

**IN THE COURT OF APPEALS OF IOWA**

No. 7-218 / 07-0225

Filed April 11, 2007

**IN THE INTEREST OF D.K.-H.,  
Minor Child,**

**T.P., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Dickinson County, David C. Larson, District Associate Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Michael Johnson, Spirit Lake, for appellant.

Micah Schreurs, Sheldon, for father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, and Rosalise Olson, County Attorney, for appellee State.

Scott Bixenman, LeMars, for intervenor.

Jack Bjornstad, Spirit Lake, for intervenor.

Shannon Sandy of Sandy Law Firm, P.C., Spirit Lake, for minor child.

Considered by Huitink, P.J., and Mahan and Baker, JJ.

**MAHAN, J.**

Tara appeals the termination of her parental rights. She argues (1) the State failed to show clear and convincing evidence her rights should be terminated pursuant to Iowa Code sections 232.116(1)(d) and (f) and (2) termination is not in the child's best interests. We affirm.

**I. Background Facts and Proceedings**

Tara is the mother of D.K.-H., born February 15, 1999. At the time D.K.-H. was born, Tara was married to Michael. In 2001 Tara and Michael's marriage was dissolved. Michael received primary care of the couple's three children. A short time later, Tara informed Ross he was D.K.-H.'s biological father. Paternity was confirmed with DNA testing. In October 2002 paternity was established in Ross, and primary care of D.K.-H. was transferred to Tara. Michael wanted to keep primary care of D.K.-H.'s two half-brothers, but the district court believed the three children should be kept together. Michael stipulated to a transfer of physical care of all three boys to Tara.

D.K.-H. was adjudicated a child in need of assistance (CINA) on August 23, 2004. Tara initially retained physical care of the three children. She was ordered to complete a substance abuse evaluation, submit to random drug testing, participate in services through the Center Against Assault and Sexual Abuse (CAASA) and Family Centered Services. On November 23, 2004, however, physical care of the children was transferred to Michael due to Tara's inappropriate supervision and pattern of unhealthy and abusive relationships. At a review hearing in May 2005, the court established visitation for D.K.-H. and Ross.

Another permanency hearing was held on December 20, 2005. The goal for D.K.-H. was to continue reunification efforts with Tara. In May 2006, however, Tara moved to Idaho, eventually settling in Washington. After a review hearing in June 2006, D.K.-H's permanency goal was amended to termination of Tara's and Ross's parental rights and adoption.

The district court terminated Tara's parental rights pursuant to sections 232.116(1)(d) and (f) (2005). It also terminated Ross's parental rights pursuant to section 232.116(1)(f). Tara appeals the termination of her rights.

## **II. Standard of Review**

We review the termination of parental rights *de novo*. *In re D.G.*, 704 N.W.2d 454, 456 (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.* In determining the children's best interests, we look to both long-term and immediate needs. *Id.*; *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

## **III. Merits**

According to section 232.116(1)(d), we may terminate parental rights if (1) the child has been adjudicated CINA after finding the child to have been neglected as the result of the acts or omissions of one or both parents and (2) the parents were offered services to alleviate the condition that led to adjudication but the condition remains. Pursuant to section 232.116(1)(f), we may terminate parental rights if (1) the child is four years old or older; (2) the child has been adjudicated CINA; (3) the child has been removed from the parents for twelve consecutive months or twelve of the last eighteen months and

any home trial period has been less than thirty days; and (4) there is clear and convincing evidence the child cannot be returned to the parent's home at the present time.

Tara has a history of living with abusive men. Her oldest son called the police when one of her boyfriends was abusing her. Tara herself never called the authorities concerning abuse, but instead hid it, only to reveal it after becoming involved with another man. She has received counseling through CAASA, but still makes questionable decisions concerning her relationships. The man with whom she is now living has a long criminal history of domestic abuse, assault, and substance abuse. To her credit, Tara has sought and received services from an agency in Washington similar to CAASA.

Tara has also failed to address possible substance abuse issues. She tested positive for cocaine and methamphetamine in July 2004. She claimed she had been exposed to the drugs second-hand through one of her abusive boyfriends and his friends. On the way to a drug test in January 2006, she was stopped for a traffic violation. A search incident to arrest yielded a false bladder full of urine and rubber tubing. Tara told authorities she had taken a friend's ADHD medication and was afraid it would show up in the drug test as an illegal drug. Tara claims she sought drug treatment in Washington and even set up random drug screenings. There is some evidence in the record, however, that these tests were not random.

Prior to the children's removal in November 2004, there were six child protective assessments. Tara has not provided financial support to her son in two years. During the time between her move to Washington and the termination

hearing, she only saw her son twice. She has no employment and relies on her boyfriend for her own financial support. She has not participated in family-oriented services of any kind since her move. It is clear Tara does not possess the parenting skills necessary to address D.K.-H.'s needs. See *J.E.*, 723 N.W.2d at 798 (noting a parent's past performance is indicative of the quality of care the parent will provide in the future); *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) ("The future can be gleaned from evidence of the parents' past performance and motivations.").

Despite services, Tara has continually put her relationships with abusive men before her children. As a result, she cannot keep them safe. See *J.E.*, 723 N.W.2d at 800; *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987) ("The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems."). Further, the record indicates D.K.-H. no longer asks about his mother. He deserves permanency and stability. See *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring) ("A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests."). We conclude the district court properly terminated Tara's parental rights pursuant to Iowa Code sections 232.116(1)(d) and (f).

**AFFIRMED.**