

IN THE COURT OF APPEALS OF IOWA

No. 6-265 / 06-0335
Filed May 10, 2006

**IN THE INTEREST OF W.J.B. Jr., K.L., and J.B.,
Minor Children,**

G.L. Mother,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

A mother appeals the juvenile court order terminating her parental rights to her minor children. **AFFIRMED.**

Stephanie Forker Parry of Forker & Parry, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas S. Mullins, County Attorney, and Dewey P. Sloan, Sr., Assistant County Attorney, for appellee State.

John S. Moeller of O'Brien, Galvin & Moeller Law Offices, Sioux City, for father.

Mercedes Ivener of Vriezelaar, Tigges, Edgington, Rossi, Bottaro & Boden, Sioux City, guardian ad litem for minor children.

Considered en banc.

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

Gabrielle and Waylon are the parents of Kayleah, born in October 2002, Waylon Jr., born in January 2004, and Jeffrey, born in August 2005. Both parents have a history of substance abuse. Their relationship involves incidents of domestic violence. Waylon Jr. was born with amphetamine in his system, and he was removed from the parents' care at that time. In February 2004, both Kayleah and Waylon Jr. were placed with Gabrielle while she attended the Women and Children's Center.

Kayleah and Waylon Jr. were adjudicated to be children in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(n) (2003) (parent's drug abuse results in child not receiving adequate care) and (o) (illegal drug present in child). Gabrielle successfully completed an inpatient program, and began an extensive outpatient program. She was discharged in July 2004, however, for lack of attendance, and she relapsed into drug use. There were also concerns that she was not providing proper medical treatment for the children. Kayleah and Waylon Jr. need consistent medical care for skin conditions. They were removed from Gabrielle's care and placed in foster care.

In January 2005, Gabrielle entered a different substance abuse treatment program. She completed that program, and in May 2005, the parties agreed the children could join Gabrielle at a halfway house. Jeffrey was born in August 2005. Gabrielle was discharged from the halfway house later that month for not following program rules and for continuing her association with Waylon, who was

still using illegal substances. The children were then again removed from her care. Jeffrey was adjudicated CINA under sections 232.2(6)(c)(2) (2005) (child is likely to suffer harm due to parent's failure to supervise) and (n).

The parents continued to use illegal drugs and they were not compliant with services. Furthermore, there continued to be incidents of domestic abuse in their relationship. Waylon was arrested in December 2005 and charged with domestic assault against Gabrielle.

In December 2005, the State filed a petition seeking to terminate the parents' rights. The juvenile court terminated the parents' rights under sections 232.116(1)(h) (child is three or younger, CINA, removed for at least six months, and cannot be returned home) (Kayleah and Waylon Jr.) and (l) (child CINA, parent has substance abuse problem, child cannot be returned within a reasonable time). The court found:

Both Gabrielle and Waylon continue to live a lifestyle of violence, drug activity, and instability. Despite the myriad of services this young couple has received or have been offered, they remain unable to care for the children or for themselves and continue to place themselves in very dangerous situations.

Gabrielle 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. Sufficiency of the Evidence

Gabrielle contends there is insufficient evidence in the record to support termination of her parental rights. She points out that she had another substance abuse evaluation and was looking for a job. She asserted the children could be returned to her care within a few weeks.

We find clear and convincing evidence to show Gabrielle had a severe, chronic substance abuse problem and the children could not be returned to her care within a reasonable period of time. Gabrielle entered several substance abuse treatment programs, but had relapsed into drug use. “[I]n considering the impact of a drug addiction, we must consider the treatment history of the parent to gauge the likelihood the parent will be in a position to parent the child in the foreseeable future.” *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). We conclude it is unlikely Gabrielle would be able to parent the children in the foreseeable future. We find Gabrielle’s parental rights were properly terminated under section 232.116(1)(I). Having affirmed on this ground, we need not consider the other ground cited by the juvenile court. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

IV. Best Interests

Gabrielle asserts that termination of her parental rights is not in the children’s best interests. After considering all of the evidence in this case, we conclude termination is in the children’s best interests. Gabrielle has not been able to overcome her addiction to illegal drugs. She continues her associate with Waylon, even though he also continues to use illegal drugs and their relationship

is fraught with domestic violence. Furthermore, Gabrielle had not been meeting the children's medical needs.

We affirm the decision of the juvenile court.

AFFIRMED.