

IN THE COURT OF APPEALS OF IOWA

No. 3-920 / 13-1176
Filed October 2, 2013

**IN THE INTEREST OF D.S. AND A.S.,
Minor Children,**

**M.N., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

The mother appeals the juvenile court's termination of her parental rights.

AFFIRMED.

Andrew C. Abbott of Abbott Law Office, P.C., Waterloo, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kathleen Hahn and Steve J. Halbach, Assistant County Attorneys, for appellee State.

Linnea Nicol of the Juvenile Public Defender's Office, Waterloo, attorney and guardian ad litem for minor children.

Considered by Vogel, P.J., and Danilson and Tabor, JJ.

VOGEL, P.J.

The mother appeals from the juvenile court's termination of her parental rights to D.S. and A.S., pursuant to Iowa Code sections 232.116(1) (e), (f), (i), and (k) (2013).¹ She claims the State did not prove by clear and convincing evidence the requisite statutory grounds, and that termination is not in the children's best interest. Because we find clear and convincing evidence supports the termination of the mother's parental rights under Iowa Code section 232.116(1)(k), and that termination is in the children's best interest, we affirm.

The children, D.S. and A.S., born November 2006 and January 2009, respectively, were removed from the home in November 2011, due to fourteen founded reports of unsanitary and unsafe conditions in the home, domestic violence, and sexual abuse. D.S. was placed with his father and A.S. was placed in foster care, with services offered to A.S.'s biological father so she may eventually be placed with him.

D.S. and A.S. were adjudicated children in need of assistance on February 24, 2012, pursuant to Iowa Code sections 232.2(6)(c)(2) and (n) (2011). On April 18, 2012, a dispositional hearing was held, and the juvenile court determined the children should remain outside the mother's care. With respect to the mother, the court ordered supervised visitation, participation in mental health counseling, and compliance with prescribed medication. Various

¹ In its order, the juvenile court stated: "That the parental rights of [the mother], the biological mother of D.S, A.S., and G.N., are hereby terminated pursuant to Iowa Code Sections 232.116(1)(a), (e), (f), (h), (i), and (k)." However, in the body of the order, the court only terminated parental rights as to D.S. and A.S. under Iowa Code sections 232.116(1)(e), (f), (i), and (k). The mother's rights to the third child, G.N., were terminated pursuant to Iowa Code sections 232.116(1)(a) and (h), that is, consent and the child's inability to be returned to her mother's care. However, this appeal only concerns D.S. and A.S.

services were also offered, including child welfare services, suitable relative placements, domestic violence referrals, mental health programming, individual counseling, substance abuse evaluation and programming, Early Access Programming, Head Start Programming, visitation, transportation assistance, paternity testing, safety plans, and community based referrals.

However, due to noncompliance with these services as well as the mother's inability to address her mental health concerns, the State eventually filed a petition to terminate the mother's parental rights. A hearing was held on April 29, 2013, in which the mother and Department of Human Services (DHS) workers testified. On June 28, 2013, the juvenile court ordered the termination of the mother's rights.

In the order, the court found the mother has a lengthy history of domestic violence in her relationships. There have also been several reports of abuse toward her current husband, including a recent arrest for domestic assault, false imprisonment, and failure to allow emergency contact. There is a no-contact order in place between the mother and her husband, which she has violated on eight different occasions. She is also currently serving a six-year prison sentence for the crimes of domestic abuse, third or subsequent offense, and assault causing bodily injury, arising from the assault of her sister. The court further observed the mother "has a history of aggressive behavioral outbursts and erratic mood swings [that] have been observed during court, in the home, Department of Human Services and Peoples Health Clinic."

The mother also has several mental health concerns, for which she has been hospitalized on at least two occasions.² She has been diagnosed with bipolar disorder, ADHD, and a personality disorder. However, she refuses to take the medications prescribed to her and does not believe she needs mental health counseling or other services provided to her by DHS. Furthermore, while she was initially compliant with DHS, she has become antagonistic, unwilling to give correct information, and has given various officials inaccurate information regarding the children and their fathers.

The mother is also unable to maintain the home in a safe and sanitary condition. On various occasions the children have been found wearing dirty clothes, and have had dried feces on them. While intermittently the mother has been able to maintain an appropriate environment, the home eventually returns to being cluttered and unsafe. For those reasons, the juvenile court terminated her parental rights to D.S. and A.S. pursuant to Iowa Code sections 232.116(1)(e), (f), (i), and (k) (2013).

The mother now appeals, claiming the State did not prove by clear and convincing evidence the children could not be returned to her care, considering she participated in DHS visits and has demonstrated the ability to manage her mental health concerns. She further asserts termination is not in the children's

² These hospitalizations took place on June 29 through July 2, 2012, and November 2 to 7, 2012.

best interest, due to the strong parent-child bond, and the fact termination of one parent's rights causes harm to the family unit.³

We review termination proceedings de novo. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). The grounds for termination must be proved by clear and convincing evidence. *Id.* Our primary concern is the child's best interest. *Id.* When the juvenile court terminates parental rights on more than one statutory ground, we only need find grounds to terminate under one of the sections cited by the juvenile court to affirm. *Id.*

Here, the State has proved by clear and convincing evidence the mother's rights should be terminated under Iowa Code section 232.116(1)(k), that is:

- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.
- (2) The parent has a chronic mental illness and has been repeatedly institutionalized for mental illness, and presents a danger to self or others as evidenced by prior acts.
- (3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

The record supports the district court's findings and conclusions. The mother has been diagnosed with severe mental disorders, was institutionalized, and has consistently shown erratic, violent behavior toward family members, for which she is currently incarcerated. Moreover, she has demonstrated a persistent unwillingness to comply with services offered so she can correct this behavior, including compliance with prescribed medications and mental health

³ Permanency as to A.S. was continued for six months, pending services being offered to her father. The petition to terminate D.S.'s father's parental rights was dismissed and a guardianship was established, placing D.S. in his father's custody.

counseling. She has been offered these services since the beginning of DHS's involvement in 2007 yet still has made no progress, which indicates the children will not be able to be returned to her custody within a reasonable period of time. Therefore, termination under this paragraph is appropriate.

Furthermore, termination is within the children's best interest. While there may be some bond between the mother and her children, the mother's unwillingness even to attempt to correct her behavior and mental health issues render reunification impossible. It is well settled children do not have to wait for their parents to grow up. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) ("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."). For these reasons, we affirm the decision of the juvenile court.

AFFIRMED.