IN THE COURT OF APPEALS OF IOWA

No. 8-206 / 08-0262
Filed April 9, 2008

IN THE INTEREST OF D.B. and I.B.,
Minor Children,

L.M.C., Mother,
Appellant.

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld, District Associate Judge.

A mother appeals the termination of her parental rights to her children. **AFFIRMED.**

Robert W. Davison, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Harold Denton, County Attorney, and Rebecca Belcher, Assistant County Attorney, for appellee State.

John Jacobsen, Cedar Rapids, for appellee father.

Melody Butz of Butz Law office, P.L.C., Cedar Rapids, for minor children.

Considered by Sackett, C.J., and Vogel and Vaitheswaran, JJ.

VAITHESWARAN, J.

A mother, L.C., appeals the termination of her parental rights to D.B., born in 2003, and I.B., born in 2004. She contends (1) the State did not meet its burden of proving the grounds for termination cited by the district court and (2) termination was not in the children's best interests.

I. We may affirm if we find clear and convincing evidence to support any of the termination grounds cited by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review of the record, we are persuaded that termination was warranted under Iowa Code section 232.116(1)(h) (2007) (requiring proof of several elements including proof that child cannot be returned to parent's custody).

The children were removed from L.C.'s care in October 2006, based on their exposure to drugs. Initially, they were placed with their grandparents. Later, they were transferred to foster care, where they remained throughout the child-in-need-of-assistance and termination proceedings.

The Department of Human Services determined that L.C. was abusing cocaine and marijuana. By her own admission, she continued her usage while the case was pending. For example, she tested positive for cocaine in July 2007. Although she later entered and completed a three-week residential treatment program, she soon relapsed. To avoid detection, she delayed getting patches that would document the presence of drugs in her sweat. When she finally got them, she tampered with them. Just five weeks before the second of two termination hearings, she again tested positive for cocaine.

At the second hearing, the mother was asked, "Do you feel as though you are ready right now to have your kids in your care?" She answered, "Not until I'm moved and more stable." Later, she was asked when she would be in a position to have her children returned to her. She answered a "[c]ouple of months." This testimony alone is sufficient to establish that the children could not be returned to her custody. When coupled with the testimony of professionals who worked with her, there was more than the requisite quantum of evidence to support termination under section 232.116(1)(h). For example, a home care aide who supervised visits stated, "I am not confident in [L.C.'s] ability to stay clean." A department social worker also recommended that the case "proceed to termination" based on the mother's "inability to demonstrate a sober life-style and the inability to maintain it." We conclude the State satisfied its burden of proving this ground for termination.

II. The ultimate consideration in this type of case is the children's best interests. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). We are not persuaded that their interests would have been served by postponing termination. While there is no question L.C. actively participated in weekly visits and showed herself to be a loving and nurturing parent during the visits, she failed to timely address her substance abuse, the primary factor impeding reunification. L.C. relapsed between the first and second termination hearings, after declaring that it was her responsibility to raise the children. By the time of the second termination hearing, the children had been out of her care for fifteen months and L.C. had yet to progress to semi-supervised visits, let alone unsupervised contact with them.

Under these circumstances, we agree with the district court that termination was in the children's best interests.

AFFIRMED.

Vogel, J. and Vaitheswaran, J. concur. Sackett, C.J., concurs specially.

SACKETT, C.J. (concurs specially)

I concur specially.

I concur that there is clear and convincing evidence supporting termination. I too would affirm.