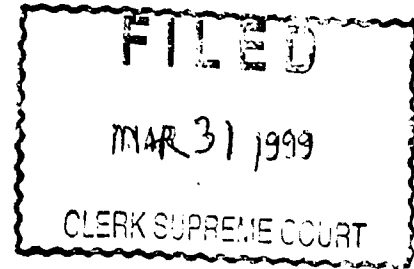


**IN THE COURT OF APPEALS OF IOWA**

No. 1999-10 (9-054) / 98-1621

**IN THE INTEREST OF P.G. and T.G., Children,**  
**L.G., Mother,**  
**Appellant,**

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Appeal from the Iowa District Court for Johnson County, Stephen C. Gerard  
II, District Associate Judge.

The mother appeals the termination of her parental rights. **AFFIRMED.**

Kandie K. Briscoe of Kennedy, Cruise, Anderson & Frey, L.L.P., Iowa City,  
for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney  
General, and Deborah Farmer Minor, Assistant County Attorney, for appellee State.

Amy L. Evenson of Larson & Evenson, Iowa City, for minor children.

Considered by Huitink, P.J., and Mahan, and Zimmer, JJ.

**ZIMMER, J.**

LaVerne, the mother of Paris and Toni, appeals the termination of her parental rights. She claims (1) the State failed to prove the children could not be returned to her care, (2) termination was not in the children's best interest, (3) the court erred in refusing to reinstate visitation after the termination hearing, and (4) the court prejudiced her attempts to regain custody by delaying its decision for nearly a year after the termination hearing. We affirm.

LaVerne is the mother of Paris, born December 17, 1994 and Toni, born March 5, 1996. A routine drug test performed after Toni's birth detected high levels of cocaine in her system. Shortly thereafter, the Department of Human Services removed the children from LaVerne's care. After a review hearing held March 22, the court ordered the children returned if LaVerne tested free of drugs. Days later, she tested positive for cocaine and marijuana. Paris and Toni were adjudicated in need of assistance by stipulation on April 12, 1996.

The children were placed in foster care from March 15, 1996 until August 22, 1996 while LaVerne attempted substance abuse treatment. She relapsed after her early dismissal from treatment. LaVerne entered a second substance abuse treatment program in late June. Paris and Toni eventually were returned to LaVerne as part of a residential treatment program. The children were again removed from LaVerne's care on February 18, 1997 because of her continued drug use and the children's exposure to cocaine. The court also entered a no-contact order.

The Department modified the case permanency plan in March 1997 to require LaVerne not only to abstain from drugs, but to be drug free “a minimum of six months following any type structured program.” LaVerne failed to go to a treatment facility in March. She relapsed and was incarcerated for a probation violation. In June 1997 the Department recommended termination. Three days after LaVerne was transferred to a residential correction facility in Davenport, the court denied her request to have visitation reinstated. The State filed petitions to terminate her parental rights that same day.

The termination hearing was held on October 8, 1997. In May 1998, LaVerne filed a motion to reinstate visitation and a request for a status hearing. On August 10, 1998, the court filed an order terminating LaVerne’s parental rights under Iowa Code sections 232.116(1)(b), (d), (g), (h), and (k). The court also terminated the parental rights of the children’s unknown fathers, and they are not at issue.

We review terminations of parental rights de novo. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). Our primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995). Those best interests are determined by looking at the child's long-range as well as immediate interests. We consider what the future likely holds for the child if that child is returned to his or her parents. Insight for that determination may be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re Dameron*, 306 N.W.2d at 745; *In*

*re T.T.*, 541 N.W.2d 552, 555 (Iowa App. 1995). Case history records are entitled to much probative force when a parent's record is being examined. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993).

On appeal, LaVerne argues (1) the State failed to prove the children could not be returned to her care by clear and convincing evidence, (2) even if the statutory grounds were met, termination was not appropriate, (3) the court erred in refusing to reinstate visitation between the termination hearing and the entry of the court's ruling, and (4) the juvenile court prejudiced her attempts to regain custody by its delay in entering a decision.

