

IN THE COURT OF APPEALS OF IOWA

No. 2-530 / 12-0936
Filed July 11, 2012

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

**E.A.D., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Todd Babich of Babich, Goldman, Cashatt & Renzo, P.C., Des Moines, for appellant mother.

Nathaniel Tagtow, Des Moines, for father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin Brownell, Assistant County Attorney, for appellee State.

M. Kathryn Miller, Juvenile Public Defender, Des Moines, for minor children.

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

EISENHAUER, C.J.

A mother appeals from the order terminating her parental rights. She contends the grounds for termination are not supported by clear and convincing evidence. The father did not appeal from the termination of his parental rights. We affirm.

The children, born in November 2002 and June 2007, were removed from the home of the mother and her paramour in March 2011, after the younger child was taken by ambulance to the hospital in late February with life-threatening injuries. The children were placed with their maternal grandparents. The court adjudicated both children in need of assistance in August. The court continued the children's placement with their grandparents following the dispositional hearing.

The mother and her paramour have consistently blamed the older child, for the injuries to the younger child. Both children and the medical evidence contradict the claims of the mother and her paramour. The mother has had no visitation with the older child since July 2011 because he does not want anything to do with his mother, in large part because the child says his mother lies and continues to deny what really happened to the younger child. The court asked the mother to meet with the older child in a therapeutic setting and to explain to him it was not his fault his younger brother was injured. The meeting never occurred.

The mother has consistently had supervised visitation with the younger child. She has acted appropriately during visitation, but has had trouble dealing with the child's impulsive and oppositional behaviors, which stem largely from the

severe brain injuries he received. The worker supervising the visits often has to step in to redirect the child's behavior because he does not listen to his mother. He continues to recover from his injuries, but has some permanent damage, such as damage to one retina.

A permanency hearing began in February 2012, and the State recommended termination of parental rights and continued placement of the children with their grandparents. After receiving some exhibits, the court continued the permanency hearing until May, to be held in conjunction with the termination proceeding. The State petitioned to terminate the parental rights of both parents under Iowa Code section 232.116(1)(d), (e), and (f) (2011). It also sought termination of the father's parental rights under section 232.116(1)(b) and the mother's under section 232.116(1)(i).

The court terminated the mother's and father's parental rights on all the grounds alleged. It made specific findings the mother was not credible and the accounts given by the children were credible. It also specifically found the younger child's "systematic physical abuse occurred because [the mother] and [her paramour] acted in concert with each other and individually to physically abuse [the child]. They continue to act in concert to cover-up their actions."

Review of termination orders is de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). We give weight to the court's findings, especially concerning credibility, but we are not bound by them. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). When the court orders termination on multiple grounds, we may affirm the termination order on any ground we find supported by clear and convincing evidence. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010).

After reviewing the record de novo, we conclude grounds for termination of the mother's parental rights exist under section 232.116(1)(f). The children were adjudicated in need of assistance, they have been removed from her care for over a year, and they cannot be returned to her care without being at risk of adjudicatory harm. Iowa Code § 232.116(1)(f); see *id.* §§ 232.102(5)(a)(2); 232.102(9); 232.2(6). The mother has been compliant with some services provided, but has made little progress in showing she can provide a safe home for the children. Service providers have not been able to identify what led to the child abuse or how to correct the problem and assure the children's safety if returned to the mother's care because she remains adamant the older child caused the injuries, despite all contrary evidence. The mother's past performance informs our determination of the quality of future care she is capable of providing. See *In re C.W.*, 554 N.W.2d 279, 283 (Iowa Ct. App. 1996). Her refusal to address her role in the abuse hurt her chances of regaining custody and safely caring for her children. See *In re C.H.*, 652 N.W.2d 144, 150 (Iowa 2002). It is essential in meeting these children's needs the mother recognize and acknowledge her role in the abuse. See *In re L.B.*, 530 N.W.2d 465, 468 (Iowa Ct. App. 1995). Meaningful change cannot occur without this recognition. *In re H.R.K.*, 433 N.W.2d 46, 50 (Iowa Ct. App. 1988). Furthermore, without this acknowledgement, services are not likely to be effective. *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999).

Giving appropriate deference to the court's explicit assessment of credibility, and giving primary consideration to the children's safety, we find returning the children to the mother's custody is not "the best placement for

furthering the long-term nurturing and growth of the child[ren]” nor the placement that will meet “the physical, mental, and emotional condition and needs of the child[ren].” Iowa Code § 232.116(2).

AFFIRMED.