

IN THE COURT OF APPEALS OF IOWA

No. 17-1346
Filed November 22, 2017

**IN THE INTEREST OF I.B., D.J., S.B., and A.S.,
Minor Children,**

M.B., Mother,
Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, Karen Kaufman Salic, District Associate Judge.

A mother appeals the adjudication of her children as children in need of assistance following a dispositional hearing. **AFFIRMED.**

Danielle M. DeBower of Eggert, Erb, Mulcahy & Kuehner, P.L.L.C., Charles City, for appellant mother.

Thomas J. Miller, Attorney General, and Ana Dixit, Assistant Attorney General, for appellee State.

David A. Grooters of Pappajohn, Shriver, Eide & Nielsen, P.C., Mason City, guardian ad litem for minor children.

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

VOGEL, Presiding Judge.

The mother appeals the dispositional order of the district court confirming her four children's adjudication as children in need of assistance (CINA). We conclude the evidence establishes the district court properly found the children to be CINA given the mother's long addiction to methamphetamine, erratic behavior, mental-health issues, and refusal to cooperate with services.

I. Background Facts and Proceedings

I.B., born 2005; D.J., born 2007; S.V., born 2012; and A.S., born 2013, came to the attention of the Iowa Department of Human Services (DHS) in April 2017, upon allegations the mother failed to exercise a reasonable degree of care in supervising the children. Specifically, the DHS, alerted by child protection workers, was concerned the mother was using methamphetamine while the four children were in her care and while pregnant with another child. The mother admitted to using methamphetamine daily. After the DHS assessed the situation, the mother became aggravated and impatient with the DHS review process. The mother indicated she would agree to removal to her parents so the State would not have an open juvenile case.

On April 25, 2017, an order for temporary removal was issued by the district court. Upon receiving the order, the child protection worker notified the children's schools in an effort to hold them at school; however, the mother had picked the children up early, stated they were going "out of state," and refused to tell the DHS where she or the children were located. On April 27, the mother was located and arrested on four counts of contempt; the children were not with her. On May 1, the children were located at the Mason City Police Department. I.B. indicated they

had been with a relative in Lake Mills, for approximately one week and then with a close family friend in Des Moines before receiving word their mother was incarcerated and returning to Mason City.

On June 14, the State filed an amended petition to adjudicate the four children in need of assistance. Following a contested adjudication hearing, the juvenile court adjudicated the children in need of assistance under Iowa Code section 232.2(6)(c)(2) (2017). The dispositional order of August 9, ordered the children “be in the custody of [DHS] for placement in family foster care and under the supervision of the Department.”

The mother appeals.

II. Standard of Review

We review a juvenile court’s adjudication of a child as a CINA de novo. *In re J.S.*, 846 N.W.2d 36, 40 (Iowa 2014). Though we give weight to the juvenile court’s findings of fact, we are not bound by them. *Id.* “Our primary concern is the children’s best interests.” *Id.*

III. Adjudication

Iowa Code section 232.2(6)(c)(2) provides:

6. “Child in need of assistance” means an unmarried child:

....

c. Who has suffered or is imminently likely to suffer harmful effects as a result of any of the following:

....

(2) The failure of the child’s parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

The mother asserts the State failed to prove this ground by clear and convincing evidence. Our supreme court has defined “harmful effects” under

section 232.2(6)(c)(2) as “established when there was harm to a child’s physical, mental, or social well-being or such harm was imminently likely to occur.” *J.S.*, 846 N.W.2d at 41–42. In *J.S.* the court stated, “We have no difficulty concluding under [section 232.2(6)(c)(2)] that a parent’s methamphetamine addiction by itself can result in ‘harmful effects’ to the child, thereby justifying state intervention to protect the child.” *Id.* at 37.

Based on the record, we agree with the juvenile court the State proved by clear and convincing evidence the children are in need of assistance. In the child abuse assessment, the case worker stated:

People using methamphetamine can have very erratic behaviors, which place children in dangerous situations. The children were placed at great risk of harm by their mother being their sole caretaker and parenting them while under the influence of meth. Once a removal order was granted in regard to these children [the mother] chose to hide her children for several days and not inform DHS or the Court of their whereabouts.

In its adjudication order, the juvenile court concluded:

THE COURT FURTHER FINDS that: mother admitted to daily methamphetamine usage while being the caretaker of her children; mother admitted mental health diagnoses of bipolar, anxiety, depression, schizophrenia; mother exhibits erratic behaviors; mother is extremely verbally hostile including in front of the children which has necessitated call[ing] security and law enforcement; mother has fled with the children contrary to court order, she removed them from school and attempted to hide them; mother refuses to sign releases despite court order; mother discusses adult issues around the children causing them to be visibly upset; mother provided positive drug screens from her OB-GYN from May; mother encourages the children to not listen to and hate the workers and foster parents.

We agree with the juvenile court the facts of this case clearly demonstrate the children were imminently likely to suffer harmful effects as a result of the

mother's failure to exercise a reasonable degree of care in supervising the children under section 232.2(6)(c)(2).

IV. Conclusion

Because we agree with the juvenile court's conclusion the State proved the statutory grounds for adjudicating I.B., D.J., S.B., and A.S. as CINA, we affirm.

AFFIRMED.