

**IN THE COURT OF APPEALS OF IOWA**

No. 7-115 / 07-0036  
Filed February 28, 2007

**IN THE INTEREST OF T.C., V.P., and K.P.,  
Minor Children,**

**L.L.P., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Karla J. Fultz,  
Associate Juvenile Judge.

L.P. appeals from the termination of her parental rights to her three  
children. **AFFIRMED.**

Amanda Demichelis of Demichelis Law Firm, Chariton, for appellant  
mother.

Christine Bisignano, West Des Moines, for father of V.P. and K.P.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Annette Taylor,  
Assistant County Attorney, for appellee State.

Nicole Garbis Nolan of the Youth Law Center, Des Moines, for minor  
children.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

**HUITINK, J.**

L.P. appeals from the juvenile court's order terminating her parental rights concerning her children, T.C. (age five), V.P. (age four), and K.P., (age three). She argues the State failed to prove any of the statutory grounds for terminating her parental rights by clear and convincing evidence. L.P. also argues termination of her parental rights is not in the children's best interests. Additionally, L.P. argues the "termination should be dismissed" because the juvenile court failed to cite the statutory grounds upon which her parental rights were terminated. We review L.P.'s claims de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

L.P.'s parental rights were terminated pursuant to Iowa Code sections 232.116(1)(b) (2005) (abandonment), 232.116(1)(d) (child CINA for physical or sexual abuse (or neglect), circumstances continue despite receipt of services), 232.116(1)(e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), 232.116(1)(f) (child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home), 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home), and 232.116(1)(j) (child CINA, parent has substance abuse problem, child cannot be returned within a reasonable time). When the trial court terminates on more than one statutory ground, we need only find termination is proper on one ground. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

We initially reject L.P.'s argument that the "termination should be dismissed" because the juvenile court failed to cite the statutory grounds

terminating L.P.'s parental rights. L.P. failed to preserve error on this issue by filing the required Iowa Rule of Civil Procedure 1.904(2) motion requesting the juvenile court to amend or enlarge the termination order. See *In re A.M.H.*, 516 N.W.2d 867, 872 (Iowa 1994).

To terminate L.P.'s parental rights under section 232.116(1)(I), the State must prove (1) her children have been adjudicated children in need of assistance and their custody transferred from her for placement; (2) L.P. has a severe and chronic substance abuse problem that presents a danger to herself or others as evidenced by prior acts; and (3) there is clear and convincing evidence that L.P.'s prognosis indicates the children will not be able to be returned to her custody within a reasonable time, considering the children's ages and need for permanency.

We have long recognized that parents with chronic, unresolved substance abuse problems present a danger to their children. *In re J.K.*, 495 N.W.2d 108, 113 (Iowa 1993). When the issue is parental drug addiction, we "consider the treatment history of the parent to [determine] the likelihood that the parent will be in a position to parent in the foreseeable future." *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). "Where the parent has been unable to rise above the addiction and experience sustained sobriety in a noncustodial setting, and establish the essential support system to maintain sobriety, there is little hope of success in parenting." *Id.*

The children's required adjudication and placement are matters of record about which there is no dispute. We look to L.P.'s past behavior to determine whether she has a chronic substance abuse problem that presents a danger to

herself or others. *In re A.J.*, 553 N.W.2d 909, 914 (Iowa Ct. App. 1996). We consider L.P.'s prognosis to determine whether the children can be returned to her custody. *Id.*

The record indicates L.P.'s chronic substance abuse resulted in her children's removal and adjudication as children in need of assistance in 2003 and again in 2006. Although L.P. was provided a number of services, including substance abuse treatment, she has nevertheless tested positive for methamphetamine use as recently as August 16, 2006. On August 18, 2006, she completed a substance abuse evaluation, and inpatient treatment was recommended. The evaluator reported that L.P. "[did] not appear to be motivated to change her substance [abuse] patterns and [had] virtually no insight into the impact that her use [has] on her children." She refused inpatient treatment options and was resistant to placement in a halfway house. L.P. claimed to be seeking placement at Mecca at the motion to waive reasonable efforts hearing on September 21; however, she did not take any affirmative steps towards treatment. Additionally, L.P.'s in-home provider testified L.P. "was not open or receptive to services" and "until she understood the magnitude of her addictions and the impact it has on her children, no services would be beneficial" to her.

Based on this evidence, we find the State has met its burden to establish each element of proof required under section 232.116(1)(I) by clear and convincing evidence. We accordingly affirm on this issue.

We may, however, deny the State's request for termination of parental rights if circumstances indicate termination is not in the children's best interests.

*In re M.S.*, 519 N.W.2d 398, 400 (Iowa Ct. App. 1992). Termination is not in the children's best interests if "[t]here is clear and convincing evidence that a termination would be detrimental to the child at the time due to the closeness of the parent-child relationship." Iowa Code § 232.116(3)(c). The factors under section 232.116(3)(c) have been interpreted by the court to be permissive and not mandatory. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). Contrary to L.P.'s claims, we find termination of her parental rights is in the children's best interests. "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.*, 723 N.W.2d 793, 801 (Iowa 2002) (Cady, J., concurring specially). Both the facts of this case, as well as the consensus opinion of the children's social workers and guardian ad litem, indicate their needs for permanency are immediate and compelling. We accordingly affirm the juvenile court's decision terminating L.P.'s parental rights with regard to her children, T.C., V.P., and K.P.

**AFFIRMED.**