

IN THE COURT OF APPEALS OF IOWA

No. 9-206 / 09-0213
Filed April 8, 2009

**IN THE INTEREST OF T.S.-R.,
Minor Child,**

P.R., Mother,
Appellant.

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

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

Nancy Pietz, Des Moines for appellant mother.

Robert Luedeman, Windsor Heights, for appellee father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Cory McClure,
Assistant County Attorney, for appellee State.

Charles Fuson and Kimberly Ayotte of Youth Law Center, Des Moines, for
minor child.

Considered by Sackett, C.J., and Potterfield and Mansfield, JJ.

POTTERFIELD, J.**I. Background Facts and Proceedings**

T.S.-R. came to the attention of the Iowa Department of Human Services (DHS) due to allegations that her father, Rick, had sexually abused her half-brother. T.S.-R, age four, lived with her mother, father, and two older half-brothers.¹ One of her half-brothers consistently and credibly reported abuse, though his mother, Paula, reportedly did not believe such reports. Rick's children from another relationship previously had alleged that he had sexually abused them. In dealing with those allegations, DHS and Paula made safety plans that instructed Paula to call DHS if any of her children mentioned abuse by Rick. However, Paula made no efforts to protect T.S.-R. or either of her two half-brothers from possible sexual abuse. T.S.-R. was temporarily removed from the home on October 5, 2007, and was placed in DHS custody on October 11, 2007. The child has remained in pre-adoptive foster care since removal from the parents' custody. Rick was ordered not to have contact with T.S.-R. The child was adjudicated a child in need of assistance on November 5, 2007.

Three months later, Paula still lived with Rick and had not found employment. She failed to demonstrate any motivation to make the changes necessary to be reunited with T.S.-R. At the time of the review hearing on June 3, 2008, the DHS caseworker believed that Paula still lived with Rick. Paula missed a number of visits with the child and was not involved in therapy.

By August 2008, Paula was employed full-time and was attending individual therapy. She was scheduled to visit her children three times per week.

¹ Rick was the father of T.S.-R., but not of her two half-brothers.

Her attendance at therapy and visitations was inconsistent. This inconsistency continued throughout the remainder of the case. Paula moved out of Rick's home and has moved several times since leaving his residence.

The State filed a petition to terminate Paula's parental rights to T.S.-R. on October 8, 2008. The child's guardian ad litem supported the State's position that Paula's parental rights should be terminated. After a hearing, the juvenile court terminated Paula's parental rights on January 29, 2009, pursuant to Iowa Code section 232.116(1)(d) and (f) (2007).² Paula appeals, arguing: (1) the juvenile court erred in terminating her parental rights on the above-listed grounds; (2) termination of her parental rights is not in the best interests of her child; and (3) the juvenile court erred when it did not grant a permanency extension pursuant to Iowa Code section 232.104(2)(b).

II. Standard of Review

We review a 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 child. *Id.*

III. Termination of Parental Rights

Though the juvenile court terminated Paula's parental rights on two statutory grounds, we need only find that termination is appropriate on one ground to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

We agree with the juvenile court that clear and convincing evidence supported termination of Paula's parental rights pursuant to section

² Paula's parental rights to T.S.-R. are the only rights at issue in this case.

232.116(1)(f). This section provides that termination is appropriate when: (1) the child is four years of age or older; (2) the child has been adjudicated a child in need of assistance; (3) the child has been removed from the physical custody of the parent for the last twelve consecutive months; and (4) there is clear and convincing evidence that the child cannot be returned to the parent's custody at the present time. Iowa Code § 232.116(1)(f). The first three elements are not disputed.

As to the fourth element, the State presented clear and convincing evidence that T.S.-R. cannot be returned to Paula's custody at this time. Paula has demonstrated a lack of motivation throughout the proceedings of this case. She did not begin therapy until August 2008, and her attendance has been inconsistent. She testified that she had attended therapy only once or twice in the two months leading up to the termination hearing, stating that she forgot about appointments or got the dates mixed up. She participated in DHS services and visitation inconsistently, failing to recognize the effect that her inconsistency had on her child.

There is also some concern as to Paula's current living situation. The family consultant providing visitation services for Paula informed Paula that it would be in the child's best interests if visitation could take place in Paula's home. Paula responded that she did not feel comfortable having her visits in the apartment in which she lived because it was not hers. She currently lives with five other people and would not allow DHS to inspect her living arrangement.

Paula's lack of motivation and consistency suggest that the child will not be able to be returned to Paula's care within the next six months. The DHS

caseworker assigned to this case testified that Paula “has not consistently kept up a good relationship with [the child] with regard to visitation.” Further, the caseworker stated she saw no indication that the situation would change in the coming three months. The family consultant providing visitation services for Paula testified she did not see a possibility of improvements within the next six months because of Paula’s inconsistency. “Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable.” *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). Paula has failed to demonstrate constant and reliable parenting. “A parent does not have an unlimited amount of time in which to correct his or her deficiencies.” *In re H.L.B.R.*, 567 N.W.2d 675, 677 (Iowa Ct. App. 1997).

The DHS caseworker found that T.S.-R. had successfully integrated into her foster home. Her foster parents have expressed a willingness to adopt T.S.-R. and make regular efforts to maintain the child’s contact with her half-brothers. T.S.-R.’s foster parents have provided a stable environment for her. The child needs this stability and permanency, which Paula cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993).

We find that the juvenile court properly terminated Paula’s parental rights pursuant to section 232.116(1)(f) and that termination was in the child’s best interests. “It is simply not in the best interests of children to continue to keep them in temporary foster homes while the natural parents get their lives together.” *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). Further, we find that the juvenile court did not err in declining to grant a permanency extension.

AFFIRMED.