

IN THE COURT OF APPEALS OF IOWA

No. 7-179 / 07-0230

Filed April 11, 2007

**IN THE INTEREST OF A.H.F. AND T.J.F.,
Minor children,**

**T.R.F., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Daniel Block,
Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights to two
children. **AFFIRMED.**

Tammy L. Banning of Tammy L. Banning, P.L.C., Waterloo, for appellant
mother.

Mary Kennedy, Waterloo, and Theodore Stone, Cedar Falls, for appellee
fathers.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Thomas J. Ferguson, County Attorney, and Steven Halbach,
Assistant County Attorney, for appellee State.

Linnea Nicol, Waterloo, guardian ad litem for minor children.

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

VOGEL, P.J.

T.F. is the mother of A.F., born in 1997, and T.F., born in 2001. The children were removed from their mother's care on August 17, 2005, after the mother, who has a long history of drug abuse, admitted to relapsing on marijuana and methamphetamine. In September and October, the children were adjudicated to be children in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(c)(2) and 232.2(6)(n) (2005), with a finding of inappropriate supervision¹. On August 30, 2006, the State filed a petition seeking to terminate the mother's parental rights to both children. Following a hearing on that petition, the court granted the State's request and terminated her rights to the children under sections 232.116(1)(e), (f), and (l). The mother appeals from this order.²

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). Our primary concern in termination proceedings is the best interest of the children. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). 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). While the district court terminated the mother's parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

On appeal, the mother raises a variety of issues, including that (1) the evidence is insufficient to support the termination, (2) termination is not in the

¹ The older child was adjudicated in need of assistance in December 1997, and after the receipt of services, the petition was dismissed in August 1998.

² While the parental rights of the children's fathers were also terminated in this order, they have not appealed.

best interests of the children, (3) the court should have deferred permanency for six months, and (4) Iowa Department of Human Services (DHS) did not make reasonable efforts toward reunification. Upon our de novo review of the record, we find the court appropriately terminated the mother's parental rights to the children.

First, we find termination was appropriate under section 232.116(1)(f), which requires clear and convincing proof, in pertinent part, that the children cannot be returned to the mother's custody as provided in section 232.102. The issue most concerning to DHS throughout this case, and which ultimately led to the juvenile court's decision to terminate, was the mother's drug use. This concern is substantial and clearly supported the termination. At the time of the termination hearing, the mother was forty-three years old and had used drugs since the age of sixteen. She admitted to having used methamphetamine for over twenty years. Just over two months prior to the termination hearing, she tested positive for the use of cocaine and amphetamines. Finally, the mother admitted at trial that the children could not immediately be returned to her care; rather, she requested a six-month extension during which she could prove her ability to care for them. The juvenile court properly found the children could not be returned to the mother's custody and that a six-month extension was not warranted.³

³ The mother asserts on appeal that a family-centered service provider, Angela Bigelow, recommended deferring permanency; however, we believe that assertion distorts Bigelow's testimony. Bigelow, who had only worked with the mother for approximately seven weeks prior to the termination hearing, opined that she needed six months of "intense therapy and [drug] treatment" and that only after those six months could her visits progress to being fully unsupervised. She also declined to respond when questioned whether she supported termination of the mother's parental rights.

Next, we recognize that even if statutory requirements for termination are met, the decision to terminate must still be in the children's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). We further note that Iowa Code section 232.116(3)(a) provides that the court need not terminate parental rights if it finds that a relative has custody of the children.⁴ We concur in the judgment that termination is in the best interests of these children. Unfortunately, as history is a guide, the mother's decades-long drug use likely will continue. Her unresolved mental health issues add an additional hurdle. The children deserve more stability, safety, and support than their mother has or will be able to offer.

Finally, we reject the contention the State made inadequate efforts toward the goal of reunification. The juvenile court, in its termination order, cataloged the services offered to the family, including skill development services, supervised visitation, outpatient mental health services, substance abuse treatment, drug testing, and family-centered services. Regardless of whether the services offered were adequate, the mother did not fully take advantage of them, failing to follow through consistently with recommendations for outpatient mental health therapy or meet with her mental health provider. The district court's assessment of the record was correct and we affirm the termination of T.F.'s parental rights.

AFFIRMED.

⁴ At the time of the termination hearing the older child was in the home of her grandparents while the younger child was in the home of an aunt.