

**IN THE COURT OF APPEALS OF IOWA**

No. 1-641 / 11-1072  
Filed August 24, 2011

**IN THE INTEREST OF H.H.,  
Minor Child,**

**L.S.H., Mother,  
Appellant.**

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

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Angela H. Kayl of Law Office of Angela H. Kayl, Sioux City, for appellant.

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

Lesley Rynell of the Juvenile Law Center, Sioux City, attorney and  
guardian ad litem for minor child.

Considered by Eisenhauer, P.J., and Doyle and Mullins, JJ.

**MULLINS, J.**

A mother appeals the juvenile court order terminating her parental rights to her daughter, H.H. (born February 2007), under Iowa Code sections 232.116(1)(d) and (l) (2011). The mother contends the juvenile court erred in terminating her parental rights because she should have been given mental health services and an additional six months to work towards reunification. Because we find an additional six months would not have been in the child's best interests, we affirm the juvenile court's order terminating the mother's parental rights.

**I. Background Facts and Proceedings.**

The mother has a lengthy history of substance abuse. In 2002, she was involuntarily committed to the Women's and Children's Program due to methamphetamine abuse. The mother successfully completed the program and outpatient treatment; however, in 2004, she relapsed and was again involuntarily committed to inpatient treatment. At that time, the mother was able to complete inpatient treatment, but never followed up with the required outpatient treatment program. As a result, she was discharged against medical advice. Following her discharge, the mother continued to struggle with methamphetamine abuse. In October 2006, while pregnant with H.H., the mother was found in a vehicle with another individual who was arrested for possession with the intent to deliver methamphetamine. Then, in May 2007, the mother was arrested for possession of methamphetamine with the intent to deliver. The mother eventually pled guilty and was sentenced to three years probation.

The mother also has prior juvenile court involvement. On July 30, 2007, H.H., who was only five-months old, was admitted to the emergency room. Upon examination, H.H. was diagnosed with bilateral retinal hemorrhages and a subdural hematoma, which treating doctors opined to be the result of Shaken Baby Syndrome. A child protective assessment was performed by the Iowa Department of Human Services (DHS) and determined to be founded; however, a perpetrator could not be definitively determined because five individuals had provided care during the possible time frame for the injury. As a result of the incident, H.H. was adjudicated a child in need of assistance (CINA) in September 2007. The mother was provided numerous services including a substance abuse evaluation and outpatient treatment. The mother was able to make positive progress, and the CINA case was dismissed in May 2008.

The present case was initiated on March 2, 2009. At about 1:36 a.m. on that day, the mother was stopped by a police officer in a routine traffic stop. During the stop, the mother admitted that a methamphetamine pipe was under the passenger seat. The mother also admitted that she had relapsed on methamphetamine, and that her last use was approximately five days prior. The mother was arrested and charged with possession of drug paraphernalia. H.H., who was in the vehicle at the time of the stop, was removed from the mother's care and placed with her maternal grandparents. A hair stat test was later performed on H.H., which was positive for methamphetamine exposure. A child protective assessment was later determined to be founded.

On March 3, 2009, the State applied for a temporary removal order and petitioned for H.H. to be found CINA. Removal was confirmed on March 12, with placement continuing with the maternal grandparents. On April 13, 2009, H.H. was adjudicated CINA under Iowa Code sections 232.2(6)(a), (b), (c)(2), and (n).

In March 2009, the mother reentered the Women's and Children's Program at Jackson Recovery Center. On March 27, 2009, H.H. was allowed to join her mother at this placement. During the program, the mother participated in numerous services, groups, and treatment programs to address relapse dynamics and triggers as well as mental health issues. These programs including the Matrix, anger management, budgeting, step group, co-occurring group, relapse group, parenting, healthy relationships, and AA/NA meetings.

The mother successfully completed the Women's and Children's Program on June 22, 2009. However, because she felt that she needed additional residential treatment for her chemical dependency, the mother enrolled in Marienne Manor, a halfway house, for continued care. Because children were not allowed in this placement, H.H. was voluntarily placed with her maternal grandparents. While at the halfway house, the mother continued to participate in counseling to identify triggers for her abuse. She also participated in the Woodbury County Community Drug Court Program.

In October 2009, the mother successfully completed the program at Marienne Manor and moved in with her parents and H.H. The mother sought continuing after care treatment at Sanctuary House, but was denied admittance after it was discovered that she had been sneaking out of Marienne Manor for an

undisclosed relationship. At this time, Family Safety, Risk, and Permanency Services were initiated.

