

IN THE COURT OF APPEALS OF IOWA

No. 2-284 / 12-0409
Filed April 25, 2012

**IN THE INTEREST OF C.L.P. and G.L.G.,
Minor Children,**

**H.W.G. a/k/a H.P., Mother,
Appellant.**

Appeal from the Iowa District Court for Pottawattamie County, Charles D. Fagan, District Associate Judge.

A mother appeals the juvenile court order terminating her parental rights.

AFFIRMED.

Scott D. Strait, Council Bluffs, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant County Attorney, Matthew Wilber, County Attorney, and Eric Strovers, Assistant County Attorney, for appellee.

J. Joseph Narmi, Council Bluffs, guardian ad litem for minor children

Roberta Megel of Public Defender's Office, Council Bluffs, attorney for minor children.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ.

MULLINS, J.

A mother appeals the juvenile court order terminating her parental rights to two children, C.L.P. (born 2001) and G.L.G. (born 1999). She argues: (1) the State failed to prove the statutory grounds for termination, (2) termination was not in the children's best interests, (3) reasonable reunification efforts were not made, and (4) the juvenile court erred in denying her motion to enlarge or amend. For the reasons stated herein, we affirm.

I. Background Facts and Proceedings.

When the children were one and two years old, respectively, the mother was imprisoned on a first-degree arson conviction in the State of Georgia. As a result, the children's maternal great-grandmother was appointed as their guardian and became their care provider. When the mother was paroled in 2003, she moved to Alabama, but the children remained in the care of the great-grandmother in Council Bluffs.

G.L.G. has severe behavioral and psychological needs, and has been diagnosed with mood disorder, attention deficit hyperactivity disorder, and oppositional defiant disorder. In 2007, G.L.G. was removed from his great-grandmother's care and adjudicated a child in need of assistance (CINA) due to his behavioral issues. G.L.G. was eventually placed in a psychiatric medical institute for children (PMIC), where he ultimately graduated with maximum benefits. G.L.G. was returned to the care of his great-grandmother and the CINA case was closed in June 2009.

Shortly after the CINA case closed, the great-grandmother and the children moved to Alabama, where the mother helped provide care for the children. However, after three months, the great-grandmother and the children moved back to Council Bluffs. This was the last time the mother provided care or had face-to-face contact with her children.

The present case was initiated in January 2010. The great-grandmother had been admitted to a hospital with the diagnosis of dementia and early onset Alzheimer's disease, and was no longer capable of providing care for the children.¹ Therefore, the Iowa Department of Human Services (DHS) placed the children into shelter care, filed a petition seeking to adjudicate them as CINA, and requested a home study of the mother's home in Alabama through the Interstate Compact on Placement of Children. See Iowa Code §§ 232.158-.168 (2009). The children were adjudicated CINA under Iowa Code sections 232.2(6)(c)(2) and (n) on March 11, 2010.

In May 2010, the State of Alabama disapproved placement with the mother. The denial was based on the mother's lack of cooperation as shown by her cancellation of three scheduled appointments. DHS submitted a second request in July 2010, but the State of Alabama again denied placement with the mother. According to this home study, the mother reported that she had recently left her paramour and moved in with G.L.G.'s father. The worker denied the placement based on the mother's recent move, and her lack of stability and employment. After the second home study was denied, the mother moved back

¹ The great-grandmother passed away in January 2011. At that time, guardianship of the children was transferred to DHS.

in with her paramour. In February 2011, DHS submitted a third request for a home study. However, Alabama refused to perform the home study without some additional information showing the mother had made substantive changes since the two previous denials. Since the mother's consistency in contacting the children had been decreasing and there was no evidence showing the mother had found stability, DHS decided to not seek a court order requiring a third home study.

At the June 30, 2011, review hearing, the mother requested the juvenile court to order DHS to request another home study. The juvenile court continued the hearing until July 7, 2011 and held the record open so the information pertaining to the previous home studies could be gathered. At the July 7 hearing, both children testified that they would rather be adopted than reunite with their mother. Following the hearing, the juvenile court denied the mother's request to order DHS to submit a fourth home study request. The permanency goal was also changed from placement with the mother to termination and adoption.

On October 21, 2011, the State filed a petition to terminate the mother's parental rights to both children. The petition came to a trial on December 8, 2011. The mother did not appear in person, but participated by telephone.

