

IN THE COURT OF APPEALS OF IOWA

No. 0-604 / 10-1142
Filed September 9, 2010

**IN THE INTEREST OF B.C., M.J., H.J., and T.J.,
Minor Children,**

**J.M.D., Mother,
Appellant.**

Appeal from the Iowa District Court for Woodbury County, Mary L. Timko,
Associate Juvenile Judge.

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

Angela Kayl, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Patrick Jennings, County Attorney, and Diane Richardson,
Assistant County Attorney, for appellee.

Richard Kallsen, Sioux City, for father.

Michelle Hynes, Sioux City, attorney and guardian ad litem for minor
children.

Considered by Eisenhauer, P.J., Danilson, J., and Miller, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

MILLER, S.J.

J.D. is the mother of T.J., H.J., M.J., and B.C. (“the children”), who were seven, six, four, and two years of age respectively at the May 2010 conclusion of a termination of parental rights hearing. J.D. appeals from a June 22, 2010 juvenile court order terminating her parental rights to the children. (The order also terminated the parental rights of the children’s fathers, and no father has appealed.) We affirm.

The juvenile court terminated J.D.’s parental rights to all four children pursuant to Iowa Code sections 232.116(1)(d) (2009) (child adjudicated a child in need of assistance (CINA) for parental abuse or neglect, circumstance that led to the adjudication continues to exist despite offer or receipt of services), and (e) (child adjudicated CINA, child removed from physical custody of parent at least six consecutive months, parent has not maintained significant and meaningful contact with child during previous six months and has made no reasonable efforts to resume care of child despite opportunity to do so). The court in addition terminated J.D.’s parental rights to two-year-old B.C. pursuant to section 232.116(1)(h) (child three or younger, adjudicated CINA, removed from physical custody of parents at least six of last twelve months, cannot be returned to parent at present time). J.D. appeals.

We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court’s findings of fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence.

In re C.B., 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

J.D. does not challenge the existence of any of the above-listed elements of the statutory provisions pursuant to which the juvenile court terminated parental rights. She claims only that the Iowa Department of Human Services (DHS) did not use diligent efforts to keep the children with her, arguing the DHS “did not provide services to [J.D.], the mother before termination proceedings were instituted.” Each ground for termination relied on by the juvenile court does contain an element that implicates the State’s obligation to make reasonable efforts to return the children to J.D. as quickly as possible. *See generally C.B.*, 611 N.W.2d at 492-93 (stating that Iowa Code sections 232.116(1)(c), (d), (e), (j), and (k) (1997), now sections (d), (e), (f), (h), and (l) respectively, “all contain a common element which implicates the reasonable effort requirement”).

J.D. has an ongoing history of multiple mental health issues, abuse of and dependence on alcohol and illegal drugs, and an inability to properly parent and care for the children. She has been unable to maintain employment or a stable residence. J.D. has a lengthy history of abuse and neglect of the children. The older two children have been removed from her care four times, the first time in Nebraska in 2004-05, and the latter three times in Iowa. The younger two children have been removed from her care three times in Iowa. The most recent, current involvement of the DHS and juvenile court and the related provision of services to J.D. began in May 2008, almost two years before the termination hearing.

Following the termination hearing the juvenile court made detailed and comprehensive findings of fact. Those relevant to the narrow issue before us need not be repeated in detail here. Those findings are fully supported by the record and we agree with them. Summarily stated, they show that over an extended period of time J.D. has been offered, and to the extent she has been willing to do so has received, numerous services from early in the CINA proceeding until October 2009.¹ The offered services were designed to reunite her with the children. The termination petition was not filed until February 2010.

The record fully demonstrates that the fact J.D. cannot be reunited with the children is not the result of any failure by the State to offer necessary services, but instead is the result of J.D.'s unwillingness to accept, and perhaps to some extent her inability to benefit from, the services that have been offered to her and made available to her.

The juvenile court concluded, in part,:

[J.D.] has not demonstrated an ability or willingness to parent her children despite the services provided to her—even relocating the children to a foster home closer to her. She readily admitted she cannot handle all of the children by herself—she will always need help. More than reasonable efforts have been made.

¹ J.D. had moved from Iowa to Nebraska on or about October 1, 2009, despite being made aware she could not receive services from the DHS in Nebraska.

Upon our de novo review, we conclude that reasonable efforts were made and reasonable services provided for a long time before termination proceedings were instituted, from early in the CINA case until October 2009. We accordingly affirm the well-reasoned decision and judgment of the juvenile court.

AFFIRMED.