

IN THE COURT OF APPEALS OF IOWA

No. 7-352 / 07-0594
Filed June 13, 2007

**IN THE INTEREST OF Z.L. and Z.P.,
Minor Children,**

S.S., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Erica Parkey, Des Moines, for appellant mother.

Jolie Juckette, Des Moines, for father of Z.L.

Stephie Tran, Des Moines, for father of Z.P.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Jon Anderson, Assistant County Attorney, for appellee State.

Karl Wolle, Des Moines, for minor children.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

ZIMMER, J.

Staci appeals from the juvenile court order terminating her parental rights to two of her children. We affirm.

I. Background Facts and Proceedings

Staci is the mother of Zariah, born in July 2002; Zohntay, born in November 2003; and Donald Jr., born in October 2005.¹ Michael is the father of Zariah, and Donald Sr. is the putative father of Zohntay and Donald Jr.

The children were removed from Staci's care on November 3, 2005, because Donald Jr. tested positive for marijuana and cocaine at birth. Michael and Donald Sr. were both incarcerated at the time of removal. Zariah and Zohntay were initially placed in foster care. They were moved to the home of a relative on November 23, 2005; however, they were returned to foster care a few weeks later when the relative was unwilling to care for the children any longer. The court placed the children in another foster home on January 27, 2006. They have remained in this home ever since.

Zariah and Zohntay were adjudicated children in need of assistance (CINA) on December 20, 2005. The court ordered Staci to submit to drug testing, but an Iowa Department of Human Services (Department) report noted she was not consistent in providing urinalyses (UAs) to the Department. Staci tested positive for cocaine five times and positive for marijuana six times while this case was pending. She failed to show up for UAs from January 25, 2006, to May 19, 2006. She provided a negative UA on May 23, 2006, but then did not

¹ Staci's parental rights to Donald Jr. were terminated in a separate proceeding. The mother's parental rights to Donald Jr. are not at issue in this appeal.

provide a UA again until June 27, 2006. Staci tested positive for cocaine on October 2, 2006. She has not provided a UA since that time. Staci has also failed to comply with drug treatment recommendations or participate in individual therapy.

The State filed a petition to terminate Staci's, Michael's, and Donald Sr.'s parental rights on October 6, 2006. None of the parents attended the termination hearing, which was held on March 14, 2007. At the termination hearing, Zariah's therapist testified Staci has not visited the children since October 2006. The therapist also testified Staci left the state in October because she was experiencing "some difficulty" with her "peers." The therapist recommended Staci's parental rights be terminated. In an order filed March 22, 2007, the juvenile court terminated Staci's parental rights pursuant to Iowa Code sections 232.116(1)(b) (2005) (abandonment), 232.116(1)(d) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services), 232.116(1)(e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), 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), 232.116(1)(g) (child CINA, parent's rights to another child were terminated, parent does not respond to services), 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home), and 232.116(1)(l) (child CINA, parent has substance abuse problem, child cannot be returned

within a reasonable time). The juvenile court also terminated the fathers' parental rights. Only Staci has appealed.

II. Scope and Standards of Review

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the child's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

III. Discussion

In this appeal, Staci contends the State failed to prove the grounds for termination pursuant to Iowa Code sections 232.116(1)(e), (f), (g), (h), and (i). She also maintains termination is not in the children's best interests because they should have been placed in the care of a relative. Upon our review of the record, we find no merit in the mother's arguments.

When the juvenile court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate under one of the sections cited by the court in order to affirm the court's ruling. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Staci failed to preserve error on her claim that the State failed to prove the statutory grounds for termination because she did not contend the State failed to prove the grounds for termination under Iowa Code sections 232.116(1)(b) and (d). Even if Staci had preserved error, we find clear and convincing evidence supports the termination of Staci's parental rights under section 232.116(1)(b).

Staci tested positive for cocaine on October 2, 2006. She has not provided a drug screen or visited with her children since that date. Although she was personally served with notice, she did not show up for the termination hearing. Abandonment constitutes a giving up of parental rights and responsibilities accompanied by an intent to forgo them. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa Ct. App. 1996). We conclude the record supports the juvenile court's conclusion that Staci has abandoned her children.

Staci also contends termination is not in the children's best interests because they should have been placed in the care of a relative. Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the children's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the children's best interests, we look to their long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

The juvenile court denied the parents' motion for a home study of a paternal grandmother in California. Among other things, the court concluded it was not in the best interests of the children to delay termination proceedings for six months in order to conduct a home study of a relative who had no contact with the children for more than one year. We agree. Zariah and Zohntay have spent much of their lives in foster care, and they have bonded with their foster mother, who is willing to adopt the children. These children deserve stability and permanency, which Staci cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). Placement of a child with a relative under a permanency order is

not a legally preferable alternative to termination of parental rights. *In re L.M.F.*, 490 N.W.2d 66, 67 (Iowa Ct. App. 1992). We conclude termination of Staci's parental rights is in the children's best interests.

IV. Conclusion

We affirm the juvenile court's decision to terminate Staci's parental rights.

AFFIRMED.