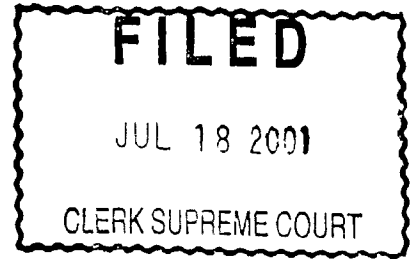


IN THE COURT OF APPEALS OF IOWA

No. 1-226 / 00-1361
Filed July 18, 2001



IN THE INTEREST OF B.M. and C.M., Minor Children,

R.M., Father,
Appellant,

T.C., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Constance Cohen,
District Associate Judge.

Father and mother appeal separately from the juvenile court ruling
terminating their parental rights to their children. **AFFIRMED.**

Matthew M. Boles of Parrish, Kruidenier, Moss, Dunn, Montgomery &
Boles, L.L.P., Des Moines, for appellant-father.

Pamela A. Vandel, Des Moines, for appellant-mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, and Martha Johnson, Assistant County Attorney, for appellee-State.

Kimberly S. Ayotte, Youth Law Center, Des Moines, for minor children.

Heard by Mahan, P.J., and Miller and Vaitheswaran, JJ.

MILLER, J.

The father and mother appeal separately from the juvenile court ruling terminating their parental rights to their two minor children. The father, Rodney, contends (1) the juvenile court's denial of his application to withdraw his consent to the termination of his parental rights based solely on economic circumstances was not in the long term best interest of the children, and (2) the district court erred in terminating his parental rights on a finding Iowa Code chapter 232 does not allow for filing of his revocation of consent to termination more than ninety-six hours after he gave consent. The mother, Tammy, contends that the parent-child relationship between her and her children should not have been terminated because the State did not prove by clear and convincing evidence that the children could not be returned to her custody. We affirm.

I. BACKGROUND FACTS AND PROCEEDINGS

Tammy and Rodney are the parents of Crystal, born January 9, 1990, and Brett, born January 29, 1997. Tammy and Rodney were never married, although they had a relationship of approximately twelve years. This family first came to the attention of the Iowa Department of Human Services (DHS) in early 1998 because Crystal was experiencing difficulties at home and at school. She had attendance, academic and behavioral problems at school and behavioral problems at home. At that point Rodney had apparently been out of the parties' home for about one year.

In April of 1998 a founded child abuse report for denial of critical care was entered against Tammy, with Crystal and Brett as the victims. The incident involved Tammy deliberately driving her car into her brother's house while

intoxicated, with both children in the car. Tammy was arrested and charged with operating while intoxicated. Services were initiated at that point and although Tammy promised she would get involved in treatment she did not follow through with her promise. She made five appointments with Mercy First Step but did not keep any of them. Unfortunately, this was the beginning of a pattern that would repeat itself several times throughout the pendency of this case, with Tammy promising to get treatment for her substance abuse and help with other parenting issues and then failing to follow through.

In June of 1998 a second founded abuse report was entered, again with Tammy as the perpetrator and Crystal and Brett the victims, based on denial of critical care for failure to provide proper supervision and shelter. This incident arose out of Tammy and Crystal fighting, Tammy striking Crystal, and Tammy failing to stop Crystal from leaving the house at approximately 10:00 p.m. The police and child protective investigators were called in the early morning hours by a neighbor who had let Crystal in. They returned Crystal to Tammy's home. The police and the investigator both found the house to be cluttered and unsanitary. The investigator informed Tammy the condition of the home was a health and safety hazard to the children. Tammy was given repeated chances to clean up the home, but made very little progress in doing so.

Around the same time period (early June of 1998) Tammy requested Crystal be enrolled in the PACE program and she was so enrolled. However, Crystal repeatedly missed her sessions there and Tammy was reportedly uncooperative in treating Crystal's head lice as well as in scheduling the in-home counseling component of the program. Crystal also continued to miss an

inordinate amount of school and was receiving non-satisfactory grades in every subject at that time. In addition, Crystal had attended only one appointment with her psychologist, contrary to Tammy's assertions to DHS that Crystal had attended all of them.

The juvenile court adjudicated Crystal and Brett to be children in need of assistance in August of 1998 under Iowa Code sections 232.2(6)(c)(2) and (6)(n) (1997). The court found the children to be at risk of continual denial of critical care due to Tammy's lack of supervision, the poor housing conditions, and the significant history of substance abuse by both parents.¹ The court ordered the children remain in the custody of their mother at that time and adopted the case permanency plan which provided for intensive services to be provided Tammy in order to maintain the family. These services included Generations Incorporated, housekeeping and parent skill development, in-home services from PACE to focus on Crystal and her behaviors, substance abuse treatment including aftercare, and child protective treatment services.

