

IN THE COURT OF APPEALS OF IOWA

No. 3-877 / 13-1174
Filed September 18, 2013

**IN THE INTEREST OF A.W.E.M. AND A.N.M.,
Minor Children,**

**L.M.B., Appellant,
Mother.**

Appeal from the Iowa District Court for Pottawattamie County, Craig M. Dreismeier, District Associate Judge.

The mother appeals from the juvenile court's termination of her parental rights pursuant to Iowa Code sections 232.116(1)(e), (h), (i), and (l) (2013).

AFFIRMED.

Roberta J. Megel of the State Public Defender Office, Council Bluffs, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Matthew Wilbur, County Attorney, and Eric Strovers, Assistant County Attorney, for appellee State.

Michael Hooper, Council Bluffs, for father.

Phil Caniglia, Council Bluffs, attorney and guardian ad litem for minor children.

Considered by Vogel, P.J., and Danilson and Tabor, JJ.

VOGEL, P.J.

This appeal concerns the termination of the mother's parental rights to her two young children, A.W.E.M. and A.N.M., born 2012 and 2010, respectively. The children were first removed from the home on August 14, 2012, due to an unsafe, filthy, and hazardous home environment. The children were placed in foster care. Before the children could return home the parents were informed they must improve their housing and participate in mental health evaluations, as well as other family safety, risk and permanency (FSRP) services. The juvenile court adjudicated A.W.E.M. and A.N.M. children in need of assistance (CINA) on October 4, 2012, pursuant to Iowa Code sections 232.2(6)(b) and (c)(2) (2013), based on the unsanitary and unsafe conditions of the home.

On November 1, 2012, the juvenile court conducted a CINA dispositional hearing, with a review hearing on January 11, 2013. It found the mother had completed a psychological evaluation, in which she was diagnosed with schizoaffective disorder, ADHD, cannabis dependency, and personality disorder NOS (narcissistic, histrionic, dependent, and paranoid). The psychologist recommended the mother participate in ongoing therapy. Prior to the January review hearing the mother was also required to submit to four drug tests, two of which were positive for marijuana, one of which was negative but dilute, and the other was a no-show.

Additionally, the mother moved into a new home, which she was able to keep clean. She also attended supervised visits with the children regularly and behaved in an appropriate manner. The court found the goal was still reunification, to be achieved by August 2013, though this was contingent upon

the parents following through with treatment recommendations, providing negative drug screens, and maintaining a clean home.

Citing a lack of compliance with services offered, a petition for termination of parental rights as to both parents was filed. The termination hearing was held on June 14, 2013. At the termination hearing, the mother testified she smokes marijuana, but that it does not affect her parenting. Between January 7 and May 30, 2013, ten drug tests were ordered, with the mother testing positive seven times and negative but dilute twice. She reported she did not show up for testing on May 30, though records show a positive test. The juvenile court deemed the mother's testimony that she had been addressing her substance abuse and mental health issues not credible, particularly given there was no record or testimony from doctors or professionals that she was actually attending treatment. Rather, each professional contacted stated the mother had not been attending treatment, or they at least had not seen her since 2011.¹ Furthermore,

¹ Specifically, the mother reported she was meeting with a substance abuse counselor at Heartland Family Services (HFS), as well as attending groups, alcoholics anonymous, and narcotics anonymous meetings. However, when contacted, the psychologist stated the mother had not been a client of HFS since 2011. After the psychological evaluation was completed and continued therapy recommended, the mother reported she was following through with regular therapy appointments with a nurse practitioner, though when contacted, the nurse practitioner indicated she had never seen the mother. The mother also claimed she was taking medications prescribed by a doctor, but, again, when contacted, the doctor's office reported the mother had not been seen since December 2011. There were also several other inconsistencies with respect to various statements made by the mother—she claimed she had colon and ovarian cancer, but when her primary physician was contacted, he stated he had not seen the mother since July 2011. Though she claimed she had surgery to remove her colon on June 14, 2013, the physician she reported as her doctor had no record of her as a patient since 2005. She further posted on Facebook on March 4, 2013: "plz pray for my baby boy [A.W.E.M.] we r here at children's hospital poor little big man mommy loves you." However, A.W.E.M. was in foster care at the time and was never in the hospital. At the termination hearing, the mother admitted she should not have posted this status because it was not true.

there was no record of her completing substance abuse treatment.

The court also heard testimony from the FSRP provider, who stated the mother and father's abusive relationship was a barrier to reunification, considering they cannot communicate appropriately, even during supervised visits. The provider reported A.W.M. becomes very upset when she observes her parents engage in this behavior. The provider's supervisor testified as well, recommending termination of parental rights because of the mother's mental health concerns, substance abuse, and inability to separate herself from her abusive partner. By order dated July 3, 2013, the juvenile court terminated the mother's parental rights pursuant to Iowa Code sections 232.116(1)(e), (h), (i), and (j).²

The mother now appeals, claiming the State did not prove by clear and convincing evidence any of the statutory grounds for termination. She asserts she has been compliant with all services, she has stopped using marijuana, kept her home clean, and is seeking professional help for her mental health and substance abuse issues.

We review termination proceedings de novo. *In re C.B. & G.L.*, 611 N.W.2d 489, 492 (Iowa 2000). The State must establish the grounds for termination by clear and convincing evidence. *Id.* Our primary concern is the best interest of the child. *Id.* When the juvenile court terminates parental rights on more than one statutory ground, we need find only one ground is satisfied to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

² The parental rights of the father were also terminated; he does not appeal.

We find the State proved by clear and convincing evidence the grounds for termination under Iowa Code section 232.116(1)(h), that is, the children cannot be returned to the mother's custody at the present time. The mother has many issues, which hinder her ability to parent these children safely. Her primary issue is her inability to overcome her drug addiction. She has been offered services since August 2012, but has failed to attend any counseling sessions, despite numerous assertions she is following through with treatment. Even though she knew she was responsible for remaining sober so her children could be returned to her, she continued to test positive for marijuana throughout the pendency of this proceeding. Her mental health problems compound this issue, though again, she is not availing herself of the services offered so she may start to alleviate some of her problems.

It is well established "the statutory time line must be followed and children should not be forced to wait for their parent to grow up." *In re N.F. & C.H.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). Additionally, the parent's past conduct is a reliable indicator of how she will act in the future. *Id.* The mother's conduct here does not evidence any desire to overcome her addiction or address her mental health issues, especially considering she has not attended even one substance abuse treatment program or followed through with mental health counseling. Therefore, we agree with the juvenile court that clear and convincing evidence supported the termination of the mother's parental rights, pursuant to Iowa Code section 232.116(1)(h).

Furthermore, it is in the children's best interest to terminate the mother's parental rights. Given their young age and need for permanency, the goals of

“the child’s safety . . . the best placement for furthering [their] long-term nurturing and growth . . . and . . . the physical, mental, and emotional condition and needs of the child” are best met by termination. Iowa Code § 232.116(2). Therefore, we affirm the juvenile court’s grant of the State’s petition.

AFFIRMED.