IN THE COURT OF APPEALS OF IOWA

No. 7-983 / 07-1933
Filed January 16, 2008

IN THE INTEREST OF A.C., B.C., and M.C.,
Minor Children,

A.C., Mother,
Appellant,

J.T., III. Father of A.C. and B.C.,
Appellant.

Appeal from the Iowa District Court for Clinton County, Arlen J. Van Zee, District Associate Judge.

A mother and father appeal from the order terminating their parental rights. **AFFIRMED ON BOTH APPEALS.**

Jeffrey L. Farwell of Farwell & Bruhn, Clinton, for appellant-mother.

Mervin D. Woodin, Comanche, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Michael L. Wolf, County Attorney, and Ross J. Barlow, Assistant County Attorney, for appellee.

Neill Kroeger, LeClaire, attorney and guardian ad litem for minor children.

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

SACKETT, C.J.

Ashley and John appeal from the juvenile court order terminating their parental rights. John contends the court erred in terminating his parental rights and in denying his request for an additional six months to work toward reunification. Ashley contends (1) the State did not prove the grounds for termination, (2) "the perceived superior parenting ability of foster parent as compared for that of natural parents is not entitled to great weight," and (3) the juvenile court erred in finding the children could not be returned home. We affirm on both appeals.

Ashley and John are the parents of Adrian and Benjamin, both born in November of 2006. Ashley also is the mother of McKayla, born in September of 2003.[1] John is the father of four other children who are not at issue in this appeal. McKayla came to the State's attention in August of 2006 following allegations Ashley physically and emotionally abused her and did not provide her with proper care. McKayla was removed from Ashley's care and placed in foster care. In September, Ashley pled guilty to child endangerment, was given a two-year suspended sentence, and was placed on supervised probation for a year.

Adrian and Benjamin were born eight weeks premature. In December of 2006, following their release from intensive care, they were removed from Ashley's care by ex parte order, and placed in foster care.

McKayla was found to be in need of assistance in January of 2007 and moved to the same foster home where Adrian and Benjamin resided. Adrian and Benjamin were found to be in need of assistance in February of 2007. Following

[1] McKayla's father is unknown. The termination order did not address the parental rights of McKayla's father.

dispositional hearings, all the children continued in foster care. In September of 2007, the State petitioned to terminate the parental rights of the parents of all three children. Following a contested hearing in October of 2007, the court denied the parents' requests for additional time and terminated Ashley's parental rights to McKayla under Iowa Code section 232.116(1)(f) (2007) and Ashley's and John's parental rights to Adrian and Benjamin under section 232.116(1)(h). Both parents appeal.

> We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence. "Clear and convincing evidence" means there are no serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence.

In re C.B., 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

Ashley. The court terminated Ashley's parental rights finding the children could not be returned to her care at the time of the termination hearing. *See* Iowa Code §§ 232.116(1)(f)(4), (h)(4) (requiring clear and convincing evidence a child cannot be returned to a parent's care "at the present time"). It also denied her request for an additional six months under section 232.104(2)(b) noting:

> When an extension of time is given, it is with the expectation that the specific factors and conditions which led to the adjudication and the need for removal will no longer exist at the end of the additional six-month period and/or with the expectation that there will be behavioral changes which will alleviate the need for removal at the end of the additional six-month period. In the case at hand, the court is not able to make such a finding. There is not a reasonable expectation that the need for removal will no longer exist at the end of an additional six-month period.

Ashley argues she has shown substantial progress in meeting case permanency plan expectations, she is not an ongoing danger to her children, and that "she could resume the care of the children if she could secure proper housing for the children and she believed she could do within the next [six months]."

At the time of the termination hearing, Ashley and John were living with one of Ashley's friends. If Ashley gets angry with John, she packs up and moves out for a few days. During the course of these proceedings, she has lived with her mother and with fifteen to seventeen friends. She has been diagnosed with intermittent explosive disorder and personality disorder. She has no stable home for her children and appears unable to live independently. In the eight months prior to the hearing, she had worked in at least two part-time jobs for less than three months total.

Ashley has not followed through with counseling services. Her therapist opined she showed minimal insight into her behavior, her progress was slow, and she had a long way to go. All three children have special needs and require consistency Ashley cannot provide. Ashley's family is unlikely to support her in caring for her children.

We find clear and convincing evidence supports termination of her parental rights under Iowa Code sections 232.116(1)(f) (McKayla) and (h) (Adrian and Benjamin). We agree with the juvenile court that the record does not support a finding the children could be returned to her care if she were given an additional six months to work toward reunification.

Ashley contends the court should not have given any weight to reports about the progress the children have made while in foster care and she disputes reports her actions or inaction may be a cause of "some sort of attachment disorder" exhibited by the twins. Citing generally to *In re A.M.S.*, 419 N.W.2d 723 (Iowa 1988), Ashley asserts the superior parenting ability of the foster family should not be given great weight. We do not find the juvenile court placed any weight on the ability of the foster family to care for the children as a basis for terminating parental rights. In our de novo review, we have not considered the ability of the foster parents, but rather the lack of ability of the parents as a basis for finding the children could not be returned to their parents' care. We affirm the termination of Ashley's parental rights.

John. It appears John contends the court should have given him six more months to work toward reunification.[2] He argues he had complied with substantially all of the case permanency plan requirements, he and Ashley had applied for public assistance, they would be eligible for additional benefits if the children were returned to their care, and they could learn how to care for the children and meet their special needs. He asserts he is working hard toward promotion in his employment so he will have more income to support the family. At the termination hearing, he testified he had never lived on his own, but was relying on friends for a place to live. He admitted he was not in a position to care for the twins at the time of the hearing. He has child support for his four other children withheld from his wages, but is in arrears.

[2] John's petition contains no clear issue statement, but the beginning of his argument relates to the six-month extension.

Clear and convincing evidence supports the termination of John's parental rights under section 232.116(1)(h). Like the juvenile court, we do not believe that in an additional six months John will be in a position to care for the children. We affirm the termination of John's parental rights to Adrian and Benjamin.

AFFIRMED.