When the juvenile court terminates a parent's rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996); *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa App. 1995). This is a case of too little, too late. LaVerne first argues the State filed for termination too quickly, not giving her a chance to comply with the case permanency plan. She had ample time to comply, but either refused or failed. "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). "Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable." *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). To keep children in temporary or even long-term foster homes is not in their best

interests, especially when the children are adoptable. *In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989); *In re T.T.*, 541 N.W.2d 552, 557-58 (Iowa App. 1995).

By the time the Department became involved with these children, LaVerne had been abusing drugs for ten years. During the pendency of this action, she repeatedly attempted treatment without success and relapsed. She now claims her period of incarceration allowed her to evaluate her life, identify her past weaknesses, and vow “to find a way to address those.” At the time the State filed the petitions to terminate her parental rights, LaVerne had been drug free only for four months, the period of her incarceration. She has not demonstrated her ability to address her problems. At some point, the rights and needs of the children rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa App. 1997). The children have waited long enough for stability. We find clear and convincing evidence supports termination of LaVerne’s parental rights.

Second, LaVerne claims termination was not appropriate, even if grounds exist under Iowa Code section 232.116. Even if the statutory requirements for termination are met, the decision to terminate must still be in the best interest of the children. *In re N.H.*, 383 N.W.2d 570, 574 (Iowa 1986); *In re D.W.K.*, 365 N.W.2d 32, 34-35 (Iowa 1985). Iowa Code section 232.116(3) gives the court discretion not to terminate, even if grounds exist, under certain circumstances.<sup>1</sup> LaVerne offers no

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<sup>1</sup> This section provides:

3. The court need not terminate the relationship between the parent and child if the court finds any of the following:
  - a. A relative has legal custody of the child.

substantial proof any of the circumstances listed apply to this situation. She argues she had a bond with her children, but does not claim the bond was so close that severing it would be detrimental to them. We give primary consideration to the physical, mental and emotional condition and needs of the children. *In re J.W.D.*, 456 N.W.2d 214, 217 (Iowa 1990). It has long been recognized the best interests of a child are often not served by requiring the child to stay in "parentless limbo". See, e.g., *Long v. Long*, 255 N.W.2d 140, 146 (Iowa 1977). In this case, the children's well-being requires impediments to their forming new family relationships be swept away. *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990). We conclude the juvenile court did not abuse its discretion in terminating LaVerne's parental rights as in the best interest of the children.

LaVerne next claims the court erred in not reinstating visitation with the children, especially during the long period between the termination hearing and when the order was filed. She argues circumstances in her life changed in that interim and the court should have considered those changes. Other than citing *In re C.W.*, 554 N.W.2d 279, 281 (Iowa App. 1996), for the proposition termination must be in the

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b. The child is over ten years of age and objects to the termination.

c. There is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.

d. It is necessary to place the child in a hospital, facility, or institution for care and treatment and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.

e. The absence of a parent is due to the parent's admission or commitment to any institution, hospital, or health facility or due to active service in the state or federal armed forces.

best interest of the children and is not mandatory even if grounds exist, she cites no authority for her claim visitation should have been reinstated. This argument is without merit.

Finally, LaVerne claims she was prejudiced by the court's delay in deciding this case. The termination hearing was October 8, 1997. Written closing arguments were filed by all attorneys by October 28, 1997. The court issued its decision on August 10, 1998, ten months later. This delay violates the non-mandatory time standards for case processing for juvenile court cases, which give five months from filing to disposition as a guideline. Although unfortunate, such delay is not grounds for reversal.

At the time of the termination hearing, the guardian ad litem advocated that LaVerne be given another opportunity to prove her sobriety, because the children had not established bonds with the foster family. Because of the time which has elapsed since the mother last visited with her children and the children's bonding with their foster family, the guardian ad litem now supports termination in this appeal. Given the circumstances of this case, it is unlikely this court would have reversed the termination, even if the juvenile court had issued its decision from the bench. The only possible claim of prejudice is in our consideration, since the guardian ad litem changed her position. The delay did not affect the court's decision. The guardian ad litem's recommendation, while given weight, is insufficient to demonstrate prejudice.

**AFFIRMED.**