy to see her and understand that she is their mother, but they struggle when she isn’t there for visits. They’re confused because they have not resided with her for six months again, and not being consistent with visits, it’s hard for them to understand what’s really going on.

A service provider who supervised visits seconded this opinion, stating, “I think the inconsistency and not seeing her is taking a toll, especially on . . . the oldest. I think they’re just confused.”

We recognize the mother did not have a driver’s license. Nonetheless, she found ways to travel from Clinton to Davenport to see her ill mother. There was also evidence that the Area Education Agency and others furnished transportation as needed.

In the end, we have little doubt concerning the existence of a parent-child bond; the children’s reactions to their mother’s nonattendance substantiated it. But, as the mother acknowledges the bond is “merely a factor to consider.” See *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). That factor is overridden by the mother’s failure to act on the bond and place the highest priority on reunification efforts. Notably, when the service provider was asked if the mother

might benefit from additional time to work on reunification, she responded, “I don’t think that we’re going to see anything different.”

We affirm the juvenile court’s termination of the mother’s parental rights to her two children.

AFFIRMED.