

IN THE COURT OF APPEALS OF IOWA

No. 6-864 / 06-1401
Filed November 16, 2006

**IN THE INTEREST OF N.P. AND J.P.,
Minor children,**

T.P., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Alan D. Allbee, Associate Juvenile Judge.

A mother appeals from the order terminating her parental right to two children. **AFFIRMED.**

Tammy L. Banning of Tammy L. Banning, P.L.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven J. Halbach, Assistant County Attorney, for appellee.

Sharon Briner, Waterloo, for minor children.

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

VOGEL, J.

Taneah P. is the mother of Naomi, who was born in 2000, and Jiselle, who was born in 2005. Jeff J. is the father of Jiselle, while Naomi's father is undetermined. On May 12, 2005, Jiselle was removed from Taneah's care because she tested positive at birth for the presence of marijuana and because Taneah had tested positive for both marijuana and methamphetamine. Taneah later voluntarily placed Naomi with a relative.¹ On July 6, 2005, the girls were adjudicated to be in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(c)(2) (2005) due to their exposure to drugs and to Taneah's prolonged history of substance abuse. On May 30, 2006, the State filed a petition seeking to terminate Taneah's parental rights. Following a trial, it terminated her rights under sections 232.116(1)(h) and (l). Taneah appeals.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern in termination proceedings is the best interests of the children. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

On appeal, Taneah urges that insufficient grounds exist to terminate her rights under the provisions cited by the court, the court erred in concluding the children could not be returned to her care, the court abused its discretion in failing to defer permanency, and termination is not in the best interests of the

¹ The children were placed with a maternal great-aunt.

children. Upon our de novo review of the record, we affirm the order terminating Taneah's parental rights.

While this may appear a close case, we nonetheless believe this is one in which termination is warranted, based largely on Taneah's serious and long-term drug use and the danger in which that use has placed the children. The record fully supports that close in time to the termination hearing Taneah had been free of drugs. The record further supports that during regular visitations with the children Taneah interacted appropriately, provided a nurturing attitude, and was attentive to the children. There was a strong and obvious bond between Taneah and the children. However, the record is entirely too convincing that should the children be returned to Taneah's custody, they would be subject to adjudicatory harm.

Taneah has a long and substantial history of drug abuse. She reported having started using marijuana at the age of eighteen and methamphetamine at twenty-four. As noted above, Jiselle was removed from Taneah's care shortly after her birth due to her exposure to drugs. This pattern has unfortunately repeated itself. At the time of trial, Taneah was again pregnant and had used marijuana during this pregnancy as well. This history of exposing children to her drug use does not speak well of the prospects of the children were they to be returned to her care.

Taneah clearly has not been able to demonstrate any sort of long-term abstinence from the use of marijuana. Any progress she has made in this area came within the two months prior to the termination hearing. Yet despite that seeming progress, it still appears Taneah has been less than forthcoming about

the timing and extent of her drug use. While she claimed her last marijuana use occurred in late April 2006, the record supports that it was likely closer in time to the termination hearing than that. The juvenile court found the following

[Taneah] has tested clean since June 30 as shown by tests on June 30, July 11 and 12, August 1 and 8, 2006. While she claims her last use of marijuana was on April 20, 2006, this does not appear likely given subsequent clean tests on May 9 and 16, 2006, followed by positive tests in mid to late May and in June 2006, with a high test on June 7, 2006.

It appears more likely that her last usage occurred closer to, if not actually in, June. In addition, in a Pathways substance abuse evaluation, Taneah claimed she used four joints of marijuana once per week. However, she later testified that she had been using on a daily basis. She thus failed to report the full extent of drug use to her substance abuse counselors.

Furthermore, Social worker Tom Kisling, who had regular contact with Taneah throughout these proceedings, noted her general instability, including her unsuitable housing situation, her financial inability to provide for the children, and her failure to progress toward even semi-supervised visitations. Finally, too many questions surround Taneah's apparent fiancé to allow him to be an intimate part of their lives. Accordingly, we conclude the court properly terminated Taneah's parental rights under Iowa Code section 232.116(1)(f), which requires clear and convincing proof that the parent has a severe, chronic substance abuse problem and the children cannot be returned to the parents' custody within a reasonable period of time.

Taneah has proved by her consistent actions that a further period of time would be unlikely to alter our conclusion that Naomi and Jiselle would be unable

to be returned to Taneah within any reasonable timeframe. The court thus did not abuse its discretion in refusing to defer permanency. Similarly and despite Taneah's clear bond with the children, we conclude termination is in their best interests. Taneah's general instability, her dishonesty, history of drug abuse, and exposure of her children to those drugs, all combine to preclude the return of her children. We affirm the termination.

AFFIRMED.