

IN THE COURT OF APPEALS OF IOWA

No. 6-978 / 06-1711
Filed December 28, 2006

IN THE INTEREST OF E.A., Minor Child,

K.A.A., Mother,
Appellant.

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

A mother appeals from the order terminating her parental rights to her son.

AFFIRMED.

Cory R. Speth of Krug Law Firm, P.L.C., Cedar Rapids, for appellant-
mother

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold L. Denton, County Attorney, and Rebecca Belcher,
Assistant County Attorney, for appellee-State.

Mary McGee-Light, Assistant Public Defender, Cedar Rapids, for father.

H. Nick Gloe of Gloe & Quint, Cedar Rapids, guardian ad litem for minor
child.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

SACKETT, C.J.

The mother of a child born in May of 2005 appeals from the juvenile court order terminating her parental rights to her son. She contends the State did not meet its burden of proof for either statutory ground relied on by the court and termination is not in the child's interest. We affirm.

I. Background

From August of 2005 until his removal in December of that year, the child lived with his maternal grandfather, and his mother would care for him at times on weekends. He was removed from his mother's care in December, based on allegations his parents were using illegal drugs. He was placed in the care of his maternal great aunt and uncle under the protective supervision of the Department of Human Services. In July of 2006, placement was changed to his maternal grandfather with the consent of all parties and the State petitioned to terminate both parents' rights. Following a hearing, the juvenile court terminated both of his parents' parental rights.

II. Scope of review

Our review of child-in-need-of-assistance proceedings is de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002). We review the facts and the law and adjudicate rights anew. *In re H.G.*, 601 N.W.2d 84, 85 (Iowa 1999). We give weight to the juvenile court's factual findings but are not bound by them. *In re E.H. III*, 578 N.W.2d 243, 248 (Iowa 1998). The parent-child relationship is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S. Ct. 549, 554, 54 L. Ed. 2d 511, 519 (1978); *Wisconsin v. Yoder*, 406 U.S. 205, 233, 92 S. Ct. 1526, 1542, 32 L. Ed. 2d 15, 35 (1972). The State has the burden of proving

the allegations by clear and convincing evidence. Iowa Code § 232.96(2) (2005). “Clear and convincing evidence” is evidence leaving “no serious or substantial doubt about the correctness of the conclusion drawn from it.” *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002) (quoting *Raim v. Stancel*, 339 N.W.2d 621, 624 (Iowa Ct. App. 1983)).

III. Discussion

Clear and convincing evidence. The mother contends the State did not provide clear and convincing evidence to terminate her parental rights under either section 232.116(1)(e) or 232.116(1)(h). When the juvenile court terminates a parent’s rights on more than one statutory ground, we affirm if clear and convincing evidence supports the termination under one of the cited provisions. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). We focus on section 232.116(1)(h) (child is three or younger, in need of assistance, removed from home for six of last twelve months, and cannot be returned home).

At the time of the termination hearing, the mother had not completed recommended substance abuse treatment, had not progressed beyond supervised visitation, did not have her own housing, had no stable income, had contact with persons who used illegal drugs, and had not participated in services designed to improve her parenting skills. The statutory provisions for termination of parental rights “are preventative as well as remedial . . . [and] therefore mandate action to prevent probable harm to a child and do not require delay until after harm has occurred.” *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We find clear and convincing evidence the child could not be returned to the

mother's custody at the time of the termination hearing. See Iowa Code § 232.116(1)(h)(4).

Although not set forth as separate claim on appeal, the mother argues termination is not in the child's best interest and it would be "devastating" to the child because of the strong parent-child bond.

The juvenile court concluded termination "unquestionably" is in the child's interest. This child is in the care of the maternal grandfather, who wants to adopt if his mother's parental rights are terminated. The mother has not demonstrated the ability to parent her child successfully. The child needs and deserves permanency, security, safety, and a family. The parents cannot provide these needs.

Under section 232.116(3)(c), the juvenile court may decline to terminate parental rights based on "clear and convincing evidence that the termination would be detrimental to the child due to the closeness of the parent-child relationship." Although the juvenile court found the mother "has bonded" with the child, we find no indication in the record or the termination order this issue was raised in the termination proceeding or decided by the juvenile court. It is not preserved for our review. See *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994).

AFFIRMED.