

IN THE COURT OF APPEALS OF IOWA

No. 9-872 / 09-1355
Filed November 12, 2009

**IN THE INTEREST OF K.S.,
Minor Child,**

**F.R., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, Mary Howes, Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Jack E. Dusthimer, Davenport, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Michael J. Walton, County Attorney, and Gerda Lane, Assistant County Attorney, for appellee State.

Barbara Wallace, Davenport, for minor child.

Considered by Sackett, C.J., and Vaitheswaran and Danilson, JJ.

DANILSON, J.

A mother appeals the district court order terminating her parental rights to thirteen-year-old K.S. We affirm.

I. Background Facts and Proceedings.

K.S. and her younger sister, L.S.-R., were removed the mother's care on February 11, 2008.¹ The removal was necessitated by the mother's inability to safely care for the children as a result of her mental illness and excessive use of alcohol. K.S. was adjudicated a child in need of assistance on May 7, 2008, pursuant to Iowa Code sections 232.2(6)(c)(1) and (2). Since January 2008, the mother has had at least several episodes involving alcohol in which she became extremely violent and was unable to provide appropriate care and supervision for K.S. The mother's mental health problems include hallucinations, hearing voices, paranoia, and confusion as to her identity and her children's identities. In February 2008, the mother was involuntarily committed at the request of her sister and brother-in-law. She was diagnosed with schizophrenia and is currently on medication that helps control her severe mental health problems.

The mother has been arrested several times since K.S.'s removal: In February 2008, she faced assault charges for an assault on her sister, and in August 2008, she faced prostitution charges when she was trying to get money to buy alcohol. As the mother admitted, "I needed something to numb it, and I had only a certain amount of money on me, and I needed to drink for the next couple of days." Thereafter, she accepted a recommendation by the Center for

¹ This court affirmed the termination of the mother's parental rights with regard to L.S.-R. in *In re L.S.-R.*, No. 09-0208 (Iowa Ct. App. April 22, 2009).

Alcohol and Drug Services, Inc. that she enter the Scott County Jail Based Treatment Program. The mother successfully completed the program and was released in late December 2008. The mother entered a half-way house in January 2009, but relapsed within a few weeks. In April 2009, the mother relapsed again and was discharged from the program. She was allowed back into the program with numerous restrictions, but relapsed again in May 2009, and was hospitalized for “suicidal ideations.”

The termination hearing was held in two parts on June 4, 2009, and August 6, 2009. Following the first part of the hearing on June 4, 2009, the mother went to Chicago for several days. She was intoxicated when she returned from Chicago and was placed in a detox program. Throughout June 2009, the mother cancelled several visits with K.S., and failed to complete a recommended twenty-one-day inpatient treatment program. There is also evidence in the record that the mother was hospitalized in June 2009 for panic or anxiety attacks.

On August 25, 2009, the court entered an order terminating the mother’s parental rights pursuant to Iowa Code sections 232.116(1)(b), (f), (g), and (i) (2007).² She now appeals.

II. Scope and Standard of Review.

We review 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

² K.S.’s father was not a party to these proceedings. The court terminated any parent-child relationship between K.S. and the father.

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. Merits.

The mother does not dispute the State proved the grounds for termination by clear and convincing evidence. Rather, she requests additional time to improve her parenting skills and resume care of the child.

The mother's mental health and substance abuse issues have existed since she was a teenager. She is now thirty-nine years old. The record indicates the mother is now being treated by a psychiatrist and regularly takes medication for her mental health problems. However, the mother has not consistently and sufficiently accessed services offered to her, nor has she demonstrated significant improvement over nearly eighteen months of services. As the court stated:

She still has a long way to go and her recent period of sobriety was obviously caused in part by her incarceration. She was unable to successfully complete or maintain sobriety on her own. [The mother] has no stable living arrangement and no employment. She has not yet sustained a period of mental health or substance abuse free living that would justify placing [K.S.] in her care at this time.

[K.S.] is 13 years old and thus has a bond with her mother that her younger sister, who was removed as an infant, did not have time to develop. She loves her mother and cares about her but does not want to be in her custody. Unfortunately, she knows firsthand what disruption [her mother's] substance and abuse and mental health issues can cause in family life. [The mother] continues to have substance abuse relapses. She reports she no longer hears voices and understands the importance of aftercare and her medication, which is commendable. However, her long history of mental illness, violent history of substance abuse and criminal charges mean she has a long way to go still before providing a safe environment for [K.S.].

There continue to be major concerns about the mother's history of alcohol abuse, severe mental health issues, accountability, relapse, treatment failures, and lack of responsibility for the trauma she has caused to K.S. The mother has a troubling history of exposing K.S. to inappropriate persons, alcohol, violence, and criminal activity. As the court noted, the mother "understates and underestimates the pain and disruption she has caused [K.S.] by her problems." K.S. has lived in family foster care since February 2008. K.S.'s younger sister, L.S.-R., also lives in the same foster home, and the sisters share a strong bond. The mother's parental rights to L.S.-R. were terminated earlier this year. Despite facing the termination of her parental rights of yet a second child, and after the termination hearing had begun but not concluded, the mother was again intoxicated and failed an inpatient treatment program.

Although the mother requests additional time to repair the deficiencies in her parenting, K.S. should not be forced to endlessly await the maturity of her mother. See *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). Past performance of a parent may be indicative of the quality of future care the parent is capable of providing. *In re C.W.*, 554 N.W.2d 279, 283 (Iowa Ct. App. 1996). We are convinced K.S.'s interests are best served by terminating the mother's parental rights and continuing K.S.'s placement in a safe and stable home. The record clearly supports the finding that the mother is unable to provide a safe environment for K.S., and returning K.S. to her home is not an option. There is no reason to further delay K.S. the permanency she needs and deserves.

The mother also raises several arguments with regard to the court's admission of hearsay evidence. We have reviewed these claims and find them to be without merit.

Looking at long-range and immediate interests, we conclude termination is in the best interests of the child. See *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

AFFIRMED.