

IN THE COURT OF APPEALS OF IOWA

No. 3-878 / 13-1179
Filed September 18, 2013

**IN THE INTEREST OF M.C. AND H.C.,
Minor Children,**

**M.C., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

A mother appeals the termination of her parental rights to her children.

AFFIRMED.

Annette F. Martin, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, Jerry Vander Sanden, County Attorney, and Rebecca Belcher,
Assistant County Attorney, for appellee State.

Kimberly Opatz of Linn County Advocates, Cedar Rapids, attorney and
guardian ad litem for minor child.

Considered by Eisenhauer, C.J., and Vaitheswaran and Doyle, JJ.

VAITHESWARAN, J.

A mother appeals the termination of her parental rights to her two children, born in 2004 and 2005. She contends the (1) State failed to prove the ground for termination cited by the district court and (2) termination was not in the children's best interests.

I. The children were removed from the custody of their mother and stepfather in 2011 after they disclosed that their stepfather sexually abused them. They remained out of their mother's care through the termination hearing that ended in March 2013.¹ Before the last day of the termination hearing, the stepfather entered an *Alford* plea² to two counts of lascivious acts with a child. He was awaiting sentencing on those counts and expected to receive two ten-year prison terms, to be served concurrently.

Following the hearing, the district court terminated the mother's parental rights pursuant to Iowa Code section 232.116(1)(f) (2011), which requires proof of several elements, including proof that the children could not be returned to the parent's custody. The court cited the mother's repeated assertions that she would not believe the allegations of sex abuse unless she heard it from her children. The court pointed out that the mother could have heard the allegations from the children had she watched video recordings of statements they made to professionals. The court acknowledged that the mother eventually testified she believed the children, but it placed little credence on that belated testimony, given

¹ The hearing was held on three dates spanning three months.

² An *Alford* plea allows a defendant to consent to the imposition of prison sentence without admitting participation in the acts constituting the crime. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

the lengthy period of denial. The court concluded that the mother would be unable to protect the children from their stepfather or other sexual predators.

On appeal, the mother does not directly address the district court's concern with whether she believed her daughters. Instead, she argues that the State improperly focused on whether she might reunite with the stepfather. Because the termination decision was based on the mother's failure to support the children's allegations as well as her unwillingness to sever her ties with the stepfather, we will focus on both aspects of the decision.

Our de novo review of the record reveals the following facts. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010) (setting forth the standard of review). As noted, the mother initially reacted to her children's disclosures by stating she would believe them if they told her. Yet, when the children attempted to discuss the abuse in a therapy session that she attended, she interfered with their narratives. As a result, the children "shut down," and the mother was asked not to attend future therapy sessions. While it was the mother's prerogative to give her husband the benefit of the doubt, her attempt to obstruct the children's therapy revealed a lack of concern for their well-being.

We turn to the mother's assertion that the State placed too much emphasis on her possible reunification with the stepfather. We agree the likelihood of imminent reunification was minimal, given the length of his prison term. Nonetheless, the mother's numerous phone and electronic contacts with the stepfather after she became aware of the children's allegations left doubt as to whether she would abide by a no-contact order between the stepfather and children on his release. This concern, together with the mother's obstruction of

therapy, amounted to clear and convincing evidence in support of the district court's conclusion that the children could not be returned to the mother's custody.

II. The mother next argues that termination was not in the children's best interests. See *id.* at 37. She notes that she "has adequate housing and two jobs, is a student who will receive a degree in the near future," "possesses competent parenting skills and a very strong bond with her children," "never missed a visit," "routinely attends therapy herself," and "saw to it that her children were engaged in therapy while ensuring it did not have a significant impact on their school attendance." The department disputed that the mother routinely attended therapy but essentially conceded the remaining assertions. Nonetheless, professionals who worked with the family uniformly testified that reunification would pose a risk of harm to the children.

A care coordinator who supervised visits testified that she would not even recommend a transition to semi-supervised visits, given her concern about the mother's "understanding and acceptance of the abuse." While she acknowledged the strong bond between the mother and her children and agreed with the mother's attorney that the children would be sad if contact were curtailed, she could not agree that severing the ties would be detrimental to them. She stated, "[I]t could be detrimental to continue contact with [the mother] if she were to interfere in the therapy that they're getting or allow contact with [the stepfather]."

A county protective health worker who also supervised visits concurred with this assessment. She stated, "The [children] have experienced, in their own words, very serious sexual abuse and . . . so I struggle to believe that she will be

able to get them the help they need going forward.” She opined that the mother would be unable “to meet the therapy needs, the mental health needs, the everyday needs the [children] are going to encounter with dealing with what has happened to them.”

A department social worker similarly stated,

I don't believe that today or really in any near future that these children would safely be able to continue their therapeutic process due to the trauma that they've suffered. The girls have now been out of the home for 15 months with no significant progress and support of the trauma that these girls endured. I don't believe giving more time would benefit the girls.

This and other evidence in the record lead us to agree with the following conclusion of the district court:

These two wonderful, young children have been abused and traumatized not just by [the stepfather's] actions but also the actions of their mother denying their pain and trauma. Said abuse poses a significant risk to the lives of the children and offered services have not corrected the situation to the point where the court trusts that the mother will protect them from [the stepfather] or future abuse.

We affirm the termination of the mother's parental rights to her two children.

AFFIRMED.