

**IN THE COURT OF APPEALS OF IOWA**

No. 9-886 / 09-1430  
Filed November 25, 2009

**IN THE INTEREST OF J.L., S.L., and M.L.,  
Minor Children,**

**C.B.B., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,  
District Associate Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Cory Goldensoph, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, Harold Denton, County Attorney, and Lance Heeren, Assistant  
County Attorney, for appellee State.

Melody Butz, Cedar Rapids, for minor children.

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

**MANSFIELD, J.**

C.B.B. appeals a juvenile court order terminating her parental rights to her children, M.L. (born 1998), J.L. (born 2001), and S.L. (born 2003), pursuant to Iowa Code sections 232.116(e) and (f) (2009).<sup>1</sup> On appeal, C.B.B. asserts the State failed to prove the statutory grounds by clear and convincing evidence. We affirm.

**I. Background Facts and Proceedings**

On August 25, 2002, M.L. and J.L. were removed from C.B.B.'s custody following several founded reports of physical abuse perpetrated on M.L. by his father. On September 10, 2002, M.L. and J.L. were adjudicated to be children in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(c)(2) (2001).

In August 2003, S.L. was born. At that time, J.L. was reported to be wandering unattended in the hospital where C.B.B. gave birth. C.B.B. had no supplies for her newborn, and her apartment was reported to be a health and safety hazard. At that time, C.B.B. voluntarily consented to the placement of J.L. and S.L. with their paternal grandparents. C.B.B. was also battling a drug addiction at that time.

At a review hearing held September 19, 2003, for M.L. and J.L., the permanency goal was established as another planned permanent living arrangement. Thus, M.L. was placed with the Iowa Department of Human Services (DHS) for residential treatment, while J.L. was formally placed into long-

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<sup>1</sup> The father's parental rights were also terminated pursuant to Iowa Code sections 232.116(b), (e), and (f). He has not appealed this determination.

term relative care with her paternal grandparents. In 2005, M.L. moved into long-term foster care.

On October 17, 2003, S.L. was also adjudicated to be a CINA pursuant to Iowa Code section 232.2(6)(c)(2) (2003), and formally placed in the care of his paternal grandparents. On January 19, 2005, the permanency goal for S.L. was also established as another planned permanent living arrangement.

Since 2005, J.L. and S.L. have remained in the care of the paternal grandparents. M.L. has been in foster care. J.L., like her mother, has a hearing disability. J.L. also has a history of behavioral problems, such as pulling her hair out. M.L. has had issues with aggression and sexually acting out. He has been allowed to visit with his siblings but not to stay overnight with them.

On February 21, 2005, a family team meeting was held to discuss a visitation plan for C.B.B. At this meeting, C.B.B. indicated that she wanted to move to Kansas City “to get a fresh start.” Towards the end of the meeting, C.B.B., who is deaf, became upset and stepped out of the room with her attorney and two deaf advocates, but not her translator. While in the hallway, C.B.B. alleges a miscommunication occurred in which she was told by one of her deaf advocates that her parental rights had been terminated, and that she was “never going to get [her] kids back.” However, at the termination hearing in this case, C.B.B. admitted:

Q. Is it possible that [the deaf advocate] was indicating to you that your parental rights were going to be terminated if you moved to Kansas City? A. Maybe. You know, she may have described it that way but, you know, I moved anyway. And my whole goal was to start over and I didn't realize that my parental rights continued. But I do have to admit that there was a lack of

communications in that hallway. It was – I was very upset and I just didn't understand.

C.B.B. claims that if she had understood that her only chance at retaining her children would have required her to stay in Cedar Rapids, she would have done so.

In 2007, having spent time in California, C.B.B. returned to Iowa and learned that her wages were being garnished for child support. C.B.B. states that this is when she realized she still had parental rights. Therefore, in the beginning of 2008, she contacted DHS and requested that visits resume with J.L. and S.L.<sup>2</sup> On May 21, 2008, the juvenile court allowed C.B.B. to resume visitation with the two younger children. Accordingly, DHS offered fully supervised visitations once a month for two hours.

Over the next eight months, C.B.B. only attended four of the offered monthly visitations. C.B.B. stated that her sporadic participation was due to financial and transportation issues. At the time, C.B.B. lived in Ottumwa and the children were residing in Cedar Rapids, approximately two hours away.

