

**IN THE COURT OF APPEALS OF IOWA**

No. 7-634 / 07-1233  
Filed September 19, 2007

**IN THE INTEREST OF S.C. and A.C.,  
Minor Children,**

**T.L.C., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Scott County, Nancy S. Tabor,  
Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Lauren Phelps, Bettendorf, for appellant mother.

Brenda Drew-Peebles, Davenport, for father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, William E. Davis, County Attorney, and Gerda Lane, Assistant  
County Attorney, for appellee State.

Sharon Sinnard, Bettendorf, for minor children.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

**ZIMMER, J.**

A mother seeks reversal of a juvenile court order that terminated her parental rights to two of her children. Upon our de novo review, we affirm.

***I. Background Facts and Proceedings.***

Tammi is the mother of Patricia, born in 1993; April, born in 1997; and Samantha, born in 1999. Larry is the father of Patricia, and Randy<sup>1</sup> is the father of April and Samantha.

Tammi has a history of living a transient lifestyle and exposing her children to dangerous people. The children came to the attention of the Iowa Department of Human Resources (Department) in November 2005 following a report that one of the children had been sexually abused by a male caretaker. Other concerns arose including exposure to parental drug use, domestic violence in the home, and failure to provide the children with adequate medical care. A short-term safety plan was developed that called for the children to stay with a family friend until Tammi could secure appropriate housing. Although she was encouraged to live with her daughters, Tammi chose instead to live in an apartment with two men. Tammi was unable to provide stable housing for her children, and they were placed in foster care by court order on June 8, 2006. April and Samantha have remained in foster care since that time.

The children were adjudicated as children in need of assistance (CINA) on July 3, 2006, after a finding of sexual abuse and child neglect. Following adjudication, the mother received a variety of services designed to safely

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<sup>1</sup> Randy was incarcerated from May 2005 until April 2007 for sexual abuse of a child and had no contact with his daughters during this time. He has not appealed from the termination of his rights.

transition the children back to her care, including in-home parenting and visitation services. Tammi did not participate actively in services, except for visitation, for many months following adjudication. A psychological evaluation was ordered in March 2006; however, Tammi did not complete the evaluation until February 2007. The evaluation revealed a woman with lower intellectual functioning who has a long history of poor judgment characterized by impulsivity. Tammi was provided with in-home services that were appropriate for her intelligence level.

A permanency hearing was held on February 13, 2007. Representatives from the Department and the direct service providers recommended that Larry be awarded custody of Patricia. They also recommended that April and Samantha remain in foster care because Tammi was not ready to have her children returned to her. The court granted Larry legal custody of Patricia and ordered that April and Samantha remain in the custody of the Department with continued placement in foster care.

On March 22, 2007, the State filed a petition to terminate the mother's and father's parental rights to April and Samantha. The juvenile court held a contested hearing on July 3, 2007. At the hearing, Tammi testified that she had not seen April or Samantha since May 9, 2007. The social worker and the guardian ad litem recommended termination of parental rights. The juvenile court terminated Tammi's and Randy's parental rights to April and Samantha in an order filed July 6, 2007. Tammi 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 children's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). 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).

### ***III. Discussion.***

The juvenile court terminated Tammi's rights to April and Samantha pursuant to Iowa Code sections 232.116(1)(d) (2007) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services), 232.116(1)(i) (child meets definition of CINA, child was in imminent danger, services would not correct conditions), and 232.117. In this appeal, Tammi contends the grounds for termination were not supported by clear and convincing evidence. She also maintains termination of her parental rights is not in the best interests of the children. Further, she claims the Department failed to identify her inability to read and write in regard to the reasonable efforts made to reunite her with her children, and that the court erred in failing to address this issue in its ruling. Upon our review of the record, we find no merit in any of 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). In this case, we choose to focus our attention on section 232.116(1)(d) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services).

