

IN THE COURT OF APPEALS OF IOWA

No. 9-167 / 09-0094
Filed March 26, 2009

**IN THE INTEREST OF K.L.S., B.A.M.,
H.J.M., and I.R.M.,
Minor Children,**

**J.S.M., Mother,
Appellant.**

Appeal from the Iowa District Court for Union County, Monty W. Franklin,
District Associate Judge.

A mother appeals from the district court's order terminating her parental
rights to her four children. **AFFIRMED.**

Carol A. Clark of Clark Law Office, Lamoni, for appellant mother.

Diana Rolands, Osceola, and Ronald Kepford, Winterset, for appellee
father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Timothy R. Kenyon, County Attorney, for appellee State.

Todd Nielsen of Steffes, Kenyon & Nielsen, P.C., Creston, for minor
children.

Considered by Vogel, P.J., and Vaitheswaran and Eisenhauer, JJ.

VOGEL, P.J.

Jamie appeals from the district court's order terminating her parental rights to K.S. (born in 1999), H.M. (born in 2002), I.M. (born in 2003), and B.M. (born in 2004) pursuant to Iowa Code section 232.116(1)(f) (2007).¹ She challenges the sufficiency of the evidence. We affirm.

We review termination of parental rights cases de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Jamie's parental rights to all four children were terminated pursuant to section 232.116(1)(f) (child is four years or older, has been adjudicated in need of assistance, removed from the home for at least twelve of the last eighteen months, and cannot be returned home). The only dispute regarding termination under this subsection is whether the children could have been returned to Jamie's care at the time of the termination hearing.

In May 2007, the Iowa Department of Human Services (DHS) became involved with Jamie and the children due to the physical abuse of K.S. by Jamie's live-in boyfriend and domestic abuse in the home. The children were removed from Jamie's care and placed in foster care. For the following year, Jamie only sporadically visited the children. She did not follow through with the numerous services she was offered. Additionally, she was unable to maintain stable housing as she moved approximately ten to thirteen times and was, at times, homeless.

¹The district court terminated the mother and fathers' parental rights pursuant to Iowa Code sections 232.116(1)(a), (b), (e), and (f). However, the district court detailed in its factual findings that the mother's parental rights were terminated pursuant to section 232.116(1)(f) and the fathers' parental rights were terminated pursuant to sections 232.116(1)(a), (b), (e), and (f). We note the fathers' parental rights are not at issue in this appeal.

On March 19, 2008, Jamie was admitted to a residential treatment program, but left the program on March 28 and although she returned the following day, she ran from the facility and was officially discharged on April 30, 2008. Following her discharge from the program, Jamie moved in with a former boyfriend, Patrick, who she had not seen for seven years, and failed to contact DHS workers for a month.

Since June 2008, Jamie has maintained supervised visitation with the children once a week for two hours. During these visits, Jamie has been unable to properly supervise the children and to implement appropriate parenting techniques. Therefore, she has been unable to progress past supervised visitation. Jamie has also remained in a relationship with Patrick, but the relationship is described by DHS workers as a “rocky relationship.”

Throughout her involvement with DHS, Jamie has been dishonest with workers, including misrepresenting her employment situation and mental health treatment. A DHS worker testified that workers “have struggled with Jamie and her truthfulness throughout the whole case.” Further, workers remained concerned about Jamie’s stability as she has been unable to maintain consistent employment or housing. The worker stated that Jamie had been offered all of the services DHS had available, yet she did not place the needs of the children above her own. Upon our review of the record, we agree with the district court that the children cannot be safely returned to Jamie’s care.

K.S., H.M., B.M., and I.M. have done well in foster care, where their needs are being met. A DHS worker testified that the children were initially bonded with Jamie, but that bond had diminished over time. Rather, the children “are

attaching more to their foster parents to make sure their needs are being met and to feel safe.” At the time of the termination hearing, the children had been in foster care for a year and a half and Jamie was unable to resume care of the children, either then or in the foreseeable future. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) (“At some point, the rights and needs of the children rise above the rights and needs of the parents.”). A DHS worker testified that the children “are kind of confused about what is going on” and are in need of permanent placement. Therefore, we find that termination of Jamie’s parental rights is in K.S., H.M., B.M., and I.M.’s best interests. See *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (stating children’s safety and their need for a permanent home are the defining elements in determining a child’s best interests).

AFFIRMED.