

IN THE COURT OF APPEALS OF IOWA

No. 9-360 / 09-0234
Filed May 29, 2009

**IN THE INTEREST OF I.M.J., M.B.J., and T.R.W.,
Minor Children,**

**K.B.J., Mother,
Appellant.**

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,
District Associate Judge.

A mother appeals from the order terminating her parental rights to three
children. **AFFIRMED.**

Sue E. Kirk of Honohan, Epley, Braddock & Brenneman, Iowa City, for
appellant.

Thomas J. Miller, Attorney General, Kathryn S. Miller-Todd, Assistant
Attorney General, Janet Lyness, County Attorney, and Kristin Parks, Assistant
County Attorney, for appellee.

Noelle Murray, Coralville, for father.

L. Jay Stein of Stein, Moore, Egerton & Weideman, L.L.P., guardian ad
litem for minor children.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

SACKETT, C.J.

Katti, the mother of Isis, Matthew, and Trinity, appeals from the juvenile court order terminating her parental rights to all three children.¹ She contends there is not clear and convincing evidence that the offer or receipt of services would not correct the conditions that led to the removal within a reasonable amount of time and the court should have declined to order termination after finding that a strong bond existed between her and the children. We affirm.

Scope of Review. Our review of termination-of-parental-rights proceedings is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). We review the facts and the law and adjudicate rights anew. *In re H.G.*, 601 N.W.2d 84, 85 (Iowa 1999). We give weight to the juvenile court's factual findings but are not bound by them. *In re E.H., III*, 578 N.W.2d 243, 248 (Iowa 1998).

The parent-child relationship is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S. Ct. 549, 554, 54 L. Ed. 2d 511, 519 (1978); *Wisconsin v. Yoder*, 406 U.S. 205, 233, 92 S. Ct. 1526, 1542, 32 L. Ed. 2d 15, 35 (1972). When the juvenile court terminates a parent's rights, we affirm if clear and convincing evidence supports the termination under the cited statutory provision. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). The State has the burden of proving the allegations by clear and convincing evidence. "Clear and convincing evidence" is evidence leaving "no serious or substantial doubt about the correctness of the conclusion drawn from it." *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002) (quoting *Raim v. Stancel*, 339 N.W.2d 621, 624 (Iowa Ct.

¹ The father does not appeal the termination of his parental rights.

App. 1983)). If the juvenile court terminates parental rights on multiple statutory grounds, we may affirm if any ground is supported by clear and convincing evidence. See *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

Background. Isis was born in May of 2005. Matthew was born in April of 2007. They were removed from Katti's care in June of 2007 after the father assaulted her in late May, resulting in bruises and three cracked ribs. The court placed the children with their maternal grandparents. In July, the court found the children were in need of assistance. In September, the court returned Isis and Matthew to Katti's custody on the condition that she and the children reside with Katti's parents. Katti was to have no contact with the father, but he was allowed supervised visitation with the children.

Trinity was born in March of 2008. The parents married a few days later. Trinity was removed from Katti's care upon Trinity's release from the hospital two weeks after her birth. She was placed in foster care. The court found her in need of assistance in May.

After a permanency hearing in September, the court found the children could not safely be returned to the care of either parent. The State then filed petitions to terminate both parents' parental rights. Following a contested hearing on January 12, 2009, the court filed its order on January 29, terminating both parents' rights under Iowa Code sections 232.116(1)(h) and (i) (2007).

Statutory Grounds for Termination. Katti contends there is not clear and convincing evidence supporting termination under section 232.116(1)(i). She does not challenge the termination under section 232.116(1)(h). We find

clear and convincing evidence supports all the elements of section 232.116(1)(h) and affirm the termination of Katti's parental rights on that ground.

Parent-child Bond. Katti contends the court erred in ordering termination "after finding that a strong bond existed between her and the children." See Iowa Code § 232.116(3). This claim is unsupported by the evidence or by the court's decision. The court made no finding that *any* bond existed between Katti and the two older children. Katti did not seek such a finding by way of a post-trial motion to amend or enlarge. The court found that "Katti also recognizes that Trinity is not attached to her." Iowa Code section 232.116(3) is permissive, not mandatory. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The juvenile court has the discretion to apply this section and not terminate parental rights based on the circumstances before it and the best interests of the children. *Id.* From our de novo review of the record, we find no basis for refusing to terminate Katti's parental rights based on the closeness of the parent-child relationship because no close relationship exists.

AFFIRMED.