

IN THE COURT OF APPEALS OF IOWA

No. 7-116 / 06-1931
Filed March 14, 2007

**IN THE INTEREST OF D.R., T.R., and T.R.,
Minor Children,**

**A.J.T., Mother,
Appellant.**

Appeal from the Iowa District Court for Buena Vista County, Mary L. Timko, Associate Juvenile Judge.

A mother appeals the termination of her parental rights to her children.

AFFIRMED.

Andrew J. Smith, Storm Lake, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Philip E. Havens, County Attorney, and Meghann Whitmer, Assistant County Attorney, for appellee.

Carol Hallman of Hudson Law Firm, Pocahontas, for father.

John Murray, Storm Lake, guardian ad litem for minor child.

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

EISENHAUER, J.

A mother appeals the termination of her parental rights to her children. She contends the State failed to prove the grounds for termination by clear and convincing evidence and that termination is not in the children's best interest. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

The mother's parental rights were terminated pursuant to Iowa Code section 232.116(1)(f) (2005). In order to terminate under this section, the State must prove by clear and convincing evidence the following:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Iowa Code § 232.116(1)(f). There is no dispute the first three elements have been proven. The only question is whether the children can be returned to the mother's care.

We conclude the State has proved by clear and convincing evidence that the children cannot be returned to the mother's care. Although the mother made some improvements during the pendency of this case, the improvements were not so significant as to enable her to parent her children safely. The mother struggled at visitations to provide her children with one-on-one attention. The type of discipline the mother would provide was unknown as she never progressed beyond two-hour supervised visitations. Nor did the short visits allow her ability to provide the children with proper hygiene and nutrition to be

assessed. The mother was not able to progress beyond these limited visitations due to her transportation difficulties, her work schedule, and her relationship with a married man.

The youngest daughter has accused her maternal grandfather of sexual abuse. The mother did not give credence to these claims despite being told repeatedly of the importance of supporting her daughter. The daughter has expressed fear of continued abuse if she was placed in her mother's care. The risk to the children is also illustrated by the mother's failure to keep the children away from her brother, a registered sex offender.

We also conclude termination is in the best interest of the children. The children were adjudicated in need of assistance in August 2003. Although the mother was given additional time to reunify with the children, she chose her relationship with her boyfriend at the expense of a relationship with her children.

As the district court found:

A long time has passed for these children. They have remained in foster care. They have continued to grow and make improvements in their lives while awaiting their parents to do the same. These parents have been given additional time during which to place themselves in the position to have the children returned to their care, and they have not taken full advantage of that opportunity. Permanency has been a long time coming for these children and it is time they be allowed to experience it.

We agree.

Because the State proved the grounds for termination by clear and convincing evidence and termination is in the children's best interest, we affirm.

AFFIRMED.