In early-December 2009, the mother relapsed by taking three Adderall pills she found amongst her possessions in a storage unit. The mother did not disclose this relapse for two months because she feared the potential consequences. Following the disclosure, the mother reentered treatment at Jackson Recovery.

In January 2010, the parties stipulated to having H.H. returned to the mother's care under the protective supervision of DHS. By mid-February, the mother had moved into her own home, and was continuing in her substance abuse treatment and counseling. However, concerns were raised in April 2010, when the mother unexpectedly married a man who was also in recovery for substance abuse. The mother did not tell her parents of the marriage until days before the wedding, and did not tell any providers or extended family members until after the marriage.

At a review hearing held October 7, 2010, it was found that the mother had maintained her sobriety and had completed treatment at Jackson Recovery, although she continued to attend individual counseling. The mother and her husband were also doing well and learning how to co-parent H.H. A review/dismissal hearing was scheduled for February 2011.

In November 2010, the mother completed Drug Court, and by January 2011, was released from her probation. However, during this time, the mother and her husband's relationship became increasingly more tumultuous. The

mother and her husband were involved in frequent verbal altercations, and H.H. was being exposed to them. When the arguments became too heated, the mother would take H.H. to stay at the maternal grandparents. The husband also displayed controlling behaviors, like taking the mother's cell phone or car keys.

At the review/dismissal hearing held on February 3, 2011, the juvenile court determined it would be very inappropriate to dismiss this case given the recent backslide in progress. The court continued placement with the mother and scheduled another review in five months.

On February 22, 2011, DHS received a report that the mother and husband had relapsed and were using methamphetamine. During subsequent drug testing, the mother tested positive to methamphetamine exposure while the husband tested positive for methamphetamine usage. At this time, H.H. was again voluntarily placed with the maternal grandparents.

On April 8, 2011, the State filed a petition seeking to terminate the mother's parental rights under sections 232.116(1)(d) and (l). The petition came to a hearing on May 20, 2011. At the hearing, the mother requested an additional six months to address unspecified mental health issues.

On June 21, 2011, the juvenile court filed an order terminating the mother's parental rights. The mother appeals.

## **II. Standard of Review.**

We review termination of parental rights cases de novo. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). We give weight to the juvenile court's factual

findings, especially in assessing the credibility of witnesses, but are not bound by them. *Id.*

### **III. Analysis.**

The mother asserts the juvenile court erred in not granting her an additional six months to pursue mental health services. In addressing the mother's request for additional time to work towards reunification, the juvenile court determined:

[The mother's] history of substance abuse, co-dependency, social dysfunction and violent/serial male relationships, as well as her inability or unwillingness to stabilize her circumstances, indicate that she is unlikely to address her addictions, dependencies, and/or parental shortcomings any time soon. It is not likely an additional period of time to allow for continued reunification services will change what hasn't changed in four years. [H.H.] has been in and out of her mother's custody most of her life, whether it be through voluntary placements or court ordered placements. While [H.H.] has taken these moves in stride, with no apparent emotional or physical damage, it is time she be allowed to establish roots in a permanent home. A seedling cannot continue to grow and bloom without nurturing and roots.

[H.H.] remains in placement with her maternal grandparents. They have been the stabilizing force for not only [the mother], but for [H.H.] to rely on. [H.H.] is very comfortable in their home. [The maternal grandparents] are very dedicated to [H.H.] and have demonstrated a history of providing for her welfare and safety. [The maternal grandparents] are able to shield [H.H.] from the emotional distress that comes from witnessing her biological mother's ongoing preference for pursuits other than parenting [H.H.]. [H.H.] is an adoptable child.

The court must give primary consideration to the safety, best placement option for furthering the long-term nurturing growth of [H.H.], and to the physical, mental, and emotional condition and needs of [H.H.]. This court finds that it would be in [H.H.'s] best interests to terminate the parent-child relationships so that she will have the opportunity to grow and mature in a safe, healthy, and stimulating environment.

We agree with the juvenile court's findings and adopt them as our own.

The mother has received significant services over the last two years, including

inpatient and outpatient substance abuse treatment, family safety, risk, and permanency services; and individualized counseling. Despite these services, the mother has been unable to maintain sobriety and successfully parent H.H. See *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). In addition, over the last two years, H.H. has been placed with the maternal grandparents on three occasions while the mother has struggled to address her substance abuse issues. The child has spent a majority of her life in the care of her maternal grandparents, and the maternal grandparents have consistently met H.H.'s needs. H.H. deserves safety and stability. Terminating the mother's parental rights is in H.H.'s best interests, and six months of mental health services would not alter this result.

Accordingly, we affirm the order of the juvenile court terminating the mother's parental rights to H.H.

**AFFIRMED.**