

IN THE COURT OF APPEALS OF IOWA

No. 8-045 / 07-1932
Filed February 13, 2008

**IN THE INTEREST OF H.L.,
Minor Child,**

B.L., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Pamela Vandel, Des Moines, for appellant.

William Sales of Sales Law Firm, P.C., Des Moines, for father.

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

Edward Bull of Bull Law Office, P.C., Des Moines, for minor child.

Considered by Huitink, P.J., and Zimmer and Miller, JJ.

HUITINK, P.J.

Belinda appeals from the trial court's termination of her parental rights concerning her seven-year-old son, H.L.¹

I. Background Facts and Prior Proceedings

Belinda has a long history of drug related convictions. She was in prison on drug related charges when she gave birth to H.L. in 2000. Over the next three years, Belinda alternated between prison and work-release until she was completely discharged from prison in 2003. When released, Belinda resumed custody of H.L. until July 14, 2006, when she was arrested for conspiracy to manufacture methamphetamine and possession of illegal drugs. This arrest, when coupled with a prior founded abuse report relating to her lack of supervision of H.L., prompted the State to remove the child and institute child in need of assistance (CINA) proceedings. Subsequent conversations with H.L. revealed that he had witnessed his mother and her friends abusing illegal substances in the family home. Belinda eventually pled guilty to conspiracy to deliver methamphetamine and was sentenced to twenty years in prison.

On August 31, 2006, H.L. was adjudicated CINA pursuant to Iowa Code sections 232.2(6)(b) and (c) (2005). H.L. lived with paternal cousins until he was placed with his maternal aunt and uncle in Arizona in July 2007. According to reports from the guardian ad litem and the Iowa Department of Human Services, this aunt and uncle have a very stable lifestyle and are willing to adopt H.L.

At the hearing on the petition to terminate Belinda's parental rights, the court learned that Belinda will have her first parole hearing in December 2009.

¹ The parental rights of H.L.'s father were also terminated and are not at issue here.

Belinda told the court she was confident her excellent behavior in prison would lead to a release shortly after that parole hearing.

The court also heard testimony concerning Belinda's interest in a \$140,000 spendthrift trust. Belinda receives the yearly income from this trust for the balance of her life. H.L. is Belinda's only lineal heir.² Upon her death, H.L. will receive the balance of the trust, subject to some limitations until he reaches the age of twenty-five. If Belinda's parental rights were terminated, H.L. would not inherit through the trust.³

On October 29, 2007, the court entered an order terminating Belinda's parental rights pursuant to Iowa Code sections 232.116(1)(b), (d), (e), (f), and (j) (2007).

II. Standard of Review

We review termination of parental rights de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Grounds for termination must be proved by clear and convincing evidence and our primary concern is the child's best interests. *Id.*

III. Merits

On appeal, Belinda contends the evidence does not support termination under any of the sections listed by the juvenile court. Because we find statutory grounds for termination under section 232.116(1)(f), we need not address the arguments pertaining to the other statutory grounds listed by the court. *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) ("When the juvenile court

² Because Belinda is forty-seven years old and imprisoned until at least 2009, she contends that H.L. will remain her only lineal heir.

³ The trust proceeds would then go to Belinda's sister via intestate succession. This sister, the maternal aunt who has agreed to adopt H.L., claims that she would use these funds to set up a separate trust for H.L.

terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm.”).

Section 232.116(1)(f) provides that parental rights can be terminated if the State proves by clear and convincing evidence that the child is four years of age or older; the child has been adjudicated CINA; the child has been removed from the physical custody of his parents for at least twelve of the last eighteen months or for the last twelve consecutive months and any trial period at home has been less than thirty days; and there is clear and convincing evidence that at the present time the child cannot be returned to the custody of his parents as provided in section 232.102. Belinda concedes there is sufficient evidence to establish each of these elements. Her only claim is that termination is not in H.L.’s best interests.

The best interests of a child are to be determined by looking at the child’s long-range as well as immediate interests. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990). We are to consider what the future likely holds for the child if that child is returned to his or her parents. *Id.* at 493-94. Insight for that determination can be gained from evidence of the parent’s past performance because such performance may be indicative of the quality of the future care that parent is capable of providing. *Id.* at 494.

Belinda claims that H.L.’s short term needs are satisfied through the efforts of her sister and brother-in-law. She also argues that H.L.’s long term interests would not be served if he lost his ability to inherit from the trust.

We disagree. Waiting for Belinda's release and readiness to be a mother does not advance H.L.'s long-range or immediate best interests. As noted by the district court, Belinda's testimony at trial indicates she

has little empathy for [H.L.'s] feelings and will continue to advance her own interests and risk those of her child. As of now, it is clear that on her release—if in fact that occurs before [H.L.] turns eighteen—she will attempt to have [H.L.] returned to her custody, whatever his best interest may be.

H.L. should not be forced to endlessly await the maturity of his mother. See *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). Furthermore, “[a] child’s safety and the need for a permanent home are now the primary concerns when determining a child’s best interests.” *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially). H.L. deserves permanency now. Termination would facilitate an adoption into a family that can meet his needs on a daily basis. We will not forestall this termination simply because the termination would jeopardize a future inheritance. The importance of living the rest of his childhood years in a loving and permanent home far outweighs the potential cost of losing his claim to a \$140,000 inheritance.

The State has provided clear and convincing reasons for termination and shown that termination is in the child’s best interest. Accordingly, we affirm the juvenile court’s ruling terminating Belinda’s parental rights.

AFFIRMED.