

IN THE COURT OF APPEALS OF IOWA

No. 7-121 / 07-0030
Filed February 28, 2007

**IN THE INTEREST OF D.L.J.,
Minor Child,**

**J.J., Mother,
Appellant.**

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

J.J. appeals from the order terminating her parental rights to D.L.J.

AFFIRMED.

Cynthia S. Finley, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Troy M. Powell,
Assistant County Attorney, for appellee State.

Judith Jennings-Hoover, Cedar Rapids, for minor child.

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

MAHAN, J.

Junte appeals the termination of her parental rights to her eight-year-old son, Devion. She contends the court erred when it did not grant her six additional months to pursue reunification. She also claims there was insufficient evidence to support the district court's statutory basis for termination and that the termination was not in the best interests of the child. We affirm.

I. Background Facts and Proceedings

On August 4, 2005, police officers raided Junte's home and discovered a large amount of marijuana packaged for sale. The police also located a handgun in a closet in the room where Devion was located. A hair stat test performed on Devion tested positive for cocaine. Devion was removed from his mother's care and adjudicated a child in need of assistance (CINA) on August 11, 2005. A September 22, 2005 dispositional hearing placed Devion in foster family care. Devion has remained in foster family care since removal. There have been no trial placements with the mother.

The September 20, 2005 case plan set forth the following goals: Junte was to (1) abstain from drugs and alcohol, (2) refrain from criminal activity, (3) refrain from involvement with persons that used or sold drugs, (4) establish a safe environment for Devion, (5) and be a positive role model. She was also ordered to have a substance abuse evaluation, a mental health evaluation, and to perform random drug tests.

Junte did not comply with these goals during the twelve-month CINA proceedings. She did not maintain a stable residence, and she frequently changed jobs. She spent the majority of January 2006 in jail on forgery charges

when she attempted to cash someone else's check. Although she completed her substance abuse evaluation and completed outpatient treatment, she did not attend the recommended Alcoholics Anonymous or Narcotics Anonymous meetings. She tested positive for THC in February and only sporadically provided drugs screenings thereafter. In July she was arrested for public intoxication. During the arrest she yelled obscenities and started a physical confrontation.

Junte never progressed past supervised visitation. Service providers reported she was frequently late to visitation. They also reported she struggled to provide structure during visitation and that she interacted with Devion as a peer rather than a parent. The last parenting skills session she attended was in May 2006.

Junte did not attend the review hearing on August 25, 2006. On September 13, 2006, the State filed a petition to terminate Junte's parental rights. Due to scheduling difficulties, the court was unable to have a full hearing until December. After the State filed the petition for termination, Junte made strides towards fulfilling the goals in the case permanency plan. She began to provide more consistent drug screens, she got her own apartment, and on November 17, more than a year after it had been ordered, Junte completed a mental health evaluation.

On December 13, 2006, Junte was arrested for interfering with official acts when she gave a false name to a police officer during a routine traffic stop. She was also charged with driving under a suspended license and failure to prove security against liability.

On December 27, 2006, the juvenile court entered an order terminating Junte's parental rights pursuant to Iowa Code sections 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) and 232.116(1)(j) (child CINA, parent has substance abuse problem, child cannot be returned within a reasonable time) (2005).

On appeal, Junte¹ contends the State failed to prove by clear and convincing evidence that (1) she has a severe, chronic substance abuse problem and presents a danger to herself or others and (2) the children would not be able to be returned to her within a reasonable period of time. She also contends the court erred in not granting her six additional months to pursue reunification and that the termination was not in the best interests of the child.

II. Standard of Review

We review the termination of parental rights de novo. *In re D.G.*, 704 N.W.2d 454, 457 (Iowa Ct. App. 2005). The State must prove the circumstances for termination by clear and convincing evidence. *In re L.E.H.*, 696 N.W.2d 617, 618 (Iowa Ct. App. 2005). Our primary concern is the best interests of the children. *Id.*

III. Merits

Additional Time. We reject Junte's contention that the court erred in not granting her six additional months to pursue reunification. Devion had been out of his mother's care for thirteen months when the State filed the petition for termination. Because of scheduling difficulties, Junte was given three additional

¹The identity of the father is unknown.

months to prove unification was a viable option. She made some progress towards completing the goals set forth in the permanency plan, but she also took a step backwards when she was once again arrested for engaging in criminal activity. We find Junte has been given ample time to pursue reunification. The trial court did not err in refusing to grant her request. See *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987) (“It is unnecessary to take from the children’s future any more than is demanded by statute.”).

Statutory Grounds for Termination. In order to affirm a termination of parental rights, we need only find grounds sufficient to terminate under one of the statutory grounds listed by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Therefore, we do not address whether Junte has a severe and chronic substance abuse problem because our de novo review of the record finds there were statutory grounds to terminate her parental rights under Iowa Code section 232.116(1)(f).

Section 232.116(1)(f) provides that parental rights can be terminated if the State proves by clear and convincing evidence that the child is four years of age or older; that the child has been adjudicated CINA; that 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; and there is clear and convincing evidence that at the present time the child cannot be returned to the custody of the parents.

Junte contends the court erred in concluding Devion cannot be returned to her care. We disagree. Despite reasonable efforts and the provision of services,

Junte has not shown the insight that would allow her to parent her child safely and independently. In the opinion of her service provider, Junte's visits with Devion have not improved to the point where they could be unsupervised, and there is no prospect Devion could be returned to her care in the near future. We find clear and convincing evidence that Devion cannot be returned to Junte's care at the present time and we therefore affirm the termination of her parental rights under the statutory grounds set forth in Iowa Code section 232.116(1)(f). See *in re M.Z.*, 481 N.W.2d 532, 536 (Iowa Ct. App. 1991) ("Termination should occur if the statutory time period has elapsed and the parent is still unable to care for the child.").

Best Interests of the Child. Junte argues the closeness of her relationship with Devion precludes termination. A strong bond between parent and child is a special circumstance which militates against termination when the statutory grounds have been satisfied. Iowa Code § 232.116(3). However, this is not an overriding consideration, but merely a factor to consider. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). We cannot ignore Junte's lack of sufficient progress towards reunification. After more than one and one-half years of services with minimal progress, we conclude the bond between Junte and Devion is not strong enough to forestall termination further. See *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially) ("A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests.").

We also reject Junte's argument that termination is not in Devion's best interests because he is not in pre-adoptive placement. We disagree. Both the

Iowa Department of Human Services social worker and the services provider indicate Devion is an adoptable child. The immediate unavailability of an adoptive placement does not justify preservation of a parent-child relationship that should otherwise be terminated. *In re T.C.*, 522 N.W.2d 106, 109 (Iowa Ct. App. 1994).

In conclusion, the State has both provided clear and convincing reasons for termination and shown that termination is in the child's best interests. For these reasons, we affirm the juvenile court's ruling terminating Junte's parental rights.

AFFIRMED.