While Tammy completed the intensive outpatient phase at Mercy First Step, she failed to attend outpatient aftercare on a regular basis as ordered. Furthermore, she also failed to follow through with protective day care, the PACE in-home services, and her own therapy. Additionally, despite all these efforts on the part of service providers to help Tammy, she still was unable to get Crystal to school on a regular basis. Crystal's excessive absences impaired her ability to learn and led to her case being referred to truancy court. Accordingly, the

¹ Rodney also had a history of alcohol abuse, intoxication charges, and arrests for domestic abuse.

juvenile court placed the children with their maternal great grandmother as the result of a dispositional hearing held September 30, 1998.

On motion of the guardian ad litem the court returned the children to Tammy's care in mid October. However, by January of 1999 Tammy was still not following through with the court ordered services and failed to appear for a January 4 review hearing, which was then continued to January 19. There was concern the condition of the home was deteriorating. There was evidence Tammy was drinking again, if she had in fact ever stopped. There was concern that Rodney, who had physically abused Tammy in front of Crystal in the past, was often in the home.

Following the January 19, 1999 hearing the court allowed the children to remain in Tammy's custody as recommended by the DHS despite its serious concerns. The court ordered that Tammy follow through with a mental health evaluation and substance abuse treatment; fully cooperate with PACE, the guardian ad litem and family preservations services; verify her aftercare; attend all sessions at Gateway; and arrange appropriate day care. Rodney did not attend the January 19 hearing.

The next review hearing was held March 9, 1999. Rodney did not attend or participate. Although Tammy was still having difficulties, it appeared she was somewhat willing to address her problems and work with the family preservation worker and her therapist. Unfortunately, her cooperation and progress ended up being only minimal and short lived. Tammy was discharged from Gateway for failure to attend any appointments, she failed to provide verification of weekly attendance at AA, and she continued to allow Crystal to miss large amounts of

school without adequate reason. Therefore, in late May 1999 the court placed Crystal and Brett in the temporary custody of DHS for placement in foster care. They have thereafter remained in foster care.

Rodney had not attended any of the court proceedings up to the May review hearing. The court ordered the State to make efforts to locate him and that Rodney make known his intentions in this matter. Rodney was ordered to have no contact with the children except as allowed by the DHS.

After entering foster care Crystal's health and behavior improved, as did Brett's behavior. Crystal began therapy with Sue Gauger in August of 1999. At Ms. Gauger suggestion, visitation between the children and Tammy was terminated until Tammy met with Ms. Gauger and Crystal to work on their issues. Tammy had apparently been making inappropriate comments about "adult issues" related to the court proceedings and reunification services to Crystal during their visits. At one point she told Crystal she needed to tell the judge Tammy was a good mother and that she wanted to go back home.

Tammy was discharged from alcohol abuse outpatient treatment at Mercy First Step for failure to attend appointments. She was referred to and entered a "half-way" treatment program at Bernie Lorenz, but was unsuccessfully discharged in July 1999 for refusing to cooperate with the program. Tammy was to move to the House of Mercy program after completing the Bernie Lorenz program, but House of Mercy refused to allow her into their program until she finished a halfway treatment program. When the caseworker spoke to Tammy regarding a treatment program, Tammy insisted she did not need more treatment and that she would let the judge decide whether she needed to continue. After

being advised by the DHS that her non-cooperation could be the basis for a request that the court waive reasonable efforts and move to termination of her parental rights, Tammy contacted Powell and was to enter that program sometime after August 11, 1999. She testified she completed alcohol treatment at Powell, in late October she thought.

Rodney did not attend an August 24, 1999 review hearing. However he had requested visitation and had been referred to EFR for a substance abuse evaluation, to the domestic abuse intervention services program for therapy, and to Eyerly Ball for a psycho-social evaluation. At the August review hearing the court ordered both Rodney and Tammy to drop urine specimens for drug analysis (U.A.'s) for thirty consecutive days. All of the drug screens for both parties were negative for alcohol. However, on two occasions Tammy's U.A.'s were diluted, which can be an indication of an attempt to flush the system of drugs and makes the test less reliable. One of Tammy's tested positive for amphetamines, although she denied any drug use. On three occasions Rodney's specimens were diluted and on two occasions he was unable to provide a specimen.