Tammi contends the court erred in terminating her parental rights because the State failed to prove by clear and convincing evidence that the children could not be returned to her at the time of the hearing or within a reasonable time. We disagree. Tammi has continued to live a transient lifestyle and have relationships with inappropriate men. When her children lived with her, she exposed them to many unstable and dangerous situations.<sup>2</sup> Tammi frequently established relationships with men she just met at the bus station or elsewhere. She has often brought her paramours home to live with the girls. Tammi's poor decision making has resulted in at least one founded incident of sexual abuse to one of her daughters.

Tammi received many services from the Department. Nevertheless, she remains unable to exercise good judgment about her lifestyle, and she fails to appreciate how her behavior negatively impacts her daughters. Tammi stopped attending visitation and parenting classes several months prior to the termination hearing. Before she stopped visiting her children, they had become more emotional and upset during her visits with them. Tammi's lack of parenting skills and unresolved mental health issues place April and Samantha at continued risk for harm.

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<sup>2</sup> One of Tammi's male companions is now in prison for sexual abuse; another has a significant criminal history; and a third was recently released from prison.

Tammi has a history of being dishonest with the people who are trying to help her. She was ordered to attend therapy to address her issues with men, and although she claimed she was still attending therapy at the time of the termination hearing, this was determined to be untrue. The record reveals Tammi was continually dishonest about employment circumstances, mental health treatment, the people with whom she keeps company, and her reasons for missing visits with her children. In addition, Tammi continues to express no remorse for the past harm her behavior has caused her children. We find clear and convincing evidence supports the juvenile court's decision to terminate Tammi's parental rights under section 232.116(1)(d).

Tammi also contends termination of her parental rights is not in the best interests of the children because of their bond with her and because her parental rights to her oldest child were not terminated. However, neither of these claims was raised before the juvenile court. An issue not presented to and passed on by the juvenile court may not be raised on appeal for the first time. *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003). The termination order does not address the bond between the mother and the children, nor does it address any sibling separation issue. Because these specific claims were not addressed in the termination order, we do not take them under review.

However, we do agree the decision to terminate parental rights must reflect the children's best interests, even when the statutory grounds for termination are met. *In re M.S.*, 519 N.W.2d at 400. The "child's safety and need for a permanent home" are "the concerns that clearly impact a child's best interests." *In re K.M.*, 653 N.W.2d 602, 608 (2002). We consider what the future

holds for the children if returned to the parent. See *In re M.M.*, 483 N.W.2d 812, 814 (Iowa 1992). When living with their mother, April and Samantha were exposed to registered sex offenders and substance abusers. Their mother's transient lifestyle resulted in the children being enrolled in numerous schools and missing a significant number of school days. Since they have been placed in foster care, April and Samantha have been doing extremely well and have made improvements both emotionally and academically. Their current placement is a foster-to-adopt home. The children have become very bonded to their foster-to-adopt parents.

It is apparent that serious concerns still exist regarding Tammi's stability and her ability to provide adequate care for her children. Tammi has been provided with extensive services since the inception of this case; however, despite her participation in parenting sessions, she is unable to consistently exercise good judgment about her lifestyle and how it would negatively impact her daughters. The evidence does not support the conclusion that additional time would allow the children to be returned to their mother's care.

Tammi further asserts that reasonable efforts were not made to reunite the children with her due to the failure of the Department to identify and deal with her inability to read and write. She argues the court erred in failing to address the Americans with Disabilities Act in its ruling. As with several of her other claims described above, we do not find that Tammi preserved error on either of these issues. See *K.C.*, 660 N.W.2d at 38. The record does not show that the mother requested any additional services during the CINA proceedings. See *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999) (holding a failure to demand a service,

other than those already provided, waives the issue of whether services were adequate). None of the CINA orders address the Americans with Disabilities Act, nor does the termination order. Therefore, we do not review this claim of error for the first time on appeal.

When a parent is incapable of changing to allow the children to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). These children deserve stability and permanency, which their mother cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). April and Samantha should not have to wait any longer for their mother to learn how to become a responsible parent. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). We agree with the juvenile court's finding that termination of Tammi's parental rights is in the children's best interests.

#### ***IV. Conclusion.***

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

**AFFIRMED.**