

**IN THE COURT OF APPEALS OF IOWA**

No. 6-943 / 06-1268  
Filed December 13, 2006

**IN THE INTEREST OF S.J.S., H.L.S., AND K.L.S.,  
Minor children,**

**S.D.S., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Taylor County, Sherman W. Phipps, Judge.

The mother of three children appeals from the order terminating her parental rights to them. **AFFIRMED.**

Karen K. Emerson, Greenfield, for appellant mother.

Andrew J. Knuth of Rutherford, Trewet & Knuth, Atlantic, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Clinton L. Spurrier, County Attorney, for appellee.

Stuart D. Nielsen of Nielsen & Nielsen, P.C., Corning, guardian ad litem for minor children.

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

**VOGEL, J.**

Sandra and Chad are the parents of Harley, born in 1999, Seth, born in 2001, and Kayla, born in 2002. On August 3, 2003, Kayla was taken to a hospital after she became unresponsive. As a result of a shaken-baby diagnosis, Sandra was eventually found guilty of one count of child endangerment as a class "D" felony and one count of child endangerment as an aggravated misdemeanor. In July of 2005, Sandra was sentenced to seven years' imprisonment. Upon Kayla's removal on August 5, 2003, she was placed in foster care and has not returned to her parents' care since. Harley and Seth were removed on September 30, 2003, and have likewise remained out of their parents' care since that time.

On August 26, 2003 Kayla was adjudicated to be a child in need of assistance (CINA) while Harley and Seth were adjudicated CINA on September 30. On November 29, 2005, the State filed a petition seeking to terminate the parental rights of both Sandra and Chad. Following a hearing, the court granted the State's request and terminated Sandra's rights to Harley and Seth under Iowa Code sections 232.116(1)(d), (f), and (j), and her rights to Kayla under sections 232.116(1)(d), (h), (i), (j), and (m) (2005). Sandra appeals<sup>1</sup> from this order, contending the Department of Human Services (DHS) did not make reasonable efforts to reunite her with the children and that termination is not in their best interests.

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<sup>1</sup> While the court also terminated Chad's parental rights, he does not appeal from this order.

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 proven 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 C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

We first address Sandra's contention that DHS did not make reasonable reunification efforts because it deprived her of visitation after she became imprisoned. In a March 27, 2006 letter, the medical director for the Southwest Iowa Mental Health Center advised DHS as to potential traumatization caused by visitation in a prison environment. The director further noted that while such visitation may be beneficial to Sandra, it would not be in the children's best interests. In denying her later motion for prison visitation, the juvenile court found that even prior to her incarceration, Sandra had only "sporadically" exercised visitation, failed to cooperate with two home studies, and failed to meet the case permanency goals. Due to these considerations, the court determined it would not be in the children's best interests to hold visitation with their incarcerated parent.

We conclude the decision to disallow prison visitation was reasonable in this case. It appears DHS and the juvenile court properly weighed the benefits of such visitation against its ill effects. Reunification was at that point unlikely and the effect on the children could have been traumatic. We also note that in late 2003, while the children were in foster care in Iowa, Sandra voluntarily moved to

Missouri. According to DHS's rules, this out-of-state move, precluded it from providing any financial or other services to her.

Prior to her move, arrangements were made for such in-home services as parenting skill sessions and assistance in seeking community services to be provided to Sandra at her residence in Bedford. Later, the court ordered Sandra to receive alcohol, drug, psychological, and psychiatric evaluations. Social worker James Scott found Sandra to be largely unresponsive to these services. Therefore, because we also find the services offered prior to Sandra's incarceration were reasonable and appropriate, we reject her claim of error on this ground.

Having found termination is otherwise warranted, we must still determine whether terminating Sandra's parental rights is in the children's best interests. See *In re S.J.*, 451 N.W.2d 827, 832 (Iowa 1990) ("While we have indicated that children should not be made to suffer indefinitely in parentless limbo, the child's best interest may dictate to the contrary.")

We first note that these children have been out of Sandra's care since August and September of 2003, approximately some thirty-one months before the termination hearing. Our legislature has established a limited time frame for parents to demonstrate their ability to be parents. In this case, the standard is twelve months for Seth and Harley, see Iowa Code § 232.116(1)(f), and six months for Kayla. See Iowa Code § 232.116(1)(h). "The legislature adopted the standard in the belief that this period must be reasonably limited because, 'beyond the parameters of chapter 232, patience with parents can soon translate into intolerable hardship for their children.'" *In re C.K.*, 558 N.W.2d at 175

(quoting *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987)). “Children simply cannot wait for responsible parenting.” *Id.* (quoting *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990)). Sandra has been given adequate time and proven herself unable to resume the care of her children.

Moreover “[a] child’s safety and the need for a permanent home are now the primary concerns when determining a child’s best interests.” *In re J.E.*, \_\_\_ N.W.2d \_\_\_, \_\_\_ (Iowa 2006) (Cady, J., concurring specially) (citing *In re K.M.*, 653 N.W.2d 602, 608 (2002) (noting “the child’s safety and need for a permanent home” are “the concerns that clearly impact a child’s best interests”)). Keeping in mind this consideration, in conjunction with the reason these three children were adjudicated CINA—Sandra’s abuse of Kayla—we can only conclude that termination is in the best interests of these three children. We therefore affirm.

**AFFIRMED.**