The recommended therapeutic visits with Crystal and Tammy began in October 1999 at Ms. Gauger's office. Little progress was made at these sessions due to Tammy's difficulty in taking responsibility for her problems and wanting to blame others or make excuses for her behavior. Tammy also confronted Crystal often and made her feel it was her fault she was in foster care. After these sessions began Crystal's behavior once again deteriorated and she became more defiant and oppositional. Crystal reported to the DHS worker that she did

not want to go home unless Tammy would stop yelling at her, stop shoving her into the wall, stop drinking and having boyfriends over, and stop making her take care of Brett. Crystal had attached to her foster mother and was thriving in her foster care placement.

During the same time period Rodney began attending counseling with Dave Beaman. Mr. Beaman believed that although Rodney would not hurt the children he has a hard time choosing between a relationship with Tammy and the children, he had trouble problem solving, and was probably unable to handle parenting. An individual who supervised weekly visits between Rodney and the children reported that Rodney lacked any parenting skills and interacted with the children as more of a peer than a parent.

In late December of 1999 when the children's foster parents went to Tammy's house to pick up Christmas gifts for the children they reported it was filthy, with dog feces and urine all over, and that Tammy appeared to be drunk. The CASA worker who also visited Tammy at her residence in late December noted the kitchen was very unsanitary, with weeks of dirty dishes and several full, unsealed trash bags in the middle of the kitchen, and there were many gnats flying around the house.

In January of 2000 it was reported that Tammy would often follow Crystal and her foster mother to the car after therapy sessions and attempt to persuade the foster parents to allow her contact with the children without letting DHS know. Rodney continued to see Mr. Beaman however he was not attending parenting classes as recommended, nor had he attempted to secure adequate housing for

the children. He continued to live in a one-room apartment at the Randolph Hotel.

At the February 15, 2000 review hearing the juvenile court continued the children in the custody of DHS for foster care, visitation with Crystal was to continue at DHS discretion and with the approval of Crystal's therapist, and supervised visits between Tammy and Brett were to begin within the week. The court also set a permanency hearing for June 5, 2000. The State filed a petition to terminate Tammy and Rodney's parental rights to Brett and Crystal on April 5, 2000.

The hearing on the termination petition was held over two days. During the second day of the hearing on June 12, 2000 Rodney appeared and informed the court he wanted to voluntarily consent to the termination of his parental rights. Through counsel he informed the court he had decided that termination of his parental rights would be in the best interest of the children as well as in his best interest. Rodney gave sworn testimony that he understood his rights, the consequences of his relinquishment of those rights, that he was not under the influence of drugs or alcohol, and that there had been no promises or threats to pressure him into his decision. He testified that he felt consenting to the termination of his rights was in the best interest of his children because he was barely able to support himself and did not believe he would be able to take care of his children in a decent home. He also signed a written consent to termination of his parental rights at the June 12 hearing. In the written consent he stated he desired termination for good cause, specifically that it was in "the best interests of the children and in the economic interests and emotional well being of all parties

that the children would be best served by foster care." The case was submitted to the juvenile court on June 12, 2000.

On or about June 30, 2000 Rodney filed an application to withdraw his consent to the termination of his parental rights. Rodney alleged in this application that he "did not voluntarily and intelligently consent to the termination of his parental rights based upon the fact that he did not demonstrate good cause for desiring the termination." He asserted the termination of his parental rights was based "solely on economic circumstances surrounding his current living situation" and asserted the best interest of the children would be served by vacating the termination of his parental rights.

The court issued its ruling on July 24, 2000 terminating Rodney and Tammy's parental rights to Crystal and Brett pursuant to Iowa Code sections 232.116(1)(a), (e) and (g) (1999). The court denied Rodney's application to withdraw his consent, finding the "good cause" reasons for his relinquishment of rights was not based solely on economic circumstances. The court also determined, based on *In re T.N.M.*, 542 N.W.2d 574, 577 (Iowa Ct. App. 1995), that the ninety-six hour release period designated in Iowa Code section 600A.4(4) (1999) applies to Chapter 232 terminations and Rodney's ninety-six hour window to revoke his consent had clearly expired when he filed his application.

II. SCOPE AND STANDARDS OF REVIEW

We review termination proceedings de novo. Iowa R. App. P. 4; *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Accordingly, we review both the facts and the law and adjudicate rights anew. *In re T.A.L.*, 505 N.W.2d 480, 482

(Iowa 1993). We give weight to the factual determinations of the juvenile court, especially when considering the credibility of witnesses, but are not bound by them. *Id.* The grounds for termination must be proven by the State by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 831 (Iowa Ct. App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa Ct. App. 1996).

