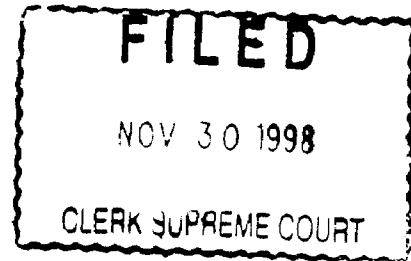


IN THE COURT OF APPEALS OF IOWA

No. 1998-2 (8-602) / 98-1191

IN THE INTEREST OF
M.M., M.M., B.L., and A.L.,
Minor Children.

D.L., Mother,
Appellant.



Appeal from the Iowa District Court for Linn County, Nancy A. Baumgartner,
District Associate Judge.

The mother appeals from a juvenile court order terminating her parental rights.

AFFIRMED.

Charles Nadler of Nadler & Weston, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, and Chris Odell, Assistant Attorney
General, for appellee-State.

Judith Jennings Hoover, Marion, for minor children.

Considered by Sackett, C.J., and Huitink, Streit, Vogel, and Mahan, JJ.

MAHAN, J.

Dana, the mother of Amber, Matthew, Morgan, and Brianna appeals a juvenile court order terminating her parental rights. She contends the juvenile court abused its discretion under Iowa Code section 232.116(3)¹ by refusing to withhold termination of her parental rights to Amber and Matthew based on clear and convincing evidence termination would be detrimental to the children due to the closeness of their relationship. We affirm.

Dana is the mother of Amber, born in August 1984; Matthew, born in September 1987; Morgan, born in March 1989; and Brianna, born in May 1992. Dana's parental rights were terminated as to all four children, but her appeal concerns only the two oldest children. The children were born to different fathers. The fathers have not appealed.

The children have had extensive involvement with both the Iowa Department of Human Services and the juvenile court system, having been the subject of four CINA proceedings since 1988. At the time of the termination, DHS records showed there existed twelve founded reports of child abuse or neglect involving the parents as the perpetrator. The children have been both physically and sexually abused as a

¹ This section provides, in pertinent part:

3. The court need not terminate the relationship between the parent and child if the court finds any of the following:

....
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.

Iowa Code § 232.116(3)(c).

result of an extreme lack of parental supervision.

Dana is a drug addict and used methamphetamine, cocaine, and various prescription medicines. This drug problem severely affected her relationship with Amber and Matthew, with both being exposed to the drugs and witnessing the drugs' effects on Dana. In fact, Dana nearly died of liver failure in 1998 from her intravenous cocaine and methamphetamine use.

The State petitioned to terminate Dana's parental rights. Following a hearing, the district associate judge terminated Dana's parental rights under Iowa Code sections 232.116(1)(d),² 232.116(1)(e),³ and 232.116(1)(k).⁴ The court cited the

² d. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "significant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

Iowa Code § 232.116(1)(d).

³ e. The court finds that all of the following have occurred:

(1) The child is four years of age or older.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

children's needs for permanency, security, and good health as reasons for its decision. The court noted many factors that went into this decision including Dana's severe drug addiction, the continuous neglect of the children, and her simple failure to acknowledge the effect of her lifestyle on the children. The court specifically addressed whether or not termination would be in the children's best interests, concluding it was. *See* Iowa Code §§ 232.116(2); 232.116(3). The court, in determining the children were adoptable, specifically concluded the danger of harm in returning the children to Dana's care far outweighed any negative impact from their being separated in adoption.

We review proceedings to terminate 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

(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Iowa Code § 232.116(1)(e).

⁴ k. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

Iowa Code § 232.116(1)(k).

well as immediate interests. Iowa Code section 232.116(3) states the court “need not” terminate a parent’s rights if it finds termination would be “detrimental to the child at the time due to the closeness of the parent-child relationship.” *Id.* The factors in section 232.116(3) are permissive, not mandatory. *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa App. 1993); *In re J.V.*, 464 N.W.2d 887, 890 (Iowa App. 1990). The court has discretion, based upon the unique circumstances of each case and the best interests of the child, whether to apply the factors in section 232.116(3). *In re A.J.*, 553 N.W.2d 909, 916 (Iowa App. 1996).

On appeal, Dana does not challenge the court’s determination clear and convincing evidence supported termination under Iowa Code sections 232.116(1)(d), (e), and (k). Rather, Dana asserts there is a close parent-child relationship between her and Amber and Matthew. In our de novo review of the record, we do not find clear and convincing evidence of a close parent-child relationship. The only evidence Dana cites to support her claim is her recitation of Amber’s and Matthew’s likes and dislikes, covering about eight pages in the trial transcript. In contradiction to her claim, the State offered testimony from social workers, the court-appointed special advocate, and a service provider on the lack of a mutual relationship and the lack of commitment Dana had to maintaining a relationship with her children. The relationship described by the professionals involved in the case is neither close nor a parent-child relationship. The children are concerned for their mother’s welfare, but demonstrate no particular affection or bonding to Dana. We find no close parent-child relationship. We find termination in the best interests of the children.

Dana also claims, but cites no authority to support her claim, the court abused its discretion in not withholding termination for the period of time necessary for her to obtain inpatient drug treatment. We find no merit in this claim. We also deem it waived for failure to cite or to argue authority in support of the claim. Iowa R. App. P. 14(a)(3).

AFFIRMED.