

IN THE COURT OF APPEALS OF IOWA

No. 7-307 / 07-0484

Filed May 23, 2007

**IN THE INTEREST OF D.S. and S.S.,
Minor Children,**

S.S., Mother,
Appellant.

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

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

Jeffrey Carter, Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Faye Jenkins,
Assistant County Attorney, for appellee.

Barbara O. Hoffman, Des Moines, for appellee father.

Kimberly S. Ayotte, Des Moines, for the minor children.

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

BAKER, J.

A mother appeals from the termination of her parental rights. We affirm.

I. Background and Facts

Salena is the mother and William is the father of two children, D.S., born in May 2001, and S.S., born in October 2002. On January 21, 2005, the children were removed from Salena's home and placed in the custody of the Iowa Department of Human Services (DHS). The removal was based on Salena's substance abuse and incarceration due to outstanding warrants. On March 15, 2005, the children were adjudicated to be children in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b), (c)(2), and (n) (2005). They remained in the custody of DHS for placement in foster care. Salena did not see her children from January 2005 until December 2005.

A permanency hearing was held on January 23, 2006. Salena was granted an additional six months to demonstrate she could care for the children. The children were returned to her custody on April 19, 2006, under the condition that she continue to reside at the House of Mercy.¹ On June 25, 2006, following a weekend pass, Salena failed to return to the House of Mercy with the children. The children were ordered returned to the State's custody; however, Salena and the children's whereabouts were unknown. On October 3, 2006, Salena and the children were located, and the children were taken into the custody of DHS and returned to their previous foster care placement. Salena was arrested and

¹ On December 2, 2005, Salena had been ordered into the House of Mercy residential substance abuse treatment program, following an incarceration that included a twenty-eight day drug treatment program.

placed in a police car. En route to jail, she attempted suicide by kicking out the window of the car and trying to jump out as it traveled down the interstate.

At a February 20, 2007 termination hearing, the children's caseworker and their therapist both recommended termination of parental rights. The caseworker testified the children had regressed in their behavior after returning from the time spent with Salena. D.S. had forgotten his alphabet, could not hold a pen, would eat food off the floor, dig through the trash and eat non-food items, and was disruptive and assaultive to other children. S.S. was no longer potty trained, was also disruptive and assaultive, and would curl up in a ball on the floor and scream, "Please don't hurt me. Please don't hit me." Both children have significant psychiatric diagnoses. The therapist testified that their problems are the result of the neglect they suffered at the hands of their parents. Their guardian ad litem stated it was in the children's best interests that permanency be established and asked the court to terminate parental rights. The juvenile court issued an order terminating the parental rights of both parents² pursuant to Iowa Code sections 232.116(1)(b), (d), (f), (i), and (l). Salena appeals.

II. Merits

We review termination orders de novo. Iowa R. App. P. 6.4; *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). Although we give weight to the juvenile court's factual findings, especially when considering the credibility of the witnesses, we are not bound by them. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001); *In re M.M.*, 483 N.W.2d 812, 814 (Iowa 1992). "We only need to find grounds to terminate parental rights under one of the sections cited by the district

² William has not appealed the termination of his parental rights.

court in order to affirm its ruling.” *In re R.K.*, 649 N.W.2d 18, 19 (Iowa Ct. App. 2002). Our primary concern in termination proceedings is the best interests of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Upon our careful de novo review of the record, we conclude that no additional time would remedy Salena’s deficiencies and that termination is in the children’s best interests.

The juvenile court determined, and Salena does not contest, that the statutory grounds for termination have been met. “Even if the statutory requirements for termination are met, the decision to terminate must still be in the best interests of the children.” *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). Salena contends the children’s best interests warrant their placement with her.

In determining the children’s best interests, we look to both long-term and immediate needs. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). We consider what the future holds for the children if returned to the parent. *M.M.*, 483 N.W.2d at 814. “Evidence of the parent’s past performance is relevant on this issue because it may show the quality of future care the parent is capable of providing.” *Id.* D.S. and S.S. were initially removed from Salena’s care in January 2005. We agree with the juvenile court that “[t]hese children have had more than enough upheaval at the hands of her mother” and that it is in their best interests her parental rights be terminated.

Salena further contends that she should be allowed additional time to continue with services until the children can be returned to her care. We agree with the juvenile court that Salena need not be granted more time. Our legislature has established a twelve-month standard period for parents to demonstrate they can parent. Iowa Code § 232.116(1)(f); *In re C.K.*, 558 N.W.2d

170, 175 (Iowa 1997). “It is unnecessary to take from the children’s future any more than is demanded by statute.” *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987). Additionally, “[c]hild custody should be quickly fixed and little disturbed. *Id.* at 613. At the time of the hearing, D.S. and S.S. had spent all but a few of the previous twenty-five months removed from Salena’s care. See *M.M.*, 483 N.W.2d at 818 (holding two years is more than enough time to prove parenting capabilities). When she was given additional time in January 2006 to regain custody of the children, she responded by leaving the program she was required to attend as a condition of keeping custody. The children regressed as a result of her neglect. These children should not be placed at risk again. See *A.C.*, 415 N.W.2d at 613 (“The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems.”).

Alternatively, Salena asserts the juvenile court erred in concluding the home of the maternal great-grandmother is not appropriate due to a twice-convicted drug felon living in the home. She asserts that “[g]iven the impact illegal drugs have had on the poor and minority communities” the court’s “blanket assertion” violates her equal protection and due process rights. These issues were not raised below and cannot be raised now. See *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003) (“Even issues implicating constitutional rights must be presented to and ruled upon by the district court in order to preserve error for appeal.”). Additionally, because Salena cites no legal authority to support her contention, we consider the issue waived. See Iowa R. Civ. P. 6.14(1)(c).

AFFIRMED.