

IN THE COURT OF APPEALS OF IOWA

No. 7-889 / 07-1772
Filed December 12, 2007

**IN THE INTEREST OF T.M. AND T.T.,
Minor Children,**

J.M., Mother,
Appellant,

T.T.T., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Joe E. Smith, District
Associate Judge.

J.M. appeals the juvenile court's termination of her parental rights.

AFFIRMED.

John Heinicke of Kragnes & Associates, P.C., Des Moines, for appellant
mother.

Nichole Mordini of Benzoni Law Office, Des Moines, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Jennifer Galloway,
Assistant County Attorney, for appellee State.

Kimberly Ayotte of Youth Law Center, Des Moines, for minor child.

Considered by Sackett, C.J., and Vaitheswaran and Baker, JJ.

VAITHESWARAN, J.

J.M. appeals the termination of her parental rights to T.M., born in 2004, and T.T., born in 2005.¹ She contends (1) the record lacks clear and convincing evidence to support termination under the grounds cited by the district court and (2) termination was not in the children's best interests.

I. We may affirm if we find clear and convincing evidence to support any of the grounds cited by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). One of those grounds was Iowa Code section 232.116(1)(h) (2007) (requiring proof of several elements including proof that children could not be returned to parent's custody). On our de novo review, we find the requisite quantum of evidence to support termination under this ground.

The children were removed from J.M.'s care based on her marijuana use. They were later returned to her care but were again removed after J.M. tested positive for marijuana in her system. At the termination hearing, J.M. admitted to using marijuana the week before the termination hearing and stated she had been using "[l]ike every two days" since the children's second removal in March 2007. She conceded she did not participate in substance abuse treatment, did not undergo random drug testing, and did not visit her children in the two months preceding the hearing. When asked if she was in a position to immediately assume care and custody of her children, she answered, "No." When asked when she believed she would be in a position to assume custody she answered, "Six months to a year." These admissions established the key element of section 232.116(1)(h).

¹ The father of T.T. filed a notice of appeal, but it was dismissed as untimely.

//. The ultimate consideration in termination proceedings is the best interests of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). J.M. had the opportunity to reunite with her children. She squandered that opportunity by resuming her illegal drug use. Additionally, after the children were removed from her care for a second time, she declined to maintain a relationship with them through visitation. For these reasons, we agree with the juvenile court that termination of J.M.'s parental rights to T.M. and T.T. was in their best interests.

AFFIRMED.