

**IN THE COURT OF APPEALS OF IOWA**

No. 9-401 / 09-0517  
Filed June 17, 2009

**IN THE INTEREST OF M.C., P.C., and S.C.,  
Minor Children,**

**M.V.C., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Franklin County, Peter B. Newell,  
District Associate Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Michael J. Cross, Hampton, for appellant mother.

Randy Johansen, Hampton, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Brent Symens, County Attorney, and Daniel F. Wiechmann Jr.,  
Assistant County Attorney, for appellee State.

Larry Johnson of Walters & Johnson, Iowa Falls, for minor children.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

**DOYLE, J.**

A mother appeals from the termination of her parental rights to three of her children. Upon our de novo review, we affirm.

***I. Background Facts and Proceedings.***

M.V.C. is the mother and J.C. is the father of eight children. Their three youngest children, M.C. (born May 1991), P.C. (born March 1999), and S.C. (born October 2001), are the subjects of these termination proceedings.<sup>1</sup>

The children came to the attention of the Iowa Department of Human Services (Department) in February 2008 after the family's pastor reported that M.C. told him her father had sexually abused her. The pastor reported that M.C. stated that she told her mother about the abuse, but her mother did not believe her. M.C. also stated that she was worried about what might be happening to S.C. The children were removed from their parents' home and placed in family foster care.

The children were interviewed by St. Luke's Hospital Child Protection Center on February 12, 2008. M.C. again reported she had been sexually abused by her father and that she told her mother about the abuse, but her mother was not sure what to do. Additionally, M.C. stated that she had also been sexually abused by her brother J.L.C. Both P.C. and S.C. reported they had been sexually abused by J.L.C. S.C. stated that she told her mother about J.L.C.'s abuse and her mother told her to "push him or something like that."

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<sup>1</sup> This appeal concerns only M.V.C.'s parental rights. J.C. has not appealed from the termination of his parental rights.

On February 14, 2008, the State filed petitions alleging M.C., P.C., and S.C. to be children in need of assistance (CINA). On March 4, 2008, the court entered its order adjudicating the children CINA. The mother was granted visitation with the children.

The father ultimately pled guilty to indecent contact with a child stemming from M.C.'s abuse and received five years probation. J.L.C. admitted to sexually abusing his sisters and received services. J.L.C. continued to reside with the mother, though the mother made efforts to have J.L.C. placed in another home. There were allegations that the father continued to live with the mother.

On August 26, 2008, a hearing was held on the State's request that the juvenile court make a finding that aggravating circumstances existed such that the Department was relieved from its responsibility to make reasonable efforts to reunify the children with their parents. The Department's caseworker testified she had not previously dealt with such a severe case of sexual abuse and stated it would take years of therapy before these children could be safely placed back in the paternal home in her estimation. The caseworker expressed some misgivings about the mother's willingness to acknowledge the extent and nature of the abuse and about the amount of control that the father exercised over the mother. The caseworker testified that the mother was unwilling to participate in individual therapy to address issues of protecting her children from sexual abuse. The caseworker testified that the children were making progress in foster care, but the children acted out after visitations with the mother. G.C. and M.V.C.M., two of the parents' adult daughters not subject to these proceedings, testified that they had been abused by their father as children and that their mother knew

about the abuse. The mother testified that she could protect her children and take care of them, and that she would not allow the father contact with them. She further testified she never stated she did not believe the children had been abused or refused to participate in therapy.

On October 21, 2008, the juvenile court entered its order finding aggravating circumstances existed and waiving the requirement of the Department to make reasonable efforts to reunify the children with their parents. The court found that in the parents' household, the father had over a period of more than ten years sexually abused three of his daughters. The court found the parents' son J.L.C. had sexually abused his three younger siblings. The court found the sexual abuse was not minor or isolated; it was pervasive and longstanding in nature, and the latest sexual abuse involved all three children with multiple perpetrators. The court found the children and their parents would require extensive counseling to address these issues. The court therefore concluded that the State established by clear and convincing evidence that the offer or receipt of services would not correct the conditions that led to the abuse or neglect of the children within a reasonable period of time.

On January 9, 2009, the State filed petitions to terminate the parents' parental rights to M.C., P.C., and S.C. Following a hearing, the court entered an order on March 29, 2009, terminating the mother's parental rights to the children pursuant to Iowa Code sections 232.116(1)(f) & (i) (2009). The court concluded:

These children have been the victims of sexual abuse and physical abuse. The sexual abuse that has been perpetrated in this family is horrific. [The father] has had sex with two of his biological daughters. [The mother] was aware that her husband had sex with one of her daughters and did not protect her other children from this

predator. In fact, it is clear in the year 2000, these children were living apart from [the father]. [The mother] and these children were residing in the Republic of Mexico, and [the father] was in Minnesota. [The mother] brought the children to [the father] and provided such lax supervision that she allowed both her husband and her son to sexually abuse [M.C.]. She also allowed her son, [J.L.C.], to sexually abuse [M.C., S.C.], and to a lesser extent [P.C.].

