

IN THE COURT OF APPEALS OF IOWA

No. 6-517 / 06-0832

Filed July 12, 2006

IN THE INTEREST OF C.O.,

Minor child,

J.H., Mother,

Appellant.

Appeal from the Iowa District Court for Wapello County, William S. Owens,
Associate Juvenile Judge.

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

AFFIRMED.

Mary Baird Krafka of Krafka Law Office, Ottumwa, for appellant.

John Silko, Bloomfield, for appellee father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Mark Tremmel, County Attorney for appellee State.

Cynthia Hucks, Ottumwa, for minor child.

Considered by Vogel, P.J., and Zimmer and Vaitheswaran, JJ.

VAITHESWARAN, J.

Joanna appeals the termination of her parental rights to Charles, born in 2004. She contends (1) the State failed to prove the grounds for termination and (2) termination was not in the child's best interests. Our review of these issues is de novo. Iowa R. App. P. 6.4.

I. Grounds for Termination

The juvenile court terminated Joanna's parental rights pursuant to Iowa Code section 232.116(1)(h) (2005). This provision requires proof of several elements including proof that the child "has been removed from the physical custody of the child's parents for at least six months of the last twelve months" and "the child cannot be returned to the custody of the child's parents." The State satisfied these statutory elements. Iowa Code § 232.116(1)(h)(3), (4).

When Charles was approximately one year old, Joanna contacted the Department of Human Services with concerns about Charles's father. She reported that he used methamphetamine in the child's presence and may have physically abused him. At the time, the Department had information that Joanna previously abused illegal substances and lost her parental rights to two other children. The Department began an investigation of both parents.

During the investigation, the child abuse investigator asked Joanna to voluntarily place Charles in foster care. According to the investigator, "Joanna adamantly refused to sign Charles into voluntary foster care." However, after a follow-up telephone call from the investigator, Joanna changed her mind and agreed to the placement as long as a designated member of her extended family could serve as the foster parent. Charles was removed and placed with that

person in January 2005. He remained out of Joanna's care throughout the ensuing court proceedings that spanned more than fifteen months. This period of removal satisfied the requirements of Iowa Code section 232.116(1)(h)(3).

The State also proved that Charles could not be returned to Joanna's care. Iowa Code § 232.116(1)(h)(4). At the termination hearing, when Joanna was asked how long it would take to become financially stable and correct deficiencies in her parenting, she responded, "A couple more months."

We recognize that some of Joanna's problems were not of her making. For example, she lost her eligibility for federally subsidized housing because she was unable to pay the rent. Although she later secured a job at a fast food restaurant, she did not earn sufficient wages to pay the rent charged by unsubsidized facilities. To add to these problems, the house in which she lived with a friend was deemed a health hazard and the owner could not secure a public grant to assist with repairs. And, her friend's son, who also lived in the home, had a conviction for a violent offense, which precluded the Department from pursuing reunification efforts at that location.

Joanna also did not have a driver's license and could not obtain one because she had outstanding fines for driving while barred. Therefore, she was dependent on friends to transport her to appointments for substance abuse treatment, mental health treatment, and visits with Charles. Despite this significant impediment to compliance with services and, notwithstanding the Department's failure to provide transportation assistance, Joanna underwent a substance-abuse evaluation, attended and completed an extended outpatient treatment program, participated in individual therapy, received psychiatric

treatment, provided urine samples that tested negative for the presence of illegal drugs, diligently participated in visits with her son, and contacted nine landlords in her search for affordable housing. Her efforts were commendable but, as she conceded, insufficient to permit reunification with her son.

We conclude the State satisfied the requirements for termination under section 232.116(1)(h).

II. Best Interests

When termination of a parent's rights is at issue, the ultimate consideration is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Here, those interests support the juvenile court's termination decision.

As noted, Joanna had no suitable housing at the time of the termination hearing. She continued to have contact with people who could pose a danger to the child, including her friend's son who lived in the same house. Although she insisted she would not leave Charles with inappropriate caretakers, a service provider noted that Joanna would not be able to control who had contact with the child until she had a place of her own. A Department social worker summed up her concerns as follows: "I believe that [Joanna] continues to make poor decisions or has poor reasoning about the kind of people that she feels that would be good caretakers for Charlie or the people that she has relationships with." She stated, "I don't believe additional time would make any difference."

We recognize that Joanna shared a bond with Charles. A service provider stated, "Joanna continues to meet Charlie's needs during visits." And, the Department's caseworker acknowledged that Charles was pleased to be around

Joanna. However, little had changed in the fifteen months following Joanna's decision to contact the Department. At that time, Joanna recognized that she could not protect the child from the people surrounding her, and she was in the same position at the time of the termination hearing.

We conclude the district court acted equitably in terminating Joanna's parental rights to Charles.

AFFIRMED.