

IN THE COURT OF APPEALS OF IOWA

No. 7-978 / 07-1902
Filed January 16, 2008

**IN THE INTEREST OF B.S.,
Minor Child,**

**R.L.S., Mother,
Appellant.**

Appeal from the Iowa District Court for Webster County, James A. McGlynn, Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Angela Ostrander of Bennett, Crimmins, Ostrander & Yung, Fort Dodge, for appellant mother.

Marcy Lundberg, Fort Dodge, for father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Timothy Schott, County Attorney, and Jennifer Weater, Assistant County Attorney, for appellee State.

Gregory Stoebe of Stoebe Law Office, Humboldt, for minor child.

Considered by Vogel, P.J., and Mahan and Zimmer, JJ.

ZIMMER, J.

A mother appeals from a juvenile court order that terminated her parental rights. We affirm the decision of the juvenile court.

I. Background Facts and Proceedings.

Rhonda is the mother and Kelly is the father of Breanna, born in December 2006.¹

Rhonda has a long history of involvement with the Iowa Department of Human Services (Department). Prior to giving birth to Breanna, Rhonda had three other children, all of whom were removed from her care. Rhonda's oldest two children were placed in their step-grandmother's custody in 2001; Rhonda's parental rights to these children were not terminated.² In 2002 Rhonda had her third child; her parental rights to this child were terminated in February 2005.

Breanna was released from the hospital four days after her birth on December 5, and she resided with her mother. Shortly after Breanna's birth, Rhonda obtained a restraining order against Kelly because of domestic violence. On December 17, Rhonda incurred a criminal trespass charge. On December 21, Rhonda was picked up pursuant to a mental health commitment order. That same day, the court entered an emergency removal order for

¹ The father has not appealed from the termination of his parental rights.

² At the time of the termination hearing in this case, the oldest son, who was almost twenty-one years old, was living with his mother. Rhonda testified, however, that she would ask him to move out on his own if necessary for Breanna to be returned to her care. Rhonda's second oldest child, who was twelve years old at the time of the hearing, was still in his step-grandmother's custody. However, he was currently living with two other individuals, and Rhonda testified that it was her intention to have custody of this child transferred back to her.

Breanna, whom Rhonda had left in the care of her oldest son. Breanna was placed in foster care and has remained there since her removal.³

On February 20, 2007, Breanna was adjudicated a child in need of assistance (CINA).⁴ Following Breanna's adjudication, Rhonda received a variety of services designed to transition her child safely back to her care; however, these services proved to be unsuccessful.

On August 6, 2007, the State filed a petition seeking to terminate the parental rights of Rhonda and Kelly. Following an October 2007 hearing, the court granted the State's request. It terminated Rhonda's parental rights under sections 232.116(1)(d), (g), (h), and (l) (2007), and Kelly's parental rights under sections 232.116(1)(b), (d), (e), (g) and (h). Only Rhonda has appealed from the termination order.

II. Scope and Standards of Review.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern in termination proceedings is the best interests of the child. *In re*

³ Once Breanna was removed, additional concerns about the care that she had been receiving surfaced. When Breanna was born on December 1, she weighed seven pounds, ten and three-fourths ounces. At her checkup on December 15, she weighed eight pounds. When the foster mother took Breanna to the doctor on December 22, she weighed only six pounds, fourteen ounces.

⁴ Rhonda did not appear at the adjudication hearing.

Dameron, 306 N.W.2d 743, 745 (Iowa 1981). When we consider the child's best interests, we look to her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

III. Discussion.

Rhonda does not contend that the State failed to prove there was clear and convincing evidence to terminate her parental rights under any of the sections alleged in the termination petition. Instead, she argues for additional time to "make sure she could follow through with all of the positive steps she was taking to change her life for the better." Although the record reveals that Rhonda has made some progress since her daughter's removal, we agree with the juvenile court that it is in the child's best interests to terminate Rhonda's parental rights.

The record reveals that Rhonda has a lengthy history of substance abuse and mental health issues. Following Breanna's removal, Rhonda was released from a mental health commitment on January 5, 2007. During January, she did not consistently wear her drug patches; however, the patch that was worn between January 18 and 25 was positive for methamphetamine use. During February, Rhonda failed to wear drug patches, failed to take her medication regularly, and did not visit Breanna during most of the month.⁵ Rhonda spent most of March undergoing treatment at Mt. Pleasant; during this time she had only one visit with Breanna. Between April and October 2007, Rhonda regularly attended visits with Breanna; however, she did not comply with drug testing. She

⁵ Rhonda failed to appear at her mental health hearing on February 23; therefore, an arrest warrant was issued.

admitted to using methamphetamine in June 2007, and she was scheduled to begin substance abuse treatment on October 9.

It is apparent serious concerns still exist regarding Rhonda's stability and her ability to provide adequate care for her child. This is not the first time Rhonda has received services designed to transition one of her children back to her care. At the termination hearing, Rhonda admitted she has used drugs for over twenty years. As the juvenile court noted, "[s]he has shown improvement before when the heat has been on, but then has relapsed." Rhonda has previously had three children removed from her care. Despite receiving extensive services since the inception of this case, she has continued to test positive for methamphetamine, most recently in June 2007.

We agree with the juvenile court that "the long and sad history of the mother's problems makes it unreasonable to conclude that she will be able to sustain any progress long enough to obtain and maintain reunification" with her daughter. When a parent is incapable of changing to allow the child to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). Therefore, we conclude termination of Rhonda's parental rights is in the child's best interests.

IV. Conclusion.

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

AFFIRMED.