III. MERITS

The controlling standard in cases involving the termination of parental rights is the best interest of the children involved. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

We look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to the child.

In re R.K.B., 572 N.W.2d 600, 601 (Iowa 1998) (quoting *In re C.M.W.*, 503 N.W.2d 874, 875 (Iowa Ct. App. 1993)). It is well established there exists a parental interest in maintaining the integrity of the family unit. *Dameron*, 306 N.W.2d at 745. This interest, however, is not absolute and may be forfeited by certain parental conduct. *Id.* The State has a duty to assure that every child within its borders receives proper care and treatment and it must intercede when parents abdicate that responsibility. *Id.* When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by that court to affirm the termination.

In re S.R., 600 N.W.2d at 64.

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Both Tammy and Rodney appeal from the juvenile court order terminating their parental rights to their two minor children, Crystal and Brett. Tammy claims the State failed to prove, by clear and convincing evidence, that Crystal and Brett could not be returned to her custody as required under Iowa Code sections 232.116(1)(e) and (g) respectively, and termination was not in the children's best interest. Rodney claims the "good cause" requirement in section 232.116(1)(a) cannot be met based solely on economic circumstances and the court erred in finding that Iowa Code chapter 232 did not allow for filing of his revocation of consent more than ninety-six hours after he gave consent. We address each party's claims separately.

A. Tammy

Tammy's parental rights to Crystal were terminated based on Iowa Code section 232.116(1)(e) and her parental rights to Brett were terminated pursuant to Iowa Code section 232.116(1)(g).² Tammy concedes the State has shown by clear and convincing evidence the first three elements under each of those Code provisions. However, she argues that the State failed to prove the fourth, identical element of each, that the children could not be returned to her custody at the time of the termination hearing. She further contends that even if the State

² The juvenile court also concluded the State had established by clear and convincing evidence that Tammy's and Rodney's parental rights to the children should also be terminated pursuant to Iowa Code section 232.116(1)(a) (voluntary and intelligent consent to termination), based on clear and convincing that Rodney had consented for good cause. Although the State had sought and secured amendment of its petition to allege consent by Rodney, it had not alleged consent by Tammy and there is no evidence Tammy consented to termination. The juvenile court's conclusion that termination on the basis of consent was appropriate as to Tammy is clearly inadvertent and incorrect. However, as we need only find grounds to terminate under one of the statutory provisions relied on by the juvenile court to affirm, See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999), and we find termination of Tammy's parental rights was appropriate under Iowa Code sections 232.116(1)(e) and (g), the juvenile court's misstatement is harmless and not determinative.

did prove the fourth element of each of those provisions, it was not in the best interest of the children to terminate her parental rights and the court erred in doing so. She acknowledged at the hearing that she had been wrong to allow alcohol abuse to take over her life and asked the court for another six months to show that she had changed.

Subsections 232.116(1)(g)(4) and (e)(4) are met "when the child cannot be returned to the parental home because the definitional grounds of a child in need of assistance, Iowa Code §232.2(6), exist." *In re A.L.*, 492 N.W.2d 198, 202 (Iowa Ct. App. 1992) (quoting *In re M.L.W.*, 461 N.W.2d 609, 611 (Iowa Ct. App. 1990)). If any one of the grounds listed in section 232.2(6) can be proven by clear and convincing evidence, there is a sufficient basis for termination. *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa Ct. App. 1995). Here the juvenile court stated in its findings:

Neither child can be returned to either parent without serious risk of further adjudicatory harm. The mother continues to consume alcohol and deny use. She is presently on probation and is in danger of having her probation revoked. During the termination hearing, Tammy [] admitted that she had lied to the Court and that alcohol had overtaken her life and her children. She recognized that she could not take good care of her children when she was drinking, yet she continues to minimize her use. . . . However, despite her assertions that she is on the right track, her house is still dirty and infested and there was evidence to dispute her assertion that she is no longer driving.

The court confirmed that the children continued to be children in need of assistance and the court's aid was still required.

