

IN THE COURT OF APPEALS OF IOWA

No. 8-964 / 08-1655
Filed December 31, 2008

**IN THE INTEREST OF Q.R. and J.G., JR.,
Minor Children,**

**S.R., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Joe E. Smith, District Associate Judge.

A mother appeals from the order terminating her parental rights to her two sons. **AFFIRMED.**

Nichole Miras Mordini of Davis, Brown, Koehn, Shors & Roberts, P.L.C., Des Moines, for appellant.

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

Michelle Saveraid, Des Moines, guardian ad litem for minor children.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

SACKETT, C.J.

Twenty-two year old S.R., the mother of Q.R., born in January of 2007, and J.G., born in February of 2008, appeals from the juvenile court order terminating her parental rights.¹ She contends the evidence was insufficient to prove (1) reunification was not possible and (2) termination was in the best interest of the children. We affirm.

I. Background

S.R. was involved in an abusive relationship with J.G.'s father in 2007 and 2008. In late 2007 she left Q.R. in his care while she did Christmas shopping. Q.R. was injured while in his care, suffering three ruptured vertebrae and a collapsed lung. Q.R. was removed from S.R.'s care in December and found to be in need of assistance in February of 2008. The court removed J.G. from S.R.'s care the day after his birth and found him to be in need of assistance in March. Both children were placed in the care of relatives, where they remained throughout these proceedings.

In May of 2008, following several months of services to S.R. with little progress, the State sought termination of her parental rights under Iowa Code sections 232.116(1)(a) (consent), (b) (abandonment), (d) (uncorrected circumstances leading to abuse or neglect), (e) (failure to maintain a significant and meaningful relationship), (h) (child cannot safely be returned to parent), and (i) (uncorrected danger of abuse or neglect) (2007). A contested hearing was held on September 2. In an order filed October 3, the court concluded S.R. did

¹ The court also terminated the parental rights of the children's fathers, but they are not at issue in this appeal.

not have an intent to abandon the children, but further concluded the State proved the statutory grounds for termination under sections (d), (e), (h), and (i). The court terminated S.R.'s parental rights on those grounds.

II. Scope and Standards of Review

We review termination proceedings de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Although we are not bound by them, we give weight to the trial court's findings of fact, especially concerning the credibility of witnesses. Iowa R. App. P. 6.14(6)(g); *In re M.M.S.*, 502 N.W.2d 4, 5 (Iowa 1993). The State has the burden of proving the grounds for termination by clear and convincing evidence. *In re T.A.L.*, 505 N.W.2d 480, 483 (Iowa 1993); see, e.g., Iowa Code §§ 232.116(1)(e)(3), (h)(4), (i)(3). When the juvenile court terminates parental rights on more than one statutory ground, we need find evidence to terminate under only one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

III. Merits

A. *Clear and convincing evidence.* S.R. contends there is insufficient evidence to terminate her parental rights under any of the statutory grounds cited by the juvenile court. Under Iowa Code section 232.116(1)(h) the court may order termination if:

The court finds that all of the following have occurred:

- (1) The child is three years of age or younger.
- (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 six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

There is no dispute the first three elements are satisfied. S.R. argues the children can be returned to her custody and she was ready, willing, and able to care for them. We find clear and convincing evidence in the record before us the children could not be returned to S.R.'s custody at the time of the termination hearing. The juvenile court properly terminated her parental rights on this statutory ground. Therefore, we need not address the other statutory grounds cited by the juvenile court.

B. Best Interest. S.R. contends termination of her parental rights is not in the best interest of the children. She argues the court should have declined to terminate her parental rights because it would be detrimental to the children due to the closeness of the parent-child relationship. See Iowa Code § 232.116(3)(c).

We do not find evidence of a close parent-child relationship between S.R. and her younger son, so the court properly declined to exercise its discretion not to terminate her parental rights. Although there is evidence of a closer bond between S.R. and her older son, we do not find evidence it is such that the juvenile court should have declined to terminate S.R.'s parental rights under this section. In addition, when we consider the children's safety and need for a permanent home as "the primary concerns" in determining the children's best interest, we conclude termination of S.R.'s parental rights to Q.R. and J.G. serves their interest. See *J.E.*, 723 N.W.2d 801 (Cady, J., concurring specially).

AFFIRMED.