

IN THE COURT OF APPEALS OF IOWA

No. 9-008 / 08-1968
Filed February 4, 2009

**IN THE INTEREST OF A.A., A.A., A.H., and O.H.,
Minor Children,**

T.A., Mother,
Appellant,

A.A., Father of A.A. and A.A.,
Appellant.

Appeal from the Iowa District Court for Polk County, Louise Jacobs,
District Associate Judge.

A mother and father appeal from the order terminating their parental
rights. **AFFIRMED.**

Katherine Daman of Powell Law Firm, P.C., Norwalk, for appellant mother.
Terri Jo Rekemeyer of Rekemeyer Law Office, Baxter, for appellant father.
Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Christina Gonzalez,
Assistant County Attorney, for appellee State.

Eric Anderson, West Des Moines, for minor children.

Considered by Mahan, P.J., and Miller and Doyle, JJ.

MAHAN, P.J.

Tamara appeals the district court's order terminating her parental rights to her thirteen-year-old daughter, A.H., her eleven-year-old son, O.H., her nine-year-old son, A.A., and her seven-year-old daughter, A.A. Armando appeals the district court's order terminating his parental rights to A.A. and A.A. We affirm.

I. Background Facts and Proceedings.

A.A. and A.A. are the children of Tamara and Armando. A.H. and O.H. are the children of Tamara and Oscar.¹ Tamara and Oscar were married in 1995, and they divorced in 1999. Tamara and Armando were married in 2001, and Tamara left Armando shortly after their youngest child was born. The children were removed from Tamara's care on July 20, 2007, with the removal confirmed on July 27, 2007, due to instability, domestic violence, and sexual and physical abuse. The children were adjudicated children in need of assistance (CINA) on August 14, 2007, continuing custody of the children with the Iowa Department of Human Services (DHS) with placement in foster care.

On September 11, 2008, the State filed a termination petition. A contested hearing was held in October 2008. The district court found clear and convincing evidence supporting termination of Tamara's and Armando's parental rights pursuant to Iowa Code sections 232.116(1)(d), (e), and (f) (2007). By order dated November 25, 2008, Tamara and Armando's parental rights were terminated. They now appeal.

¹ Oscar's parental rights to A.H. and O.H. were also terminated, but he does not appeal.

II. Scope and Standard of Review.

We review termination of parental rights de novo. *In re Z.H.*, 740 N.W.2d 648, 650-51 (Iowa Ct. App. 2007). Grounds for termination must be proved by clear and convincing evidence. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Our primary concern is the best interests of the children. *Id.*

III. Issues on Appeal.

A. Tamara's Parental Rights.

Tamara argues the State failed to prove the grounds for termination under section 232.116(1)(f).² Under section 232.116(1)(f), parental rights may be terminated if the court finds by clear and convincing evidence (1) the child is age four or older, (2) the child has been adjudicated in need of assistance, (3) the child has been removed from the home for a period of at least twelve of the last eighteen months, and (4) the child cannot be returned to the parents at the time of hearing. Tamara contends the State failed to prove by clear and convincing evidence that the children would suffer adjudicatory harm if returned to her care.

Tamara claims the only reason for the adjudication of the children was the sexual abuse of two of the children by her one of her paramours. She contends the State did not present evidence the children would be sexually or physically abused if returned to her care. The record and Tamara's testimony, however, indicate a number of additional reasons for the removal, including domestic violence, instability, and failure to provide safety for the children. The children

² Tamara incorrectly cites this section as Iowa Code section 232.116(1)(h) in her brief.

had twice previously been removed from Tamara's care.³ There had also been reports of child abuse that were founded.

Tamara was offered remedial services through DHS after receiving driving while intoxicated and child endangerment charges in December 2005. After the CINA proceedings, Tamara received additional services to address her parenting deficits. Services offered to Tamara included mediation, substance abuse evaluation, drug screens, individual and group therapy, family team meetings, psychosocial evaluation, domestic violence group therapy, and family foster care.