At trial, the evidence showed that the mother had never come to Iowa to visit the children, and had not seen the children face-to-face in over two years. During the pendency of this case, the only contact the mother had with the children was by telephone, but that contact was inconsistent. Initially, the mother called the children almost every night, but by October 2010, the mother was only

calling every other week. The mother did not call the children at all between February 2011 and September 2011. In addition, concerns were raised that the telephone conversations were detrimental to the children because the mother was promising to send the children gifts in the mail but not following through, and she was telling the children they would soon be living with her.

The evidence also showed that G.L.G. struggled with his behaviors at school and in foster care throughout the case. Due to his violent and aggressive behaviors and outbursts, G.L.G. was placed into shelter care in April 2011 and transitioned into a PMIC program in October 2011. Although C.L.P. was in a pre-adoptive placement, G.L.G. was going to have to remain in the PMIC program so he could continue to receive psychiatric care, medication management, and education to assist him in becoming successful in a foster care placement in the hopes of being adopted in the future.

On January 24, 2012, the juvenile court terminated the mother's parental rights under Iowa Code sections 232.116(1)(b), (e), and (f) (2011).² On February 7, 2012, the mother filed a motion to enlarge and amend challenging the sufficiency of the evidence and claiming several factual mistakes. The juvenile court denied the motion, and the mother now appeals the termination of her parental rights.

² The juvenile court also terminated the parental rights to the known and putative fathers of the children. The fathers have not appealed.

II. Standard of Review.

We review termination proceedings de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). We give weight to the juvenile court's factual findings, but we are not bound by them. *Id.*

III. Analysis.

A. Statutory Grounds. When the juvenile court terminates parental rights on multiple grounds, we need only find one ground to be appropriate to affirm. *In re D.W.*, 791 N.W.2d 703, 707 (Iowa 2010). We find the State adequately proved section 232.116(1)(f). Under this ground, the mother only challenges whether the State proved by clear and convincing evidence that the children could not be returned to her care. Iowa Code § 232.116(1)(f)(4).

Alabama denied the mother's home study twice. Thus, the children cannot be placed into her care in Alabama. See Iowa Code § 232.158(3)(d). There is no evidence in the record that she has appealed Alabama's determinations. In addition, the mother admitted at the termination trial that she did not have the financial ability to come to Iowa and get her children, even if the juvenile court ordered the children be returned to her care. Accordingly, the State has shown clear and convincing evidence that the children cannot be returned to the mother's custody at the present time.

B. Best Interests of the Children. In determining a child's best interests, we "give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to

the physical, mental, and emotional condition and needs of the child.” *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010) (quoting Iowa Code § 232.116(2)).

The mother has been absent for a majority of the children’s lives. A guardianship was established for the children when they were one and two years old, and they were raised and cared for by their great-grandmother until her health failed in January 2010. Since this case started, the mother has not seen her children, and has only maintained minimal telephone contact. In addition, G.L.G. has significant behavioral and psychological needs, and there is no evidence to show the mother would be capable of meeting and addressing those needs. We find termination is in the children’s best interests.

C. Reasonable Efforts. The mother also argues the juvenile court erred when it refused to order DHS to make a fourth request for a home study of her home in Alabama. We disagree. When the mother made her request for an additional home study, the evidence showed that the mother had not spoken with her children in almost four months, had not had a single visit with her children, and had not seen her children in almost two years. In addition, Alabama had already denied two home studies, and there was no evidence presented showing any change in circumstances. The children also both testified on July 7 that they would rather be adopted than reunite with the mother in Alabama. Since the mother was not actively participating in services and did not show that she was capable of meeting her children’s needs, it would be a waste of resources to initiate a home study. See, e.g., *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000) (“The requirement of reasonable efforts exists both to protect rights of parents

and children, and provide financial incentive for states.”). Accordingly, we find the juvenile court did not error in denying the mother’s request for an additional home study.

D. Motion to Enlarge. The mother further argues the juvenile court erred in denying her motion to enlarge or amend due to the insufficiency of the evidence and certain factual mistakes. Based upon our de novo review, we find the juvenile court did not commit err because the order terminating the mother’s parental rights is supported by sufficient evidence.

IV. Conclusion.

For the foregoing reasons, we affirm the decision of the juvenile court to terminate the parental rights of the mother to C.L.P. and G.L.G.

AFFIRMED.