

IN THE COURT OF APPEALS OF IOWA

No. 0-002 / 09-1771
Filed February 10, 2010

**IN THE INTEREST OF D.M., C.M., AND C.M.,
Minor Children,**

C.M., Father of C.M. and C.M.,
Appellant,

S.J., Mother,
Appellant.

Appeal from the Iowa District Court for Linn County, Susan Flaherty,
Associate Juvenile Judge.

A mother and father separately appeal from the district court's order
terminating their parental rights to three children. **AFFIRMED.**

Cynthia S. Finley, Cedar Rapids, for appellant mother.

Robin L. O'Brien Licht, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, Harold Denton, County, and Lance Heeren, Assistant County Attorney,
for appellee State.

Judith Hoover, Cedar Rapids, for minor children.

Considered by Vogel, P.J., Eisenhauer, J., and Zimmer, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

VOGEL, P.J.

Summer appeals the termination of her parental rights to her three children, D.M.,¹ born March 2000, C.M., born January 2005, and C.M., born April 2006. Carlton, the father of C.M. and C.M., also appeals the termination of his parental rights. Because the record demonstrates by clear and convincing evidence that Summer and Carlton were offered reasonable services, additional time was not warranted, the children could not be returned home, and termination was in D.M., C.M. and C.M.'s best interests, we affirm.

On November 12, 2009, Summer's rights were terminated under Iowa Code section 232.116(1)(e), (f), and (h) (2009), and Carlton's under section (1)(b), (e), and (h).² We review termination of parental rights de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

The Iowa Department of Human Services (DHS) has been involved with D.M., C.M. and C.M.'s family since May 2006, after Summer and Carlton were involved in a domestic disturbance, and marijuana was found in the home. On June 13, 2006, Summer chose to drive Carlton to work while intoxicated, with the three children in the car; she was arrested for a public intoxication and Carlton was arrested for violating his no contact order. The children were removed that same day and each adjudicated a child in need of assistance (CINA) on June 26, 2006.

In September 2006, the court found Summer complied with DHS services, and in order to regain custody, agreed to continue drug testing and stay away

¹ D.M.'s putative father is Ricky; his rights were also terminated and he does not appeal.

² The petition for termination of parental rights was filed October 20, 2008; it came on for hearing on February 9 and March 4, 2009, with a ruling filed on November 12, 2009.

from Carlton. D.M. was returned to Summer's care on a temporary basis in September 2006, and C.M. and C.M. in November 2006. Thereafter, Summer claimed she was not having contact with Carlton, but delivered a stillborn baby, which Carlton had fathered. She then admitted she was in contact with Carlton for financial support. Summer did not consistently submit to drug testing, nor maintain housing, but despite her struggles, in April 2007, the court ordered the children remain in Summer's custody.

In July 2007, Carlton was arrested for domestic assault against Summer. In October 2007, following another domestic dispute, the children were again placed in family foster care. D.M. admitted to the DHS social worker that he was afraid of Carlton because he was "whooping" him. The children have remained in family foster care since October 2007.

The family was offered numerous services to facilitate reunification, including in-home services, substance abuse treatment, domestic violence counseling, anger management, assistance with transportation, assistance with housing, and counseling for the children. Neither parent consistently participated in services. In the summer of 2008, Summer moved to Illinois and has maintained only minimal contact with the children since that time.³

Both Summer and Carlton argue the court erred by not granting an additional six months to achieve reunification. The record clearly shows that neither parent is reasonably likely to be able to care for the children in six months. The district court found that "Summer has not demonstrated the ability

³ Summer gave birth to a daughter, C.M., also fathered by Carlton, in June 2008, while in Illinois. This child has also been removed from her care.

to maintain sobriety, which has impacted her ability to maintain a safe home for the children.” “Where the parent has been unable to rise above the addiction and experience sustained sobriety in a noncustodial setting, and establish the essential support system to maintain sobriety, there is little hope of success in parenting.” *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). The district court further found, “Summer is clearly a victim of Carlton’s violence. Unfortunately, even with many supports in place and many opportunities for change, Summer has not been able to separate herself from the unhealthy, unsafe relationship she has with Carlton.” There is no evidence the circumstances would change were the children returned to either parent’s care.

D.M., C.M. and C.M. have been in the same family foster home since October 2007, and the maternal grandmother has expressed an interest in adopting the children. These children need a permanent placement, and it’s clear neither Summer or Carlton can safely parent. *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J., concurring specially) (stating children’s safety and their need for a permanent home are the defining elements in a child’s best interests).

We affirm the district court’s finding that clear and convincing evidence supports the termination of Summer’s parental rights to D.M. and C.M. (born 2005) under section 232.116(1)(f), and C.M. (born 2006) under section 232.116(1)(h), and to Carlton’s parental rights under section 232.116(1)(e). When the district court terminates parental 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 district court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

Summer and Carlton also claim termination of their parental rights is not in the children's best interests. Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, ___ N.W.2d ___, ___ (Iowa 2010). We consider "the child's safety," "the best placement for furthering the long-term nurturing and growth of the child," and "the physical, mental, and emotional condition and needs of the child." *Id.* The record demonstrates that neither parent is able to provide a safe and nurturing home for the children. We conclude termination of Summer and Carlton's parental rights was in D.M., C.M., and C.M.'s best interests as set forth under the factors in section 232.116(2).

AFFIRMED.