**IN THE COURT OF APPEALS OF IOWA**

No. 7-221 / 07-0293
Filed April 25, 2007

**IN THE INTEREST OF G.F. and D.F.,**
**Minor Children,**

**N.M., Mother,**
Appellant.

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Appeal from the Iowa District Court for Floyd County, Gerald W. Magee, Associate Juvenile Judge.

A mother appeals from the juvenile court order terminating her parental rights to two children. **AFFIRMED.**

Thea Porisch of Schroeder Law Office, Charles City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Jesse Marzen, County Attorney, and Marilyn Dettmer, Special Prosecutor, for appellee-State.

Rodney Mulcahy, Charles City, for appellee-intervenor.

Richard Stochl, New Hampton, for father.

Cynthia Schuknecht of Noah, Smith & Schuknecht, P.L.C., Charles City, guardian ad litem for minor children.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

**SACKETT, C.J.**

A mother appeals from the juvenile court order terminating her parental rights to two children. She contends she should have been given more time to pursue reunification, the State did not prove the statutory grounds for termination, and the court erred in admitting hearsay evidence. We affirm.

Noel is the mother and Casey is the father[1] of Gabriel, born in 2003, and Damien, born in 2004. The children were removed from their parents' care in July of 2005. In August, they were found to be in need of assistance under Iowa Code section 232.2(6)(n) (2005) (parent's mental capacity (or condition, or drug or alcohol abuse) results in child not receiving adequate care) at an uncontested hearing. The dispositional order in November continued the children's foster placement based in part on the children's aggression and Noel's diagnosis of anxiety disorder, panic disorder, narcissistic personality disorder, psychoactive substance abuse, and personality disorder.

At a contested permanency hearing in June of 2006, Noel requested an additional six months to pursue reunification. The court found the many corrections and changes she would have to make were a "tall order" and "the children should not be held in limbo to await success or failure." The court encouraged Noel to use the time remaining before the termination hearing to make the corrections and changes necessary for reunification. The court found the permanency goal to be adoption, but allowed concurrent efforts at reunification, continued the children in foster care, directed the State to initiate home studies of appropriate relatives for possible adoption, and ordered that a petition to terminate parental rights be filed.

[1] The father consented to termination of his parental rights has did not appeal.

Noel appealed. The supreme court dismissed the appeal as interlocutory. *In re G.F.*, No. 06-1072 (Iowa Aug. 23, 2006).

The State petitioned to terminate parental rights in July of 2006, but it was not heard until January of 2007. The court found the children could not be returned to Noel's care "at the present time or within the foreseeable future." It noted Noel had not demonstrated improved parenting skills during the six months since the permanency hearing. The court further found,

> while Noel has made some efforts, has had regular visits with her children and is bonded to them, she sees no barriers to reunification and no deficiency in parenting skills and has not yet assumed the affirmative assumption of parental duties. Despite multiple and long-term services, she remains self-centered and still is only "doing what others ask," and does not recognize the changes she needs to make. She has not completed the responsibilities in the case plan or those outlined in family team meeting. Her efforts have not been sufficient, or genuinely made to complete responsibilities nor have been reasonable, in light of the circumstances, to resume the care of these children despite multiple services and the opportunity to do so. She plays with them, hugs them and can be appropriate on visits, but those are not sufficient genuine efforts to change or to establish and maintain a place of importance in their lives.

The court terminated Noel's parental rights to Gabriel and Damien under Iowa Code sections 232.116(1)(e) and (h).

Our review is de novo. Iowa R. App. P. 6.4; *In re D.G.*, 704 N.W.2d 454, 456 (Iowa Ct. App. 2005). The State must prove the statutory grounds for termination by clear and convincing evidence. *In re L.E.H.*, 696 N.W.2d 617, 618 (Iowa Ct. App. 2005). If the juvenile court terminates a parent's rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

Noel first contends the juvenile court erred in its permanency order in not giving her an additional six months to work toward reunification. *See* Iowa Code

§ 232.104(2)(b) (permitting entry of a permanency order continuing placement for six months if the court determines the need for removal will no longer exist at that time). We find no merit in this claim. Although the court expressly denied her request for a six-month continuation of the children's placement to allow her time to work toward reunification because "the children should not be held in limbo to await success or failure," it also made it clear to her she should use the time she had wisely, noting "nothing precludes Noel from working hard to make those changes, to show the ability to parent these children and to accomplish reunification." As a practical matter, Noel had nearly six months between the date of the permanency order and the termination hearing in which to make the changes required by the case plan and show her ability to parent her children. If the court had granted her request for six months, she would have had only a couple of weeks more time than she actually had. She cannot reasonably claim, given her lack of progress during the nearly six months she had, that two more weeks would have made a difference. At the time of the permanency hearing, the court was correct in not making a determination "that the need for removal of the child from the child's home *will no longer exist at the end of the additional six-month period*." *Id*. (Emphasis added.) We affirm on this issue.

Noel also contends the statutory grounds for termination are not supported by clear and convincing evidence. The court terminated her parental rights under sections 232.116(1)(e) and (h). Proof of the first three elements of section (h) is clearly established in the record. The fourth element requires "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." Iowa Code § 232.116(1)(h)(4).

Noel argues the juvenile court failed to specify "which portion of § 232.102 prevents the children from being returned." We find no requirement that the court specify which portion of section 232.102 prevents the children from being returned. Section 232.102(5)(a) provides for a child's removal if the child (1) cannot be protected from physical abuse or (2) the child cannot be protected from some harm that would justify the child's adjudication as a child in need of assistance. The threat of probable harm will justify termination of parental rights, and the perceived harm need not be the one that supported the child's removal from the home. *See In re M.M.*, 482 N.W.2d 812, 814 (Iowa 1992). Clear and convincing evidence in the record supports the court's determination the children could not be returned to Noel's care at the time of the termination hearing. They would be at risk of harm that would justify their adjudication as children in need of assistance under section 232.2(6). We affirm the termination of Noel's parental rights under section 232.116(1)(h).

Noel contends the court erred in admitting police testimony and reports and hospital records relating to an incident in December of 2006 in which Noel called police and was admitted to a hospital. In our de novo review we have not considered any of the challenged testimony or exhibits. Consequently, we need not address Noel's evidentiary claims.

**AFFIRMED.**