

IN THE COURT OF APPEALS OF IOWA

No. 3-880 / 13-1184
Filed September 18, 2013

**IN THE INTEREST OF C.R.,
Minor Child,**

**C.R., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Terry E. Wilson,
Judge.

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

Tabitha L. Turner of Turner & Vogel Law Office, Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, John P. Sarcone, County Attorney, and Kevin J. Brownell, Assistant
County Attorney, for appellee State.

M. Kathryn Miller of the Polk County Juvenile Public Defender, Des
Moines, attorney and guardian ad litem for minor child.

Considered by Eisenhauer, C.J., and Vaitheswaran and Doyle, JJ.

DOYLE, J.

A mother appeals the termination of her parental rights. We review her claims de novo. *In re A.B.*, 815 N.W.2d 764, 773 (Iowa 2012).

The mother gave birth to C.R. in September 2010 at age eighteen. At that time, she was living at home with her mother, C.R.'s maternal grandmother ("grandmother"). The grandmother has a history of methamphetamine use. At some point, the grandmother's minor children were removed from her care due to her unresolved substance abuse issues, and a child in need of assistance case was opened. Because of the Iowa Department of Human Services's (Department) involvement in that case, the Department learned the mother had a history of leaving C.R. with relatives for days at a time. The Department also discovered the mother had left C.R. in the sole care of the grandmother although the mother had been repeatedly instructed not to do so for safety reasons. As a result, the child was removed from the mother's care on May 20, 2012. The child was placed in the care of a relative, where he has since remained.

Services were offered to the mother, and the mother initially made progress. For a period of approximately twelve weeks, the mother consistently participated in visitation with the child, advancing to unsupervised visitation. She participated in therapy, working on controlling her anger, gaining coping skills, and recognizing how her parenting decisions and personal relationships affect her and the child. The mother started attending a parenting class.

Despite her progress, the mother's participation in the case stopped in December 2012, after she was arrested for assaulting the grandmother in public. She subsequently lost her job and insurance, and she did not engage in any

services or visitation with the child, disappearing for about six weeks. She did not ask the Department for help to continue services during this time, and she did not contact the Department to let caseworkers know why she was not having visitation.

The State subsequently filed a petition for termination of her parental rights. After that, the mother resumed her participation in services, including therapy and visitation with the child.

A hearing on the petition for termination of the mother's parental rights was held May 30, 2013. At that time, the child had been out of the mother's care for just over a year. At the hearing, the mother testified she had resumed services and the child could safely be returned to her care at that time. She testified she was once again employed, had obtained a vehicle, and was working towards getting her driver's license back by paying down her fines. She testified she and C.R. were closely bonded. However, she admitted her housing arrangement at that time was precarious. She also acknowledged she had been arrested twice during the pendency of the case, once for nonpayment of fines, and once for assault, extending the probation term she had received in February 2012 after she pled guilty to third-degree theft. The mother recognized she had been inconsistent with her visitation and admitted she did not take advantage of the extra time she could have spent with the child. She explained she was in an abusive relationship at that time, and her paramour's abuse prevented her participation in the case in many ways. She testified she ended that negative relationship and had resumed services and visitation.

The Department's caseworker conversely testified she did not believe the child could be returned to the mother's care at that time. The caseworker testified the mother's consistency "just isn't there," explaining "[t]he history of her is that she falls off or she dumps [the child] off." The caseworker admitted the mother and child were strongly bonded, and she acknowledged it would probably be harmful for the child not to have the mother in his life anymore. However, the caseworker testified the child was in need of permanency, and she explained how the mother's inconsistency in her visits had negatively impacted the child, causing the child to act out. She testified the child was "naughty during visits with his mom. He won't listen. He's harder to redirect. [S]ometimes he's not wanting to go on visits with her. He acts out at daycare."

The caseworker also testified the mother's lack of stable housing and her failure to continue therapy were huge concerns. The mother reported living at one place when she was actually living somewhere else. The caseworker testified that the mother's lack of honesty concerning her housing situation and her relationships had been issues throughout the case. The mother stated she had left her abuser, only to return to him later. The caseworker believed termination of the mother's parental rights was in the child's best interests, and she testified the relative was willing to adopt the child and allow the mother to have some kind of relationship with the child so long as it remains in the child's best interests.

Following the hearing, the juvenile court entered an order terminating the mother's parental rights pursuant to Iowa Code section 232.116(1) paragraphs (d) and (h) (2013). The mother now appeals.

On appeal, the mother first contends the State failed to prove the grounds for termination by clear and convincing evidence. 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 232.116(1)(h).

Under paragraph (h), 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 CINA, has been removed from the physical custody of his parents for at least six months of the last twelve months, 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). The mother concedes the first three elements were proved; it is the last 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). 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.

Here, the evidence presented at the hearing demonstrated the mother lacked consistency in the child's life. She left the child in the care of relatives for days, and she left the child in the care of the grandmother, whom the mother

knew to be a methamphetamine user. She made progress in the case and was advancing toward reunification when she made the unfortunate decision to walk away from the case and the child in December 2012. The child had already been out of her care for six months, and she simply stopped attending visitation with the child without notice, to the child's detriment. While we commend the mother's recent efforts, "[a] parent cannot wait until the eve of termination, after the statutory time periods for reunification have passed, to begin to express an interest in parenting." *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000). 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." *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). As stated above, we are obligated to heed the statutory time periods for reunification.

The child has been out of the mother's care for almost half of his life. While we do not doubt her love for the child, the evidence presented at trial established the child could not be returned to her care at the time of the termination hearing, despite the offer and receipt of services. The child deserves permanency now, and he should not have to wait any longer for his mother to become a responsible and consistent parent, putting his needs before her own. See *In re D.W.*, 791 N.W.2d 703, 707-08 (Iowa 2010). Upon our de novo review of the record, 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).

We next consider the mother's argument that the statutory exception to termination in section 232.116(3)(c) should serve to preclude termination of her parental rights. That section states termination is not necessary if the court finds there is clear and convincing evidence the termination would be detrimental to the child due to the closeness of the parent-child relationship. Iowa Code § 232.116(3)(c). The juvenile court declined to invoke the exception though the evidence established the mother and child were closely bonded. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) (stating section 232.116(3) is "permissive, not mandatory"). We agree with the court's decision; the mother's bond with the child does not outweigh his need for permanency. Under the facts of this case, we cannot maintain the mother-child relationship where there exists only a possibility the mother will become a responsible and consistent parent sometime in the unknown future. We note the child is doing well in relative care, and the relative is not only willing to adopt the child, she is willing to allow the mother to continue to have some kind of relationship with the child so long as it remains in the child's best interests. Termination will accordingly provide the child with the safety, security, and permanency he deserves. See *P.L.*, 778 N.W.2d at 41. We therefore find no abuse of discretion in the court's declination to invoke section 232.116(3)(c). Accordingly, we affirm the juvenile court's termination of the mother's parental rights.

AFFIRMED.