Based on our de novo review of the entire record, we agree with the juvenile court's findings and conclude that at the time of the termination hearing Brett and Crystal continued to be children in need of assistance under Iowa Code

section 232.2(6) and thus could not have been returned to the custody of Tammy. The record is replete with instances where Tammy's substance abuse has put the children in danger. There is clear and convincing evidence that her substance abuse continues to be a problem and prevents her from exercising the parenting skills necessary to assure her children's health, safety, and welfare, such as keeping a sanitary home, controlling her temper, and not driving with the children in the car while under the influence of alcohol or without a license. See *In re S.A.*, 502 N.W.2d 23, 25 (Iowa Ct. App. 1993); see also *In re R.J.*, 436 N.W.2d 630, 637 (Iowa 1989) (affirming termination where mother's alcoholism seriously impaired her ability to parent); *Dameron*, 306 N.W.2d at 746 (affirming termination where parents abused alcohol and made only minimal effort to obtain treatment). Therefore, we find the State has met its burden to prove by clear and convincing evidence that the children would suffer harm if returned to their mother's care at the time of termination.

At the termination hearing Tammy acknowledged what she had done was wrong, that she had drug her feet during most of the pendency of this case and she had taken too long to do the things she was supposed to do. She asked the court to allow her another six months to prove she was capable of remaining sober and taking care of her children, thereby acknowledging that the children could not be returned to her custody at the time of termination. Tammy's contentions that she now is somehow motivated to change, to become sober, and to be a good parent, cannot be summarily dismissed. However, after more than two years of failing to follow through with many court ordered services, often times being uncooperative with service providers, attempting to manipulate

Crystal, and lying to the court and the DHS, Tammy's promises seem somewhat hollow and lacking in credibility.

"While we recognize the law requires a 'full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,' Iowa has built this patience into the statutory scheme of Iowa Code chapter 232." *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000) (quoting *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987)). Therefore, this time period and patience are "limited because patience on behalf of the parent can quickly translate into intolerable hardship for the children." *In re R.J.*, 436 N.W.2d 630, 636 (Iowa 1989). We find it is time for our patience with Tammy to yield to the needs of Crystal and Brett. "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 at 613. A child should not be forced to endlessly suffer the parentless limbo of foster care. *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990). "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).

Finally, we recognize that in addition to meeting the statutory requirements for termination set forth in sections 232.116(1)(e) and (g), the termination must be in the best interest of the children. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996). Thus, termination is not mandatory upon finding the requisite elements of these sections. *Id.* However, we find, as the juvenile court did, that the State has established by clear and convincing evidence that the termination of Tammy's parental rights would be in the children's best interest. There is a

substantial risk that harm would come to these children if they were to be returned to Tammy's care due, for the most part, to her continued substance abuse problem. For over two years the State has provided Tammy with a myriad of intensive services, as set forth in detail above. However, she has failed to take advantage of most of these services and was in essentially no better position to care for these children at the time of termination than she was two years earlier.

The children were in a pre-adoptive home at the time of termination and have both shown great improvement in their physical and mental well being since being placed in foster care. We agree with the juvenile court that these children will suffer harm if they are forced to wait for Tammy to resolve her problems before permanency is established. Crystal and Brett need and deserve a stable, permanent family as soon as possible. We find the termination of Tammy's parental rights to be in the best interests of these children. Presumably they can be adopted and begin to attain some measure of stability and certainty in their young lives.

B. Rodney

The court terminated Rodney's parental rights to Crystal under Iowa Code sections 232.116(1)(a) and (e) and to Brett pursuant to Iowa Code sections 232.116(1)(a) and (g). Rodney does not challenge the terminations as to either section 232.116(1)(e) or (g). However, he alleges that his verbal and written consent to the termination of his rights was not in the best interest of the children because the "good cause" determination was based only on economic circumstances and the court erred in not allowing him to withdraw his consent

because his request came after the ninety-six hour window in which he could withdraw consent under Iowa Code section 600A.4(4).

When the court terminates parental rights on more than one ground, we need only find grounds to terminate under one of the sections cited by the court to affirm the termination, *In re S.R.*, 600 N.W.2d at 64, Rodney has not challenged the juvenile court's decision to terminate his parental rights based on sections 232.116(1)(e) and (g), and clear and convincing evidence supports termination under these provisions. Therefore, termination could be affirmed based solely on those two provisions and we would not need to address either of the issues raised by Rodney in his appeal. However, because we believe the juvenile court misconstrued the law regarding the ninety-six hour time limitation we will address the merits of his claim.

