

IN THE COURT OF APPEALS OF IOWA

No. 9-882 / 09-1346
Filed November 25, 2009

**IN THE INTEREST OF J.K., W.K., III and D.K.,
Minor Children,**

**G.H.K., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, Christine Dalton Ploof, District Associate Judge.

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

Lauren M. Phelps, Bettendorf, for appellant mother.

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

Martha Cox, Davenport, for minor children.

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

VAITHESWARAN, J.

A mother appeals the termination of her parental rights to three of her children, born in 2000, 2001, and 2003. She contends (1) termination was not in the children's best interests because of the bond they shared with her and the bond the children shared with each other, (2) the grounds for termination were not satisfied, (3) the Department of Human Services did not make reasonable efforts to secure safe and affordable housing, and (4) she was denied due process because reasonable accommodations were not made for her mental illness. Our review of these issues is de novo. Iowa R. App. P. 6.907 (2009).

I. The ultimate consideration in a termination proceeding is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

There is no question that the mother shared a close bond with the children. The department's case manager conceded this fact stating, "Definitely you can see the bond. Gladys loves the boys and the boys love Gladys. You see that at visits."

Despite this bond, there were obstacles to reunification. The mother had a history of problems relating to the care of her children that spanned a decade, involved more than one state welfare agency, and culminated in the termination of her parental rights to three other children. These problems included a failure to properly supervise the children and denial of critical care. In a report to the court, the department noted a "high level for future maltreatment continues to exist" given the mother's dependence on sometimes inappropriate individuals for housing and financial assistance.

The mother's caretaking issues were compounded by her mental health diagnoses for which she received only sporadic treatment until four months before the termination hearing. Her instability affected the older two children, who exhibited behavioral issues that required therapy. As the case manager testified, "There have been problems with [the mother] being able to control the visits and the boys taking her direction at visits, especially the extended visits of four hours." In sum, a confluence of factors rendered the mother unable to have the children returned to her care despite the strong bond she shared with them. See Iowa Code § 232.116(1)(f)(4) (2009).

We recognize the mother's situation was only partially of her own making. Specifically, she had conditions that impeded her efforts to secure employment but were deemed insufficiently disabling to qualify her for Supplemental Security Income benefits. This left her without a source of income to independently support herself and her family. Nonetheless, at least one of the statutory criteria for termination was satisfied and there was a real risk that the children's welfare would be affected if they were returned to her care. For these reasons, we conclude termination served the children's best interests.

We turn to the bond among the siblings. While the youngest child was separated from the two older children for a period of time, that circumstance changed in January 2009 when the youngest child joined his older siblings in their foster home. Accordingly, we conclude severance of the sibling bond is not an issue.

II. The mother asserts that "[t]he court did not have clear and convincing evidence that [she] could not resume parenting her children at the time of the

hearing or with a reasonable time; and so the conditions for termination under 232.116(f) or (k) were not satisfied.”¹ As noted, the evidence described above supports termination under Iowa Code section 232.116(1)(f) (requiring proof of several elements including proof that the child “at the present time . . . cannot be returned to the custody of the child’s parents”).

III. The mother argues the department did not make reasonable efforts to help her secure affordable housing. On our de novo review, we find that the department engaged in some efforts to assist her with housing, but these efforts were unavailing. For example, the case manager testified that a department employee offered the mother a “once in a lifetime” \$500 payment from an emergency assistance program, but the record reflects this sum would have been insufficient to cover periodic rent payments. The case manager also testified the mother did not follow through with the department’s efforts to secure state public assistance for families, but the record reveals the mother was ineligible for this assistance without the children in her care. In short, we question the efficacy of the department’s efforts to assist the mother with obtaining housing.

With that said, the department furnished a number of other services, including weekly supervised visits, parent skills training, and therapy.

¹ The district court also terminated the mother’s parental rights pursuant to paragraph “e” (requiring proof of several elements including proof that the parents have not maintained significant and meaningful contact with the child). The mother does not challenge this ground on appeal. While we could affirm the termination on an unchallenged ground, see *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999), we decline to do so here.

Accordingly, we conclude the department satisfied its reasonable efforts mandate.

IV. The mother finally argues that her due process rights were violated. This issue was not preserved for our review. See *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003) (“Even issues implicating constitutional rights must be presented to and ruled upon by the district court in order to preserve error for appeal.”).

We affirm the termination of the mother’s parental rights to her three children, born in 2000, 2001, and 2003.

AFFIRMED.