

IN THE COURT OF APPEALS OF IOWA

No. 8-167 / 08-0085
Filed March 14, 2008

**IN THE INTEREST OF D.B. and T.B.,
Minor Children,**

**D.R.B., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Susan Flaherty,
Associate Juvenile Judge.

A mother appeals the termination of her parental rights. **AFFIRMED.**

Thomas Viner of Hallberg, Jacobsen, Johnson & Viner, P.L.C., Cedar
Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Kelly Kaufman, Assistant
County Attorney, for appellee State.

Edward Crowell, Mt. Vernon, for appellee father.

Cory Speth, Cedar Rapids, for minor children.

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

VAITHESWARAN, J.

Denise appeals the termination of her parental rights to D.B., born in 1997, and T.B., born in 2000. She contends (1) “the court erroneously concluded that the State proved that the children cannot be returned to the custody of the children’s parents,” (2) “the court erroneously concluded that the State proved that the parents have not maintained significant contact with the children during the previous six months and have made no reasonable efforts to resume care of the children despite being given opportunity to do so,” and (3) “the State did not prove that it was in the best interests of the children to terminate [her] parental rights.”

As a preliminary matter, we note that the juvenile court only terminated Denise’s parental rights pursuant to Iowa Code § 232.116(1)(f) (requiring proof of several elements including proof children could not be returned to parent’s custody). To the extent Denise raises other statutory grounds for termination, those grounds will not be addressed, as they were not a basis for termination.

On our de novo review of the record, we agree with the juvenile court that the children could not be returned to Denise’s custody. Denise struggled with an addiction to crack cocaine. In 2006, the Department of Human Services sought to have the children temporarily removed from Denise’s care based on tests that indicated D.B. was exposed to cocaine.¹ The juvenile court granted the request.

Following the children’s removal, Denise complied with some of the Department’s expectations but not others. On the one hand, she exercised supervised visitation with the children fairly regularly and exhibited good

¹ An older child who is not the subject of this appeal was also exposed to cocaine.

parenting skills during the visits. On the other, she did not comply with protocols for substance abuse treatment and testing. For example, a Department social worker testified that Denise was unsuccessfully discharged from a treatment program in May 2007, tested positive for cocaine in May and August 2007, and missed several drug tests.

Denise also missed the termination hearing, after requesting and obtaining a postponement of the originally scheduled date. At the hearing, a Department social worker testified “Denise has not shown that she’s able to care for . . . any of the . . . children on a full-time basis.” Although she conceded Denise looked and sounded better in the recent past and her house was clean, she stated the main concern remained her drug abuse. A family therapist who supervised visitation seconded this opinion. She noted that Denise’s visits with the children were “still fully supervised.” Based on this testimony, we agree with the juvenile court that the children could not be returned to Denise’s custody.

We also agree with the court that termination was in the children’s best interests. Ten-year-old D.B. was doing well in foster care and her grandmother was taking steps to adopt her. T.B. was in a psychiatric medical inpatient care facility based on “several behavioral/mental health diagnos[e]s.” He was expected to remain there for some time. While both children shared a bond with their mother, she was simply not in a position to assume their care. As the juvenile court stated, “the future of these children cannot be pinned to nothing more than wishful thinking.”

We affirm the termination of Denise’s parental rights to D.B. and T.B.

AFFIRMED.