During the initial investigation of the report of sexual abuse in the home, both [G.C. and M.V.C.M., two of the parents' adult daughters,] made numerous statements indicating that their mother had knowledge of the abuse that was occurring in the home. The mother has denied this. The court has also received reports that after [the father] was arrested, that [the mother, G.C., and M.V.C.M.] made statements indicating that they did not believe these reports of sexual abuse. The mother has again denied that she has ever questioned her children's statements of abuse.

Even if the mother is to be believed, that she was unaware that three of her children were being subjected to sexual abuse, that her daughter, [M.C.], was being sexually abused by both her husband and her son, this mother has utterly failed to protect these children. She is in no position to state that she can in any way keep these children safe. If her testimony is to be believed, all this abuse occurred despite the fact that she knew that her husband had sex with one of her older daughters almost ten years before this current abuse came to light.

. . . .

The abuse that these children have suffered is pervasive. It will require long-term counseling. . . . The damage that [the father] has done to their family is irreversible. [The mother] facilitated the sexual abuse of these children by bringing them back into contact with their father and by failing to protect them.

The mother appeals.

## ***II. Scope and Standards of Review.***

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the children's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). Even when the

statutory grounds for termination are met, the decision to terminate parental rights must reflect the children's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the children's best interests, we look to their long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

### ***III. Discussion.***

On appeal, the mother claims the State failed to employ reasonable efforts to preserve and unify the children with her. Additionally, she contends the State failed to prove by clear and convincing evidence that the abuse posed a significant risk to the life of the children or constituted imminent danger to the children as the children had been removed from the home, and that the offer or receipt of services by the mother would not correct the conditions that led to the abuse or neglect of the children with any reasonable period of time. We address each of the mother's arguments in turn.

#### ***A. Reasonable Efforts.***

The Department has an obligation to make reasonable efforts to reunite parents with children. Iowa Code § 232.102(7). However, the juvenile court may waive reasonable efforts when aggravated circumstances exist. *Id.* § 232.102(12). One such aggravated circumstance is when the court finds the circumstances described in section 232.116(1)(i) are applicable to the child. *Id.* § 232.102(12)(b). Section 232.116(1)(i), also one of the grounds found for terminating the mother's parental rights, requires (1) the child meets the definition of CINA based on a finding of physical or sexual abuse or neglect as a result of the acts or omissions of one or both parents, (2) there is clear and convincing

evidence that the abuse or neglect posed a significant risk to the life of the child or constituted imminent danger to the child, and (3) there is clear and convincing evidence that the offer or receipt of services would not correct the conditions that led to the abuse or neglect of the child within a reasonable time. *Id.* § 232.116(1)(i). In a detailed and well-reasoned ruling, the juvenile court determined such aggravated circumstances exist here. We agree with the juvenile court's conclusions.

M.C. and S.C. both told the Child Protection Center's interviewer that they told their mother about the abuse. Two of the older daughters told Department workers that they had been abused by their father and told their mother of the abuse. The mother admitted the oldest daughter had told her about the sexual abuse. Despite this, the mother continued to reside with the father and allowed the father contact with the children. The mother's claim that she did not know of the abuse is simply not credible. Furthermore, as the juvenile court concluded, even if the mother is believed that she was unaware that three of her children were being subjected to sexual abuse, the mother failed to protect these children. The sexual abuse perpetrated on these children was not minor or isolated; it was pervasive and occurring over many years. M.C. was sexually abused by her father, and all three children were abused by their brother J.L.C. For this amount of abuse to occur over this time period, the mother clearly provided such lax supervision that she allowed both her husband and her son to sexually abuse [M.C.] and her son to abuse P.C. and S.C. Moreover, the children acted out after visits with the mother, and the Department's caseworker testified that the children

would need years of counseling for them to be able to be placed back in their mother's care.

For all of the reasons set forth above, we conclude the juvenile court was correct in finding the State proved by clear and convincing evidence that aggravated circumstances as described in Iowa Code section 232.102(12)(b) exist that justify waiving the requirements for making reasonable efforts to achieve family reunification.

***B. Grounds for Termination.***

The mother next argues the State failed to prove by clear and convincing evidence that the abuse posed a significant risk to the life of the children or constituted imminent danger to the children as the children had been removed from the home, and that the offer or receipt of services by the mother would not correct the conditions that led to the abuse or neglect of the children with any reasonable period of time. These are the second and third elements necessary to establish termination under Iowa Code section 232.116(1)(i), as set forth above. However, the juvenile court terminated the mother's parental rights on two statutory grounds: 232.116(1)(f) & (i). 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). Because the mother does not challenge termination under section 232.116(1)(f), we affirm on that ground.

***IV. Conclusion.***

Because we conclude the juvenile court was correct in finding the State proved by clear and convincing evidence that aggravated circumstances as described in Iowa Code section 232.102(12)(b) exist which justify waiving the



requirements for making reasonable efforts to achieve family reunification, and because the mother does not challenge termination under sections 232.116(1)(f), we affirm the order of the juvenile court terminating the mother's parental rights.

**AFFIRMED.**