

IN THE COURT OF APPEALS OF IOWA

No. 8-098 / 07-2137
Filed February 13, 2008

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

**M.M.L., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

A mother appeals from the juvenile court's order terminating the parental
rights to her child. **AFFIRMED.**

Michael M. Lindeman, Cedar Rapids, for appellant mother.

David Nadler, Cedar Rapids, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Lance J. Hereen,
Assistant County Attorney, for appellee State.

John Jacobsen, Cedar Rapids, for minor child.

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

HUITINK, P.J.

M.M.L., a mother, appeals from the juvenile court's order terminating the parental rights to her child, S.L. We affirm.

I. Background Facts and Proceedings

On June 18, 2006, the Iowa Department of Human Services (DHS) received a report that S.L. had two suspicious bruises on her face and neck. On June 19, 2006, S.L. was removed from parental custody and placed in foster family care pursuant to a temporary ex parte removal order because of the unexplained bruises, domestic violence between M.M.L. and S.L.'s father, unstable housing, M.M.L.'s associations with inappropriate persons, and S.L.'s severe dental decay and poor hygiene. DHS issued a founded report for "denial of critical care, failure to provide proper supervision," listing the parents as the responsible parties. On June 20, 2006, the State filed a child in need of assistance (CINA) petition under Iowa Code sections 232.2(6)(b) (physical abuse or neglect) and (c)(2) (lack of supervision) (2005). On July 14, 2006, the juvenile court adjudicated S.L. CINA under these sections.

At the permanency hearing on June 12, 2007, the juvenile court ordered the State to file a termination of parental rights petition. On August 7, 2007, the State filed a petition under sections 232.116(1)(d) and (f) (2007). After a two-day hearing, the juvenile court terminated M.M.L.'s parental rights to S.L. under section 232.116(1)(f) on December 7, 2007.

On appeal, M.M.L. claims (1) insufficient evidence exists to terminate her parental rights under section 232.116(1)(f) because she demonstrated knowledge of proper parenting skills and has the support of family to raise S.L.

and (2) termination is not in S.L.'s best interests. She also claims she should have been allowed some unsupervised visitation with S.L.

II. Standard of Review

We review a juvenile court's decision to terminate a parent's rights de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Although we are not bound by the juvenile court's factual findings, we give them weight. Iowa R. App. P. 6.14(6)(g). Our primary concern is the best interests of the child. *In re R.C.*, 523 N.W.2d 757, 760 (Iowa Ct. App. 1994). The State must prove the statutory grounds for termination by clear and convincing evidence. *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989).

III. Adequacy of Services

Initially, we address M.M.L.'s argument that she should have been allowed some unsupervised visitation with S.L. Reasonable services must be provided in an attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). Reasonable efforts include a visitation arrangement designed to facilitate reunification while protecting the child from the harm responsible for the removal. *In re M.B.*, 553 N.W.2d 343, 345 (Iowa Ct. App. 1996). The nature and extent of visitation is controlled by the best interests of the child. *Id.*

Although "[M.M.L.] has been able to provide appropriate supervision to [S.L.] during her fully supervised visits," the juvenile court found "[v]isits did not expand to semi-supervised [or unsupervised] due to [M.M.L.] not having appropriate housing." The record includes abundant evidence supporting these

findings of fact, and we adopt them as our own. Therefore, we conclude unsupervised visitation between M.M.L. and S.L. was not appropriate.

IV. Sufficiency of Evidence

We next address M.M.L.'s argument that insufficient evidence exists to terminate her parental rights under section 232.116(1)(f). Under section 232.116(1)(f), the juvenile court may terminate a parent's rights if all of the following exist:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's 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.
- (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

The juvenile court's findings of fact include the following:

[S.L.] has been in foster family care since June 2006. She is six years of age. She has been adjudicated as being a Child in Need of Assistance. She was placed in foster family care due to suspected physical abuse and supervision concerns. The June 2006 incident regarding bruising was founded for denial of critical care, lack of adequate supervision and names both parents as responsible for the abuse. Neither parent has a safe and stable home. Neither parent is employed. . . . [M.M.L.] continues to have a relationship with [D.D.], the father of her other child. . . . [D.D. is under investigation in S.L.'s abuse case and another child's abuse case.] [S]o there are ongoing concerns about [M.M.L.'s] ability to protect [S.L.] from exposure to inappropriate persons. [S.L.] has special needs of her own, including a diagnosis of selected mutism and ADHD.

We agree. The evidence cited by the juvenile court indicates S.L. cannot be returned to parental custody without the risk of further adjudicatory harm. We

therefore conclude sufficient evidence exists to terminate M.M.L.'s parental rights to S.L. under section 232.116(1)(f).

V. Best Interests

In addition to meeting the statutory requirements, termination must be in the best interests of the child. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). Therefore, termination is not mandatory upon finding the requisite statutory elements. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996). Section 232.116(2) provides the juvenile court must "give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child." According to our supreme court,

[t]he best interests are to be determined by looking at the child's long range as well as immediate interests. The court is to consider what the future likely holds for the child if the child is returned to the parent[.]. Insight for that determination is to be gained from evidence of the parent[']s past performance, for that performance may be indicative of the quality of future care the parent[.] [is] capable of providing. Case history records are entitled to much probative force when a parent's record is being examined.

In re S.N., 500 N.W.2d 32, 34 (Iowa 1993). Finally, temporary or long-term foster care is not in the child's best interests when the child is adoptable. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995).

The juvenile court's findings of fact include the following:

The concerns that were present at the beginning of this case continue to remain concerns. [M.M.L.] has not demonstrated an ability to make safe decisions to insure that she and her daughter can live in safe conditions, that she can appropriately address [S.L.'s] mental health needs and keep her safe from harm. There are ongoing concerns that she would expose [S.L.] to inappropriate persons. [M.M.L.] continues to maintain a relationship with [C.L.'s] father, who . . . has been determined by the Department of Human

Services to be inappropriate to be around [S.L.]. [M.M.L.] still does not have safe and stable housing, is not financially stable and continues to maintain a relationship and associate with inappropriate persons. [S.L.] is an adoptable child with treatable medical needs. [S.L.] will continue to need to be closely monitored by the University of Iowa to continue to make progress developmentally, socially and academically. Her current foster family fully understands those needs and would like to adopt her. The Court finds that it is in [S.L.'s] best interests to terminate parental rights. Additional time would not alleviate the continuing concerns. Thus, it is the decision of the Court that the child's need for permanency, security, safety and physical and intellectual health dictate that it is in her best interest to have parental rights terminated.

We, for the same reasons, conclude termination is in S.L.'s best interests. We have carefully considered all of the remaining issues raised on appeal and find they are controlled by the foregoing and are without merit.

AFFIRMED.