

IN THE COURT OF APPEALS OF IOWA

No. 6-263 / 06-0039
Filed April 26, 2006

**IN THE INTEREST OF T.J., D.E., AND M.J.B.,
Minor Children,**

A.E., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

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

AFFIRMED.

Sara Kersenbrock, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven J. Halbach, Assistant County Attorney, for appellee State.

Kelly Smith of Smith Law Office, Waterloo, for father T. M.

James Kalkhoff of Dutton, Braun, Staack & Hellman, P.L.C., Waterloo, for father B.E.

Mark Milder of Correll, Sheerer, Benson, Engels, Galles & Demro, Cedar Falls, for father S.B.

Timothy Baldwin, Juvenile Public Defender's Office, Waterloo, guardian at litem for minor children.

Considered en banc.

PER CURIAM***I. Background Facts & Proceedings***

Amanda is the mother of Thomas, born in July 1996, Daisy, born in July 2000, and Mary Jane, born in January 2005. Thomas M. is the father of Thomas, Blake is the father of Daisy, and Seth is the father of Mary Jane. Amanda has a history of substance abuse. Thomas M. has been in prison throughout the juvenile court proceedings.

Thomas and Daisy were removed from Amanda's care in April 2004 due to her drug use. Amanda was acting in an erratic manner, and continued to operate a motor vehicle in this condition. Thomas and Daisy were adjudicated to be in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(c)(2) (2003) (child is likely to suffer harm due to parent's failure to supervise). They were placed with Blake. Amanda was ordered to have a substance abuse evaluation, provide drug tests, and participate in family-centered services.

Amanda entered a substance abuse treatment program, but was unsuccessfully discharged. She was arrested for possession of marijuana and methamphetamine in October 2004. A psychological evaluation revealed Amanda had some serious mental health issues in addition to her substance abuse problems. She demonstrated no significant motivation to either acknowledge or work on her problems.

When Mary Jane was born in January 2005, she had methamphetamine in her system. Mary Jane was adjudicated CINA under section 232.2(6)(n) (2005) (parent's drug abuse results in child not receiving adequate care). She

was placed with the paternal grandmother. Amanda was living with Seth, the father of Mary Jane. Both Amanda and Seth refused to provide drug tests.

In July 2005, the State filed a petition seeking termination of the parental rights of Amanda, Thomas M., and Seth. The juvenile court terminated Amanda's parental rights under sections 232.116(1)(e) (child CINA, removed for six months, parent has not maintained significant and meaningful contact), (f) (child four or older, CINA, removed for at least twelve months, and cannot safely be returned home) (Thomas and Daisy), (h) (child is three or younger, CINA removed at least six months, and cannot safely be returned home) (Mary Jane), and (l) (child CINA, parent has substance abuse problem, and child cannot be returned within a reasonable time). The parental rights of Thomas M. and Seth were also terminated. The juvenile court found, "Amanda is unable to accept responsibility for the children's removal from her care. She has denied or minimized her substance abuse since the initial removal of Thomas and Daisy." Amanda appeals the termination of her parental rights.

II. Standard of Review

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interest of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Placement of Child

Amanda claims the juvenile court should have considered her or her family as a placement option for Daisy, in view of Blake's reticence to be a placement option. The termination order placed sole custody of Daisy with Blake. The court did not discuss the possibility of placing Daisy with maternal relatives, and we conclude this issue has not been preserved for our review. See *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994) (noting an issue not presented in the juvenile court may not be raised for the first time on appeal). In addition, it is clear Daisy could not be placed with Amanda due to her on-going substance abuse problems.

IV. Additional Time

Amanda contends the juvenile court should have granted her an additional six months to reunite with the children. Thomas and Daisy were removed in April 2004, and the termination hearing was held in September 2005. Amanda took only minimal steps to address her problems during this time. Patience with parents can soon translate into intolerable hardship for their children. *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). We find it would not be in the children's best interests to give Amanda additional time.

We affirm the decision of the juvenile court.

AFFIRMED.