

**IN THE COURT OF APPEALS OF IOWA**

No. 2-1143 / 12-1885  
Filed January 9, 2013

**IN THE INTEREST OF A.S.,  
Minor Child,**

**N.S., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Romonda D. Belcher,  
District Associate Judge.

A mother appeals a juvenile court's order adjudicating her son to be a  
child in need of assistance. **AFFIRMED.**

Bryan J. Tingle, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney  
General, John Sarcone, County Attorney, and Kevin Brownell, Assistant County  
Attorney, for appellee.

Charles Fusion of Youth Law Center, Des Moines, attorney and guardian  
ad litem for minor child.

Considered by Potterfield, P.J., and Danilson and Tabor, JJ.

**TABOR, J.**

A mother's use of methamphetamine and marijuana led to the adjudication of her fifteen-year-old son as a child in need of assistance (CINA). The juvenile court determined her substance abuse prevented her from properly supervising the teenager. On appeal, the mother claims she only used methamphetamine one time and contends the State failed to show her son is imminently likely to suffer harmful effects from the lack of supervision. After reviewing the record de novo, we agree with the juvenile court's determination that the State proved the grounds for the CINA adjudication by clear and convincing evidence.

***I. Background Facts and Proceedings***

Nancy and her son A.S. came to the attention of the Department of Human Services (DHS) in July 2012. A child protective service assessment addressed reports that Nancy was using methamphetamine. The summary alleged she had a history of methamphetamine use "and recently has been running out of money, has lost weight, has open sores on her body and stays up for days at a time." Although Nancy initially denied using methamphetamine, on July 27, 2012, her urine specimen tested positive for methamphetamine in a significant amount, as well as positive for marijuana. Nancy denied using methamphetamine until confronted with her drug test results, at which time she admitted trying the substance one week earlier and discovering it "wasn't for her." Nancy admitted using marijuana on the two Friday nights per month she went out. The DHS found the mother's conduct denied the teenager critical care, removed him from her home, and placed him with his adult sister.

Nancy provided urine specimens for analysis on August 24 and September 6, 2012. The drug tests were negative for any illegal substances. Nancy also completed a substance abuse evaluation on August 24, 2012. No treatment was recommended for Nancy based on the information she provided. But the report cautioned that if Nancy provided inaccurate information, a new substance abuse evaluation would be necessary.

The juvenile court held an adjudicatory hearing on September 7, 2012. Nancy testified she tried methamphetamine approximately one week before the drug test and did not like it. The forty-two year old claimed she consumed the drug because “[e]verybody else was doing it.” Nancy testified she used methamphetamine just that one time and no longer used marijuana or alcohol. On cross-examination, Nancy admitted taking methamphetamine in 2001, which resulted in an earlier CINA adjudication for A.S.

A child protection worker rebutted Nancy’s assertion that she tried the methamphetamine one week before the drug test. The worker relayed her understanding that methamphetamine metabolizes out of the body in approximately three days—leading to the conclusion the mother used methamphetamine less than a week before the drug screen. The worker also testified juvenile court supervision was necessary because A.S. had difficulty controlling his anger; police reports indicated he physically assaulted or abused his siblings, including a disabled brother. The worker believed the teenager’s behaviors required monitoring by a sober parent.

On the same day as the hearing, the juvenile court filed its order adjudicating A.S. to be a CINA. The court found the mother had unresolved substance abuse issues and failed to provide “proper supervision” of A.S. given his “specific needs.” The court ordered the child to remain in his sister’s care under DHS supervision.

On October 3, 2012, the juvenile court held a dispositional hearing and determined the mother was complying with services. The court modified A.S.’s placement—returning him to his mother’s home with DHS supervision. Nancy filed a notice of appeal from the orders issued September 7 and October 3, 2012.

## ***II. Scope and Standard of Review***

We review CINA proceedings de novo. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). In other words, we review both the juvenile court’s findings of fact and conclusions of law, and adjudicate rights anew. *Id.* While we give weight to the court’s fact findings, we are not bound by them. *Id.* Our chief concern is the child’s best interests. *Id.*

## ***III. Analysis***

Nancy appeals A.S.’s adjudication as a CINA pursuant to Iowa Code section 232.2(6)(c)(2) (2011). That section defines a CINA as a person under eighteen years of age who has suffered or is imminently likely to suffer harm from a parent’s failure to exercise a reasonable degree of care in supervision. Iowa Code § 232.2(6)(c)(2). Nancy argues the record is “devoid” of proof showing A.S. has suffered or was imminently likely to suffer harmful effects from her

failure to supervise him. She also contests the characterization that she is addicted to methamphetamine.

We agree with the juvenile court's conclusion that the State proved A.S. suffered or was imminently likely to suffer harm related to Nancy's substance abuse. Nancy cannot exercise a reasonable degree of care in supervising A.S. while abusing illegal substances. Despite Nancy's assertions to the contrary, the record contains clear and convincing evidence that she used methamphetamine. Nancy's attempt to minimize her involvement with the illicit drug was not credible given the following: (1) she initially denied using methamphetamine; (2) she admitted using only after confronted with her drug test results; (3) she claimed to have "tried" methamphetamine only one time—one week before the testing, yet the test showed a high level of methamphetamine in her system, which was inconsistent with the drug's rapid rate of metabolizing; and (4) Nancy admitted using methamphetamine in 2001, which also led to A.S. being adjudicated as a CINA. Although Nancy's substance abuse evaluation did not recommend treatment, the recommendation was based on her self-reported behavior.

The evidence shows A.S. suffered or was imminently likely to suffer harmful effects due to Nancy's failure to properly supervise him. The child protective worker testified that methamphetamine use compromises a parent's ability to supervise a child. See *In re A.B.*, 815 N.W.2d 764, 776 (Iowa 2012) (recognizing an unresolved drug dependency can "render a parent unfit to raise children"). While small children may be most vulnerable, even teenagers are not immune from the hazards of a parent using methamphetamine. See *State v.*

*Petithory*, 702 N.W.2d 854, 859 (Iowa 2005). A.S. has a history of anger management problems and has assaulted his siblings. A.S.'s conduct has required police intervention. Nancy must remain drug free to effectively address her son's challenges so he may avoid harm in the future.

Because clear and convincing evidence supports A.S.'s adjudication as a CINA pursuant to section 232.2(6)(c)(2), we affirm.

**AFFIRMED.**