In January 2009, C.B.B. said she would be moving to Cedar Rapids. According to her, this was to ensure greater consistency in her visitations. However, on February 9, 2009, visitations were suspended because it had been reported that J.L. threw "tantrums," was "fighting the teachers," "would start destroying things in the house," and acted "out of control" following her visitations with C.B.B. There were also concerns that J.L. was being more defiant and exhibiting more aggressive behaviors, including hitting, biting, and kicking. J.L.'s

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<sup>2</sup> C.B.B. did not request visitation with M.L., whose foster home is located some distance away from Cedar Rapids.

therapist testified that J.L.'s "behavior deteriorates after she has visits with her mother. And the lack of consistency is traumatic for her." J.L.'s behavior improved after the visits were suspended.

A petition for the termination of parental rights was filed by the guardian ad litem on February 26, 2009. All visitations were prohibited pending the outcome of the termination trial.

The case was tried on June 2, 2009 and June 23, 2009. On September 10, 2009, the juvenile court entered an order terminating C.B.B.'s parental rights. C.B.B. has appealed.

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

We review proceedings for the termination of parental rights 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. *Id.* The State must prove the grounds for termination by clear and convincing evidence. *Id.* "Clear and convincing evidence" means there are no serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). In addition, the paramount consideration in termination proceedings is the best interests of the children. *Id.*

## **III. Analysis**

C.B.B.'s parental rights were terminated under Iowa Code sections 232.116(1)(e) and (f) (2009). When the juvenile court terminates parental rights on more than one statutory ground, we need to find termination was proper only under one ground to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). From our de novo review of the record, we find clear and convincing evidence

that at the time of the termination hearing, the children could not be returned to C.B.B.'s custody. Therefore, termination was proper under section 232.116(1)(f).<sup>3</sup>

At the time of the termination hearing, C.B.B. had demonstrated no ability to parent her children. The children had been away from C.B.B.'s custody and care for at least six years, and she had only four visitations with the children in the last four-and-a-half years. In addition, the visitations were shown to be disruptive and harmful to J.L. As her therapist testified, J.L.'s "behavior deteriorates after she has visits with her mother. And the lack of consistency is traumatic for her." Moreover, C.B.B. implicitly recognized that she was not ready to take home her children immediately:

THE COURT: Did I understand you correctly that you're not asking for your children to be returned to you today? A. That's correct. I'm not asking for that.

Furthermore, C.B.B.'s explanation for having not had contact with her children for several years did not pan out at the hearing:

THE COURT: When did you begin paying child support for your three children? A. That was 2003.

THE COURT: Has the child support always been deducted from your Social Security Disability? A. Yes, it has, uh-huh.

THE COURT: Then why were you surprised that you were still paying child support in 2005 [sic]?

Thus, the record shows clear and convincing evidence that the children cannot presently be returned to C.B.B.'s custody.

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<sup>3</sup> Iowa Code section 232.116(1)(f) requires that (1) the children must be four years of age or older, (2) the children have been adjudicated CINA, (3) they have been removed from the physical custody of the parents for at least twelve of the last eighteen months, and (4) there is clear and convincing evidence they cannot be returned to the custody of the parents. There is no dispute that the first three requirements have been met, so the only issue before us concerns section 232.116(1)(f)(4).

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). "[A] child's safety and . . . need for a permanent home [are] the defining elements in a child's best interests." *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially). It is simply not in the best interests of children to force them to wait for responsible parenting. *In re 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).

Due to C.B.B.'s extended absence from her children's lives, C.B.B. acknowledges that her parental bond with her children still needs to be developed.

That's what I'm here for today. I want to develop my bond with my children. That's my goal here. I want to be able to start over and have a better life with my children and, you know, I want to share those types of experiences with my children.

In addition, the children have all gained safety, stability, and permanency during her parental absence. J.L. and S.L. clearly regard the paternal grandparents, who are seeking adoption, as their parents. After careful consideration of the entire record, we conclude it is in the children's best interests to affirm the termination of the parental rights of C.B.B.

We affirm the juvenile court's decision.

**AFFIRMED.**