

IN THE COURT OF APPEALS OF IOWA

No. 8-382 / 08-0491
Filed May 29, 2008

**IN THE INTEREST OF T.V. and A.S.,
Minor Children,**

**A.S.-A., Mother,
Appellant,**

**B.V., Father,
Appellant.**

Appeal from the Iowa District Court for Lee (South) County, Gary R. Noneman, District Associate Judge.

A mother appeals from the order terminating her parental rights to one of her children. **AFFIRMED.**

Curtis Dial, Keokuk, for appellant mother.

Steven Swan of Swan & Associates Law Office, Keokuk, for appellant father of T.V.

Steven Westercamp, Farmington, for father of A.S.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Michael Short, County Attorney, and David Andrusyk, Assistant County Attorney, for appellee State.

Kendra Abfalter, Keokuk, for minor children.

Considered by Vogel, P.J., and Mahan and Zimmer, JJ.

ZIMMER, J.

A mother appeals from part of a juvenile court order that terminated her parental rights to two of her four children. She contends termination of her parental rights to one of her daughters was not in the child's best interests. Upon our de novo review, we affirm the decision of the juvenile court.

Amy is the mother of Tiffany, born in 1999, and Alexis, born in 2001.¹ Brandon is the father of Tiffany, and Gary is the father of Alexis. This appeal concerns only the termination of the mother's parental rights to Alexis.²

Alexis was removed from her mother's home in 2002 because Amy was not providing proper supervision and care for her children. The State filed a child in need of assistance (CINA) petition on October 29, 2002.³ Amy did not contest the allegations of the petition, and Alexis was adjudicated as a CINA. Alexis was placed in foster care in November 2002. Extensive efforts were made to return Alexis to her mother's care; however, these efforts failed because of Amy's lack of effort and irrational behavior.

In August 2004 Alexis was placed with her father. However, this placement failed in January 2006. After a brief placement with relatives, Alexis was returned to her initial foster parents' care. After further efforts to return Alexis to her father's care proved unsuccessful, the juvenile court ordered that

¹ Amy also has two younger children who are not the subject of this termination appeal.

² Tiffany is a child with many special needs. Amy acknowledges that Tiffany's best interests require continued placement with her foster parents.

³ Initially, Alexis and Tiffany remained in their mother's care with services including a requirement that they stay at a women's shelter until Amy obtained adequate and safe housing for herself and the children. However, Amy left the shelter without the permission of the Iowa Department of Human Services and a pick up order resulted. Additionally, an arrest warrant was issued for Amy's contempt of court. In late November 2002 the children were picked up by the sheriff's department at a trailer park and placed in a temporary foster care home.

the permanency goal for Alexis be modified to termination of parental rights and adoption.

The State filed a petition to terminate Amy's and Gary's parental rights to Alexis on January 3, 2008. The juvenile court held a contested termination hearing on February 28, 2008. At the hearing, an Iowa Department of Human Services (Department) worker testified that Alexis could not safely be returned to her mother's care because the mother had not been consistent with services and she had not been consistent with visiting Alexis. The child's guardian ad litem agreed with the Department's conclusion that it was in Alexis's best interests to terminate Amy's and Gary's parental rights to Alexis.

In an order filed March 13, 2008, the juvenile court terminated Amy's and Gary's parental rights to Alexis pursuant to Iowa Code section 232.116(1)(f) (2007) (child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home).⁴ Only Amy filed a timely appeal.⁵

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the child's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). Even when the statutory grounds for termination are met, the decision to terminate parental rights must

⁴ The court also terminated Amy's and Brandon's parental rights to Tiffany.

⁵ Gary did not file a notice of appeal in this case. Brandon filed a motion requesting additional time to file a notice of appeal; however, our supreme court denied that motion on April 28, 2008.

reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

In this appeal, Amy contends the State failed to prove that termination of her parental rights is in the best interests of Alexis. Upon our review of the record, we find no merit in the mother's argument.

Amy argues her parental rights should not be terminated because she has grown up and has significantly improved her parenting skills. She argues that because she is currently parenting two younger half-siblings of Alexis, she can parent Alexis as well. For the reasons which follow, we disagree.

At the time of the termination hearing, Alexis was almost seven years old. Amy has not parented Alexis in over five years. Despite being offered numerous reasonable services, Amy failed to demonstrate she could become an adequate parent for Alexis in a timely fashion. Her participation in services and visitation has been erratic. Although Amy's circumstances and parenting skills have apparently improved to the point that she is able to care for her two younger children, they have not improved sufficiently for Amy to provide Alexis with the stability that she needs.⁶ We agree with the juvenile court's conclusion that Amy's "behavior at the critical times of Tiffany's and Alexis's CINA cases and her

⁶ As noted by the juvenile court, improvement came only lately, following another CINA proceeding for Amy's younger daughter. The court noted that Amy's stability was due in part to her marriage to Eduardo and living with her parents. The court stated:

Their family's economic and social stability remains under a serious cloud, however, because of [Eduardo's] undocumented . . . immigration status. Furthermore, Amy's gains are of a relatively short term duration. She is still proving her ability to parent the two children in her care; there is no reason to feel assured that she could competently handle dealing with Alexis who has been out of her care for over [five] years

sporadic relationship with the children since then does not suggest any current fitness to deal with these children or their problems.” We also agree with the juvenile court’s conclusion that placing Alexis in Amy’s care could jeopardize Amy’s ability to care for her younger two children.

During the five years that Amy has failed to parent Alexis, Alexis has become bonded to her foster family. She has been integrated into the foster home, and the foster home wants to adopt Alexis. Alexis clearly wants to become a permanent member of her foster family.

When a parent is incapable of changing to allow a child to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). This child deserves stability and permanency, which her mother cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). We agree with the juvenile court’s finding that termination of Amy’s parental rights is in the child’s best interests. Accordingly, we affirm the juvenile court’s decision to terminate Amy’s parental rights.

AFFIRMED.