

**IN THE COURT OF APPEALS OF IOWA**

No. 8-043 / 07-2110  
Filed February 13, 2008

**IN THE INTEREST OF S.D. and S.S.,  
Minor Children,**

**J.S., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Van Buren County, William S. Owens, Associate Juvenile Judge.

A mother appeals from the juvenile court order terminating her parental rights to her two children. **AFFIRMED.**

William Glass, Keosauqua, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, and H. Craig Miller, County Attorney, for appellee State.

Heather Simplot of Harrison, Moreland, Webber & Woods, P.C., Ottumwa, for minor children.

Considered by Mahan, P.J., and Eisenhauer and Baker, JJ.

**BAKER, J.**

A mother appeals from the juvenile court order terminating her parental rights to her two children. Because the termination of parental rights is in the children's best interests, we affirm.

**I. Background and Facts**

Joan is the mother of a daughter, born in February 2003, and a son, born in October 2005. She is also the mother of a baby, born in June 2007, who is not the subject of this appeal. The older two children first came to the attention of the Iowa Department of Human Services (DHS) in October 2005, when a urine sample drawn from the son shortly after his birth was positive for amphetamines and barbiturates. The daughter also tested positive for exposure to marijuana. The children were removed from the mother's custody and subsequently placed in foster care. Neither child has returned to the mother's care.

Since the children were removed from the mother's care, the family has been offered services through DHS, including substance abuse evaluation and treatment, family-centered services, housing assistance, skill development, and mental health evaluation. The mother has moved frequently. She has not progressed beyond supervised visitation with the children. The person who supervised the visits reports that, while there is a bond between the mother and daughter, there is little bonding between the mother and the son.

Although the juvenile court ordered the mother to obtain housing for herself and her children, a driver's license, a GED, and employment, she has obtained none of these things in nearly two years. Although directed to participate in substance abuse evaluation and any recommended treatment, the mother failed

to follow through with recommended treatment. At the termination hearing, the mother claimed to have completed a required psychological assessment, but was unable to identify who performed the assessment, where it was done, or the recommendations made. The court held the record open to permit her to file a written report, but none was filed.

The children were adjudicated in need of assistance (CINA) on March 8, 2006. On April 27, 2007, the State filed a petition to terminate the mother's parental rights to the two children. Following a July 25, 2007 hearing, the mother's parental rights were terminated pursuant to Iowa Code section 232.116(1)(f) (2007) as to the daughter, and pursuant to section 232.116(1)(h) as to the son.<sup>1</sup> The mother appeals.

## **II. Merits**

We review termination orders de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Our primary concern is the best interests of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Even if the statutory requirements are met, the decision to terminate parental rights must still be in the children's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In assessing best interests, we look to long-range and immediate interests, considering what the future holds for the children if returned to the parent. *J.E.*, 723 N.W.2d at 798.

The mother does not contest the statutory grounds for termination. She contends the State failed to prove by clear and convincing evidence that termination of her parental rights is in the children's best interests. She contends

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<sup>1</sup> The parental rights of any putative fathers were also terminated. None are a party to this appeal.

“[t]here was no evidence offered that Joan had done or failed to do anything that impacted the children’s health.” She further contends that, because there has been no child abuse reported, no referral for DHS services, and no CINA petition filed regarding the baby born in June 2007, “Iowa DHS feels that this child can be safely parented by Joan.” She argues this is inherently contradictory to terminating her parental rights to the other two children.

We disagree with the mother’s contentions. The children’s exposure to drugs while in the mother’s care is strong evidence that she did something to impact their health. Further, the record indicates that DHS has asked the mother to participate in services related to the baby. Even if DHS were not involved with the baby, the mother’s “inherent contradiction” argument is unpersuasive. The two older children’s situation and needs are different from the baby’s. For example, at the time of termination, they had already been out of their mother’s care for twenty months. Moreover, Iowa’s appellate courts have recognized that the placement of one child with a parent does not preclude the termination of parental rights to other children. See, e.g., *In re T.J.O.*, 527 N.W.2d 417, 421 (Iowa Ct. App. 1994) (“Even though a mother may be able to parent some of her children does not necessarily mean she is capable of providing appropriate care to all her children.”); *In re E.B.L.*, 501 N.W.2d 547, 552-53 (Iowa 1993) (holding “while the mother can successfully parent the three children she now has custody of, she does not possess the skills necessary to deal successfully” with older children who did not bond with her).

“When making [a best interests] decision, we look to the parent’s past performance because it may indicate the quality of care the parent is capable of

providing in the future.” *J.E.*, 723 N.W.2d at 798. We agree with the juvenile court’s conclusion that the mother was “asked to achieve some independence, and to participate in relatively straightforward services, but she was unwilling or unable to do so.” The children’s safety and the need for a permanent home are primary concerns when determining the children’s best interests. *Id.* at 801 (Cady, J., concurring specially) (citing *In re K.M.*, 653 N.W.2d 602, 608 (Iowa 2002)). Although the law “demands a full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” children should not have to endure intolerable hardship waiting for their parents to demonstrate a basic ability to parent. *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987).

These children have been out of their mother’s custody since October 2005, and the evidence establishes they cannot be returned to her custody in the foreseeable future. The children have had four foster care placements since their removal. According to their DHS caseworker, the children are doing well in foster care, but their current foster parents are not an adoption placement option. The caseworker testified that the children have no special needs and are adoptable. There is no reason for these adoptable children to wait in foster care any longer. They deserve stability and permanency. See *In re C. and K.*, 322 N.W.2d 76, 81 (Iowa 1982) (“The precious and crucially important days of childhood move inexorably . . . . [C]hildren cannot wait to grow up.”). We conclude, as did the juvenile court, that it is in the children’s best interests to have the mother’s parental rights terminated. We therefore affirm the termination of parental rights.

**AFFIRMED.**