

IN THE COURT OF APPEALS OF IOWA

No. 8-386 / 08-0601
Filed June 11, 2008

**IN THE INTEREST OF A.P., K.K., and A.P.,
Minor Children,**

**M.P., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Karla J. Fultz,
Associate Juvenile Judge.

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

Edward W. Bull of Bull Law Office, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Faye Jenkins,
Assistant County Attorney, for appellee.

George Arvidson, Des Moines, for father S.F.

Jason Hauser, Des Moines, for father M.A.

Kimberly Ayotte, Youth Law Center, Des Moines, guardian ad litem for
minor children.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

SACKETT, C.J.

Monique, the mother of Andrew, Kira, and Ania, appeals from the juvenile court order terminating her parental rights to all three children. She contends termination is not in the children's best interest and termination of her parental rights to Andrew is unnecessary because he is placed with his father. We affirm.

Andrew, born in 1997, and Kira, born in 2002, were removed from Monique's care in September of 2004 after Andrew reported his mother was using drugs. The children were returned to Monique's care in February of 2006 "so long as she remained in the residential treatment facility." Ania was born in June of 2006. Shortly after Monique's successful completion of treatment in November, the children were removed from her care, but would be returned to her care when she returned to residential treatment. Upon her unsuccessful discharge from the treatment facility, the children were again placed in foster care. The possibility of placing Andrew with his father in Oregon was investigated.

Following a termination hearing in February of 2008, the court terminated Monique's parental rights to all three children. The court placed Andrew with his father and kept Kira and Ania in foster care pending adoption. The court found returning the children to Monique's care would be contrary to their welfare and would subject them to further adjudicatory harm. It also found allowing additional time for Monique to pursue reunification was not in the best interest of the children.

Our review of termination orders is de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002). Although we give weight to the juvenile court's factual findings, we are not bound by them. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001).

On appeal, Monique does not challenge the statutory grounds for termination. She contends instead that termination of her parental rights is not in the best interest of the children and that the court should have exercised its discretion not to terminate her parental rights to Andrew because he was placed with his father.

Iowa Code section 232.116(3)(a) (2007) gives the court discretion not to terminate a parent's rights in certain circumstances, including when the child has been placed with a relative. The juvenile court found in declining to terminate Monique's parental rights to Andrew that not to terminate would subject him "to the uncertainty that reviews and possible requests for his custody would cause if a guardianship were entered under 232.104(2)(d)." We cannot say the court abused its discretion in terminating Monique's parental rights to Andrew. Unfortunately in terminating her rights the court has also cut off Monique's duty to provide financial support for Andrew leaving his father as his sole source of financial support.

Safety and the need for a permanent home are the primary concerns when determining a child's best interests. *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially). We have indicated that a good predictor of the future conduct of a parent is to look at the parent's past conduct. *In re C.C.*, 538 N.W.2d 664, 666 (Iowa Ct. App. 1995). Monique has repeatedly demonstrated she is unable to provide a safe, permanent home for her children.

She was given additional time to work toward reunification, but was unsuccessful. After considering the long-range as well as the immediate interests of these children, we affirm the termination of Monique's parental rights to these three children.

AFFIRMED.