

IN THE COURT OF APPEALS OF IOWA

No. 8-746 / 08-1271
Filed October 1, 2008

**IN THE INTEREST OF D.W. and C.W.,
Minor Children,**

**K.B.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

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

AFFIRMED.

Jesse A. Macro, Jr. of Gaudineer, Comito & George, L.L.P., West Des Moines, for appellant mother.

Jared Harmon, Des Moines, for appellee father of D.W.

John Heinicke, Des Moines, for appellee father of C.W.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin Brownell, Assistant County Attorney, for appellee State.

Steve Clarke of Des Moines Public Defender's Office, Des Moines, for minor child.

Considered by Mahan, P.J., and Vaitheswaran and Doyle, JJ.

VAITHESWARAN, J.

Karen appeals the termination of her parental rights to C.W., born in 2004, and D.W., born in 2006. She contends (1) the State failed to prove the grounds for termination cited by the district court and (2) it was in the children's best interests to be raised by their mother. Our review of these issues is de novo. Iowa R. App. P. 6.4.

I. We may affirm if we find clear and convincing evidence to support any of the grounds cited by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). The district court relied on two grounds, one of which was Iowa Code section 232.116(1)(h) (2007) (requiring proof of several elements including proof that children could not be returned to parent's custody).

With respect to that ground, the record reveals the following facts. In June 2007, the Department of Human Services (Department) determined that Karen had a condition called narcolepsy that caused her to "fall[] asleep numerous times every day." The Department concluded that, "[b]ecause of this condition, Karen [was] not a safe caretaker for her two young children." C.W. and D.W. were removed from her care.

In the ensuing months, the Department provided an array of services to address this condition and to facilitate reunification. The services included three two-hour supervised visits per week. These visits were later expanded to two nine-hour supervised visits per week. The Department reported that Karen fell asleep during every visit and "continued to shut down and not respond when workers were trying to role model parenting skills for her." At the termination hearing, a family consultant who supervised visits corroborated this report,

stating Karen had not “addressed her sleeping disorder to the point where it would be safe to have children in her care full-time.”

The problem was so severe that the district court found Karen herself needed a caretaker. Unfortunately, Karen had no family support and the man with whom she lived during most of the proceedings was violent. To compound the problem, Karen had a history of making poor choices and impulsive decisions about men, which jeopardized her safety as well as the safety of her two young children. While she underwent therapy to address this issue, her therapist indicated little progress was made.

Based on this record, we conclude C.W. and D.W. could not be returned to Karen’s custody.

II. The ultimate consideration in this type of action is the child’s best interests. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

Karen made an effort to maintain a connection with her children. She regularly attended supervised visits and showed affection for the children. Indeed, just two months before the termination hearing, a social worker reported that there was “a substantial bond and attachment” between Karen and her children. Despite this bond, even Karen admitted she was not in a position to have the children immediately returned to her. When asked by her attorney whether she believed the best thing for the children would be to have them raised by her, she answered, “Honestly, no.” While she later stated she would be in a better position to assume a parenting role in six months, the family consultant who supervised visits testified, “I don’t get the sense that she really is invested in

doing it.” Under these circumstances, we conclude termination of Karen’s parental rights was in these children’s best interests.

AFFIRMED.