

IN THE COURT OF APPEALS OF IOWA

No. 1-136 / 11-0032
Filed March 7, 2011

**IN THE INTEREST OF A.G. and A.G.,
Minor Children,**

**T.R.J., Mother,
Appellant.**

Appeal from the Iowa District Court for Shelby County, Susan Christensen, District Associate Judge.

A mother appeals following the adjudication of her children by the district court as children in need of assistance (CINA). **AFFIRMED.**

William T. Early, Harlan, for appellant mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Marcus Gross, County Attorney, and Todd Argotsinger, Assistant County Attorney, for appellee State.

Matthew J. Hudson of Hall Hudson, P.C., Harlan, attorney and guardian ad litem for minor children.

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

VOGEL, P.J.

Tina appeals from the dispositional order following adjudication of her children, A.G. and A.G. (born 1999), as children in need of assistance (CINA) within the meaning of Iowa Code sections 232.2(6)(b) and (c)(2) (2009). Tina contends that clear and convincing evidence does not support the children's CINA adjudication. Upon our de novo review, we affirm. *In re M.A.F.*, 679 N.W.2d 683, 684 (Iowa Ct. App. 2004).

In order to be adjudicated in need of assistance pursuant to Iowa Code sections 232.2(6)(b) and (c)(2), the court must find the children have been or are imminently likely to be physically abused or neglected, and have suffered from the parent's failure to supervise. Tina contends the district court erred in finding her mental capacity or drug abuse resulted in the children not receiving adequate care.

The children came to the attention of the Iowa Department of Human Services (DHS) based on a report of parental drug usage, lack of supervision, and physical abuse. DHS had concerns with Tina's mental health, including depression, attention deficit disorder, and high anxiety, as well as her volatile relationship with her live-in boyfriend, who had a criminal record and reported drug use. On appeal, Tina specifically contends the district court erred in finding clear and convincing evidence of her having a drug problem, as she takes considerable medication to control her back pain and other ailments. The district court noted inconsistencies in the various drug testing results, casting serious doubt on Tina's explanations of her drug use. At the dispositional hearing, the

court again gave Tina's testimony little credence and concluded her behavior was demonstrative of her mental health and or substance abuse issues.

The court did not find that Tina had adequately addressed her issues, such that the children could be safely returned to her care. On our review of the record, we conclude that clear and convincing evidence supports the district court's findings. Accordingly, we affirm the court's adjudication of A.G. and A.G. as children in need of assistance pursuant to sections 232.2(6)(b) and (c)(2) and the subsequent dispositional order.

AFFIRMED.