

IN THE COURT OF APPEALS OF IOWA

No. 6-567 / 06-0826

Filed July 26, 2006

**IN THE INTEREST OF W.D.-C. and W.D.,
Minor Children,**

**T.D., Mother,
Appellant.**

Appeal from the Iowa District Court for Webster County, James A. McGlynn, Associate Juvenile Judge.

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

AFFIRMED.

Monty L. Fisher, Fort Dodge, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Timothy N. Schott, County Attorney, and Sarah Smith, Assistant County Attorney, for appellee-State.

James W. McCarthy, Fort Dodge, for father.

Angela Ostrander of Bennett, Crimmins, Ostrander & Yung, Fort Dodge, guardian ad litem for minor children.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

EISENHAUER, J.

A mother appeals the termination of her parental rights to her children. She contends the State failed to make reasonable efforts to reunite her with her children. She also contends the State failed to prove the grounds for termination by clear and convincing evidence. Finally, she contends termination is not in the children's best interest. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

The children in interest are now two and one and one-half years old. The family first came to the attention of the State when the older child, then only five months old, was found alone in the family home in the early morning. The mother refused to cooperate with the State, including failing to appear at the child in need of assistance adjudication hearing and leaving the courthouse before the start of the disposition hearing. She announced she would not cooperate with the Department of Human Services. The younger child was tested at birth and found to have methamphetamine in her system. She was removed from her mother's care. The children were briefly returned to the mother's care when she entered a drug treatment program shortly after the birth of the youngest child. The mother left the program on the first day and the children were returned to foster care. Except for the one day at the treatment facility, the youngest child has been out of her mother's care her whole life. The older child has been in foster care since December 2004 with the exception of that one day.

We first consider the mother's claim that the State failed to make reasonable efforts to reunite her with her child. A challenge to the sufficiency of services should be raised at the removal or review hearing or when the services

are offered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). The mother has failed to state where in the record a challenge to the sufficiency of services was made. She was advised repeatedly during the course of the child in need of assistance proceedings that failure to identify alleged deficiencies in services or to request additional services would preclude her from challenging the sufficiency of services at a termination hearing. Indeed, the record is rife with evidence that the mother refused to cooperate with the Department of Human Services and to participate in the services offered to her.

The court terminated the mother's parental rights pursuant to Iowa Code sections 232.116(1)(b), (e), (h), and (l) (2005). 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). Termination is appropriate under section 232.116(1)(h) where:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's 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.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

The mother does not dispute that all four elements were proven by clear and convincing evidence. Instead, she argues the court should have continued the termination hearing six months to see if she was able to deal with her substance abuse issues. The mother had from the State's first involvement with the family in May 2004 to address the concerns about her substance abuse. She entered treatment and left on the first day. Although the mother claims she has maintained sobriety since her arrest on August 30, 2005, this is a result of her

incarceration. We can judge the mother's future behavior by her past actions. See *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989). More time will not improve the situation. It will only delay permanency for the children.

The mother has not shown that she is willing or able to handle the responsibilities inherent to parenting two children. The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). It is simply not in the best interests of children to continue to keep them in temporary foster homes while she gets her life together. *In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989).

We affirm the termination of the mother's parental rights to her children.

AFFIRMED.