

IN THE COURT OF APPEALS OF IOWA

No. 6-884 / 06-1459
Filed November 30, 2006

**IN THE INTEREST OF J.B., M.T., JR., and A.T.,
Minor Children,**

**T.B., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
District Associate Judge.

A mother appeals from a juvenile court order terminating her parental
rights to three children. **AFFIRMED.**

Dana L. Copell, Davenport, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, William E. Davis, County Attorney, and Gerda Lane, Assistant
County Attorney, for appellee.

Brenda Drew-Peebles, Davenport, for father of J.B.

Stephen W. Newport, of Newport & Newport, P.L.C., Davenport, for father
of M.T., Jr. and A.T.

Benjamin A. Yeggy of Gomez, May, Schutte, Yeggy, Bieber & Wells,
Davenport, guardian ad litem for minor children.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

MILLER, J.

Trista is the mother of Jonee, Matthew, and Annia, (the children), who were eight, three and two years of age respectively at the time of a termination of parental rights hearing. Trista appeals from an August 2006 juvenile court order terminating her parental rights to the children. The order also terminated the parental rights of Jonee's father and Matthew and Annia's father, and they have not appealed. We affirm.

The children were removed from their parents in January 2005, adjudicated children in need of assistance in March 2005, and since March 2005 have resided in separate foster family homes while having weekly visitation with each other.

In the termination hearing Trista, who was incarcerated, as she had been on several occasions during and before the juvenile court proceedings, requested that her parental rights not be terminated and that the children be placed in the guardianship of her sister, the children's maternal aunt (hereafter referred to as "Aunt T"), or in the event of termination be adopted by Aunt T. The juvenile court correctly noted that the contested issue was the permanency plan, with the children's legal custodian, the Iowa Department of Human Services (DHS) urging placement of the children together in an adoptive home. The court found that while a home study had found the home of Aunt T to be appropriate, placement with her was nevertheless not appropriate, the DHS's permanency plan was in the best interest of the children, and termination of Trista's parental rights was in the children's best interest. The court terminated Trista's parental rights to Jonee pursuant to Iowa Code sections 232.116(1)(e) and (f) (2005) and

her parental rights to Matthew and Annia pursuant to sections 232.116(1)(e) and (h). Trista appeals.

We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence.

In re C.B., 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

On appeal Trista claims:

The trial court erred in terminating the parental rights of the mother rather than entering a permanency order placing the children with the maternal aunt because termination was not in the best interests of the children.

Aunt T has a fourteen-year-old son and twelve-year-old daughter. When visited by a DHS social worker in March or April 2006, Aunt T represented that her son slept on a futon located in a bedroom in her home. However, the son was and for some time had been in a juvenile "boot camp" for delinquent acts including theft and curfew violations. At trial Aunt T denied having represented that the son slept in her home, and asserted she had informed the social worker the son was in boot camp.

During the juvenile court proceedings Jonee reported that she had been sexually abused by relatives, including another aunt, the aunt apparently being a sister of Trista and Aunt T. Aunt T refused to believe Jonee, whom an investigation found to be credible. Aunt T later allowed contact between Jonee and the aunt who had allegedly abused Jonee. At trial Aunt T testified that she had in fact believed Jonee's allegations of sexual abuse.

At the termination hearing the DHS, the service provider, and the children's guardian ad litem all recommended termination of Trista's parental rights. In ordering termination the juvenile court stated, in part:

The contested issue in this case is the permanency plan. The permanency plan of the Department is placement of the children together in an adoptive home. The children are currently separated but visit. The mother advocates that the children be placed in a guardianship or, alternatively, in an adoptive home with her sister. A home study has been completed on the sister, [Aunt T]. While the home study is appropriate, the Department does not believe that placement of the children in the aunt's custody is appropriate and in their best interest. They are concerned about her deceitfulness and lack of honesty in terms of admitting that her own son is in custody of the Illinois system due to his delinquent behaviors and other problems. The Department is also concerned about the aunt's reaction to Jonee's allegations that family members have sexually abused her. These are new allegations and are under investigation. Nevertheless, [Aunt T] allowed Jonee to be exposed to one of the aunts who allegedly had abused her, notwithstanding [Aunt T's] knowledge of the allegation. While the Court understands [Aunt T's] embarrassment over her son's situation and her fear of how that could be used against her by the Department of Human Services in keeping the children from her custody, the Court is concerned that she was unwilling to be honest with the Department. The Court has concerns whether [Aunt T] would divulge that the children were being maltreated or at risk of harm if she felt that it might affect their placement with her. The Court agrees with the Department that placement with [Aunt T] is not in the best interests of the children in the short term or long term. The Court finds that the permanency plan of the Department is in the best interests of the children. The Court therefore concludes that termination of parental rights is in the best interests of the children.

Upon our de novo review we fully agree with the juvenile court and therefore affirm the termination of Trista's parental rights.

AFFIRMED.