Tamara claims all issues had been resolved by the time of the termination hearing. The district court noted, however, that Tamara's honesty has been questioned throughout these proceedings and "one cannot always trust what Tamara says." Tamara's dishonesty and lack of sound judgment have made it impossible to determine whether she has good insight as to how her violent relationships and lack of stability affect the lives of her children. Tamara's poor decisions put her children in dangerous and fearful situations. The children witnessed many domestic violence situations between Tamara and her past paramours. The children witnessed Tamara being stabbed, were present in a vehicle Tamara drove while a paramour hung out the window and fractured his shoulder, and were sexually abused. Furthermore, the record shows a discrepancy as to whether Tamara continues to be involved with one of these violent men.

Although Tamara reported she had been employed for the last six months prior to the termination hearing, she has shown instability in housing and

³ These removals took place in 2002 when the family lived in Illinois.

employment. She has moved many times in Iowa and Illinois, and has also resided in Idaho. The past year in foster care was the first year the children have spent an entire year in one school. The district court noted that Tamara's continuous moves make it difficult to believe Tamara understands the children's need for stability.

Although Tamara has accessed services and has made efforts to complete the responsibilities prescribed by DHS, the district court determined it was "not enough to make a superficial effort and not do the genuine hard work to make changes." Tamara lacks the parenting skills and insight necessary to care for her children. She continues to put herself and her relationships before the needs of her children. The children are not a priority in Tamara's life and returning them to her home is not an option. The record clearly shows Tamara's inability to provide a safe and stable environment for the children.

"To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence." *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Clear and convincing evidence supports termination of Tamara's parental rights under section 232.116(1)(f).⁴

⁴ Tamara further argues the State failed to prove the grounds for termination under sections 232.116(1)(d) and (e). We have already determined that clear and convincing evidence supports termination of Tamara's parental rights under section 232.116(1)(f). Because we find statutory grounds for termination under section 232.116(1)(f), we need not address the arguments pertaining to the other statutory grounds supporting termination by the district court or by Tamara on appeal. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) ("When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm."). We therefore decline to address these issues and affirm the district court.

B. Armando's Parental Rights.

Armando argues the State failed to prove the grounds for termination under Iowa Code section 232.116(1)(e) because he was not given the opportunity to maintain contact with the children. Under section 232.116(1)(e), parental rights may be terminated if the court finds by clear and convincing evidence (1) the child has been adjudicated in need of assistance, (2) the child has been removed from the home for a period of at least six consecutive months, and (3) the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. Section 232.116(1)(e) defines what contact with the child is sufficient:

"[S]ignificant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

Iowa Code § 232.116(1)(e)(3).

Although Armando claims he wishes to be a part of the children's lives, he has not made an effort to establish or maintain significant and meaningful contact with them. Armando has not been a significant part of the children's lives since his relationship with Tamara ended in 2001. Tamara ended the relationship due to domestic violence, and she prevented Armando from seeing the children for safety reasons. Armando had only seen A.A. and A.A. a few times in the two

years before the termination hearing. The court determined that “Armando has yet to establish a place of importance in the children’s lives.”

Armando has been slow to complete even the initial steps to be accomplished before progressing to visitation. DHS recommended that he first write an apology letter to the children. Armando did so just one week before the termination hearing. Furthermore, Armando has not shown insight into domestic violence and how it has affected his life and the lives of his children. It is unclear from the record whether Armando has fulfilled the DHS recommendation that he see a therapist. Armando was to complete these steps in order to begin visits with the children, but he failed to do so.

Although Armando has expressed an interest in having the children in his care, we agree with the court that Armando has not made a genuine effort to complete the responsibilities prescribed by DHS. He did not maintain significant and meaningful contact with the children during the six months prior to the termination hearing. We find clear and convincing evidence supports termination of Armando’s parental rights.⁵

IV. Conclusion.

The children have been through years of turmoil and uncertainty. They have been out of the care of their parents for more than one year. The children need and deserve stability and consistency, which they cannot find with Tamara or Armando, and it is unlikely they will be able to find it with Tamara or Armando

⁵ Armando further claims the State failed to prove the grounds for termination under sections 232.116(1)(d) and (f). We have already determined that clear and convincing evidence supports termination of Armando’s parental rights under section 232.116(1)(e); therefore, we need not address Armando’s arguments pertaining to the other statutory grounds supporting termination by the district court. See *In re S.R.*, 600 N.W.2d at 64.

in the future. We are convinced the children's best interests are served by terminating Tamara's and Armando's parental rights and placing the children in a safe and stable home.

AFFIRMED.