

IN THE COURT OF APPEALS OF IOWA

No. 1999-7 (9-049) / 98-1449

Filed March 31, 1999

IN THE INTEREST OF E.D.-C. and J.D.-C.,
Minor Children,

C.G.D., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Karla J. Fultz, Associate
Juvenile Judge.

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

AFFIRMED.

Martha L. Johnson, Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Charles K. Phillips, Assistant
Attorney General, for appellee-State.

Nancy L. Pietz of Cook & Brown, Clive, guardian ad litem for minor children.

Heard by Streit, P.J., and Vogel and Zimmer, JJ.

VOGEL, J.

Crystal D. appeals from a juvenile court order terminating her parental rights.

We affirm.

Background facts. Gordon and Crystal are the parents of Elizabeth, born in March of 1995, and Julie, born in March of 1996. In January of 1997 the children were removed from their parents' custody and placed in foster care due to a founded allegation of child abuse. Both children tested positive for cocaine. They were adjudicated CINA pursuant to Iowa Code sections 232.2(6)(c)(2), (6)(n), and (6)(o) (1997) in April of 1997.

A petition to terminate Gordon and Crystal's parental rights was filed in December of 1997. After hearing, the juvenile court entered an order terminating Gordon and Crystal's parental rights. Crystal appeals.

Scope of review. The scope of review in termination cases is de novo. *See In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa App. 1998). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child; we look to both the child's long-range and immediate interests. *M.N.W.*, 577 N.W.2d at 875.

Evidence to terminate. Crystal contends the juvenile court erred in terminating her parental rights pursuant to Iowa Code sections 232.116(1)(b), (1)(c), (1)(d), (1)(f), (1)(g), and (1)(k). The State concedes that the grounds for termination under sections 232.116(1)(b), (1)(c), (1)(d), and (1)(f) were plead only against Gordon

or are otherwise not applicable to Crystal. Therefore, we need only address Crystal's termination under sections (1)(g) and (1)(k).

In order to terminate parental rights under Iowa Code section 232.116(1)(g), the State must prove by clear and convincing evidence that:

- (1) The child is three years of age or younger.
- (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 six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

In order to terminate parental rights under Iowa Code section 232.116(1)(k), the State must prove by clear and convincing evidence that:

- (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.

We need only find grounds to terminate parental rights under one of the sections cited by the juvenile court in order to affirm. *See In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996).

Crystal contends that the State failed to show by clear and convincing evidence that the children could not have been returned to her care as of the date of the

termination hearing. Crystal further argues that there is no evidence in the record that she has a severe, chronic substance abuse problem because by the time of the termination hearing she had been clean and sober for six months, had completed a substance abuse evaluation and inpatient drug treatment, and was participating in aftercare. Although Crystal made some progress, she did not fully comply with the requirements of the case permanency plan. Crystal dropped nine dirty urinalysis tests between June and July of 1997 and had not completed all the follow-up services required of her as of the date of the termination hearing.

More importantly, there was no evidence in the record to support that Crystal could have been able to care for the children at any time in the near future. She had not progressed in understanding the children's special needs to permit anything beyond supervised visitation. Even the supervised visitation was eventually suspended because of the trauma the children suffered. We must reasonably limit the time for parents to be in a position to assume care for their children because patience with parents can soon translate into intolerable hardship for the child. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1994). The children have exhibited severe behavioral problems related to their early drug exposure and stress from a lack of stability. They need a level of care that Crystal cannot currently provide. At some point, the rights and needs of the child rise above the rights and needs of the parents. The legislature, through section 232.116, directs us to that point. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa App. 1997).

It is in the children's best interests that Crystal's parental rights be terminated. For these reasons, we affirm the order of the juvenile court terminating Crystal's parental rights to Elizabeth and Julie.

AFFIRMED.