Iowa Code section 232.116(1)(a) provides for termination of parental rights where, "the parents voluntarily and intelligently consent to the termination of parental rights and the parent-child relationship and for good cause desire the termination." Therefore, the only requirements under section 232.116(1)(a) are that the consent was voluntary and intelligent when given and that the parent had good cause to desire the termination. *In re T.N.M.*, 542 N.W.2d 574, 577 (Iowa Ct. App. 1995). We consider whether the consent met fair play, disclosure and due process requirements. *Id.* at 576. Rodney does not allege his consent was not voluntary and intelligent but argues that the sole reason for his consent was based on economic circumstances surrounding his living arrangement and that alone does not meet the section 232.116(1)(a) requirement that there be "good cause" for desiring termination.

We, like the trial court, find that the "good cause" for Rodney's desire for termination of his parental rights was not limited to economic circumstances. Rodney cited other reasons for his desire for termination, including the "best interests of the children," the "emotional well being of all parties," and "that the children would be best served by foster care." Rodney had recently stated the children were probably better off in foster care with two parents who are not drunks and who provide a clean home. He reportedly had no thoughts of how he would provide for the children or where they would live if he were to have their custody. Thus, economic circumstances clearly was not the sole reason for Rodney's desire to relinquish his rights and the "good cause" requirement of section 232.116(1)(a) has been met.

Rodney further contends the juvenile court erred in finding that Iowa Code chapter 232 did not allow for withdrawal of a consent to termination of parental rights later than ninety-six hours after consent. The juvenile court stated that although chapter 232 has no specific provisions for the time period in which a parent can revoke a consent, *In re T.N.M.* held that the ninety-six hour release period designated in Iowa Code section 600A.4(4) applies to chapter 232 terminations. It concluded that because Rodney had not revoked his consent within that limited time frame he could not do so later. We believe the trial court misconstrued the holding in *T.N.M.*

The court in *T.N.M.* recognized that "termination of parental rights under Iowa Code chapters 600A and 232 are separate and distinct causes of action having different applicability based upon the facts of the situation." *Id.* at 576. The court in *T.N.M.* did find that the "release" of parental rights signed by the

mother met all but one of the requirements of section 600A.4, but specifically held that the provisions of chapter 600A are *not* controlling in chapter 232 terminations. *Id.* at 577. *T.N.M.* does not hold that the ninety-six hour period within which a parent may, as a matter of right, revoke a release of custody pursuant to Iowa Code section 600A.4(4) applies to set a time limit within which a parent may seek to revoke a consent to termination of parental rights under Iowa Code section 232.116(1)(a) and the juvenile court misconstrued *T.N.M.* in so holding.

Chapter 232 does not specify whether a party can as a matter of right revoke a voluntary and intelligent consent to termination of parental rights, or request a court order allowing the parent to do so, or what time limit or limits apply to such a revocation request. Assuming, without deciding, such consent can be withdrawn, it would seem at a minimum any such revocation or application to revoke should be made before the case is submitted to the juvenile court for decision. Such a time limit is necessary because a final, appealable judgment may be entered at any time at or after such submission. Rodney did not file his application to withdraw consent until June 30, 2000, eighteen days after the case had been fully submitted to the juvenile court for its ruling. We do not decide here whether a voluntary and intelligent consent to termination may be revoked as a matter of right, or may be revoked pursuant to an application to and order of the juvenile court. These are matters perhaps best left to legislative action. See, e.g. *T.N.M.*, 542 N.W.2d at 577 (suggesting legislative action in this area). We do hold that Rodney's attempt to revoke, coming almost three weeks after the case was fully submitted for decision, came too late.

IV. CONCLUSION

For all of the reasons set forth above, based on our de novo review of the entire record we find the State proved, by clear and convincing evidence, that Brett and Crystal could not be returned to Tammy's custody at the time of termination and termination of her parental rights is in the children's best interest. Furthermore, we conclude the "good cause" for Rodney's voluntary and intelligent consent to the termination of his parental rights was not based solely on economic circumstances. We further conclude *T.N.M.* does not hold that the Iowa Code section 600A.4(4) ninety-six hour time limit for revoking release of custody, applies to chapter 232 termination proceedings, and the juvenile court misconstrued that case in so holding. While chapter 232 does not specify the time frame within which a revocation of consent to termination must be made or sought, Rodney's submission of his application to withdraw consent almost three weeks *after* the case had been fully submitted to the juvenile court was clearly outside any reasonable time limit. The order of the juvenile court terminating Tammy's and Rodney's parental rights under Iowa Code sections 232.116(1)(e) and (g) and Rodney's parental rights under section 232.116(1)(a) is affirmed.

AFFIRMED.