

**IN THE COURT OF APPEALS OF IOWA**

No. 9-671 / 09-1016  
Filed September 2, 2009

**IN THE INTEREST OF D.E., J.E., and C.E.,  
Minor Children,**

**C.E., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Carol Egly, District  
Associate Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Victoria Meade, West Des Moines, for appellant mother.

Jason Hauser, Des Moines, for father J.M.

Mark Elcock, Des Moines for father T.C.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Jon Anderson,  
Assistant County Attorney, for appellee State.

Nicole Garbis Nolan of the Youth Law Center, Des Moines, for minor  
children.

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

**MANSFIELD, J.**

C.E. appeals from the juvenile court's order terminating her parental rights to her daughters C.E. (born 2002), J.E. (born 2004), and D.E. (born 2005) pursuant to Iowa Code sections 232.116(1)(d) and (f) (2009).<sup>1</sup> C.E. does not dispute that the statutory grounds for termination have been met, but rather asserts that termination is not in the children's best interests. See *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994) (noting that even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the children's best interests). For the reasons set forth in the following opinion, we affirm.

We review termination of parental rights cases de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). We give weight to the juvenile court's factual findings, but are not bound by them. Iowa R. App. P. 6.904(2)(g); *J.E.*, 723 N.W.2d at 798.

On November 20, 2007, the children were removed from the home based upon founded reports of physical abuse, neglect, and improper supervision. Several days thereafter, the mother, C.E., assaulted an employee of the Iowa Department of Human Services (DHS) in the presence of the three children, resulting in a criminal assault charge against C.E. On December 18, 2007, the children were adjudicated to be children in need of assistance under Iowa Code sections 232.2(6)(b) and 232.2(6)(c)(2). Following the hearing, the children were placed in the custody of the DHS for purposes of foster care placement.

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<sup>1</sup> The juvenile court also terminated the parental rights of C.E.'s unknown putative father, J.E.'s father, and D.E.'s father, which are not at issue in this appeal.

On January 14, 2008, a disposition hearing confirmed the three daughters to be children in need of assistance and adopted a case permanency plan to eventually allow the children to safely return home with C.E. At this time, DHS offered C.E. multiple services designed to help reduce or eliminate the problems present in the home, including numerous child protective assessments, bus tokens, drug screens, referrals for psychiatric, psychological and drug treatment services, family team meetings, therapy for the children, Early Access service referrals, and treatment at House of Mercy.

By November 18, 2008, C.E. had impressed people with her commitment to making positive changes in her life. She had acknowledged a substance abuse problem and was undergoing treatment for it. She had moved into the House of Mercy. As a result, the State recommended that C.E. be given another six months to reunite with her children. However, shortly before a permanency hearing scheduled for January 14, 2009, C.E. injured one of her daughters by grabbing her, causing her to hit her head. This prompted the State to change its recommendation and to file a petition to terminate C.E.'s parental rights.

Termination of parental rights hearings were held in early March 2009 at which time the juvenile court granted C.E. two and a half more months to work toward reunification. The court also entered an extensive order outlining what needed to occur to return custody of the children to C.E. This order included a provision that C.E. should remain at the House of Mercy to continue to improve her parenting skills.

From March until May 2009, C.E. was inconsistent in her parenting and compliance with House of Mercy rules. These issues came to a head during a

visitation with the children on May 18, 2009. At that time, the children damaged and threw books and magazines in the library while C.E. sat at a computer. Also, later that evening, resident staff members of House of Mercy entered C.E.'s room when they heard C.E. yelling at the children. A meeting was arranged between C.E. and the director of the program to discuss these matters and other concerns. Following this meeting, C.E. chose to leave the House of Mercy.<sup>2</sup>

As C.E. left House of Mercy, she was approached and reminded by her long-time family safety, risk, and permanency worker that the only way she could maintain custody of her children was to remain a resident of the House of Mercy, and that her parental rights would be terminated. Despite these warnings, C.E. elected to leave and moved in with her aunt.

A joint termination and permanency hearing was held on June 4, 2009. Twelve days later, the juvenile court terminated C.E.'s parental rights.

In determining whether parental rights should be terminated, our primary concern is the best interests of the children. *In re S.O.*, 483 N.W.2d 602, 604 (Iowa 1992). The defining elements are the children's safety and the need for a permanent home. *J.E.*, 723 N.W.2d at 802 (Cady, J., concurring specially).

We must reasonably limit the time for parents to be in a position to assume care of their children because "patience with parents can soon translate into intolerable hardship for the children." *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) (quoting *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987)). It is simply not in the best interests of children to force them to wait for responsible parenting. *In re*

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<sup>2</sup> C.E. denies that she left voluntarily; however, the juvenile court found otherwise, and based on our independent review, we agree with its finding.

*L.L.*, 459 N.W.2d 489, 495 (Iowa 1990); see also *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995) (discussing that temporary or even long-term foster care is not in a child's best interest, especially when the child is adoptable). "At some point, the rights and needs of the child rise above the rights and needs of the parents." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997).

C.E. was given approximately nineteen months to demonstrate her ability to care for her three children. Although she was able to make progress for short periods of time, C.E. was unable to sustain any changes. C.E. does not have employment or housing. According to her own testimony, it would take her up to forty-five days at this time to find employment and housing. Further, C.E. acknowledges that without employment and housing, it is not in the children's best interests to be returned to her:

Q. Do you believe that it is in the best interest of your children that they be returned to your care at this time? A. By me not having a stable place, to say -- I'm going to sit there and say no, because I don't have a place to sit right there and stay.

C.E. has also failed to make the changes necessary to provide her children a safe and stable home. Further, an opportunity to change and improve her parenting was lost when she voluntarily left House of Mercy with the knowledge that the program was necessary to regain custody of her children.

C.E. is unable to provide the structure and consistency the children need in order to be safe and reach their full potential. Thus, we conclude termination is in the children's best interests.

We affirm the thorough decision of the juvenile court.

**AFFIRMED.**