

IN THE COURT OF APPEALS OF IOWA

No. 6-485 / 06-0719

Filed July 26, 2006

**IN THE INTEREST OF M.L.S. and M.V.S.,
Minor Children,**

**S.M.S., Mother,
Appellant.**

Appeal from the Iowa District Court for Jones County, Kristin L. Hibbs,
Judge.

A mother appeals from the order terminating her parental rights to two
children. **AFFIRMED.**

Michael M. Lindeman of Lindeman Law Firm, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Connie S. Ricklefs, County Attorney, and Robert Hruska,
Assistant County Attorney, for appellee State.

Pamela Lewis, Cedar Rapids, guardian ad litem for children.

Considered by Mahan, P.J., and Hecht and Eisenhauer, JJ.

HECHT, J.

Sky is the mother of Morgan, who was born in 2003, and Michael, who was born in 2004. Morgan was first removed from Sky's custody in March of 2003 following a domestic abuse incident between Sky and her husband Michael, Sr. After this incident, Sky stipulated to the State's position that Morgan was a child in need of assistance (CINA). Michael and Morgan, who had been since returned to Sky's custody, were removed from her care in April of 2005 after Sky tested positive for the presence of a prescription pain medication and cocaine metabolites. After their removal, both children tested positive for cocaine and Michael was subsequently adjudicated as CINA. On December 6, 2005, the State filed a petition seeking to terminate Sky's parental rights to Morgan and Michael. Following a hearing, the juvenile court terminated her rights pursuant to Iowa Code sections 232.116(1)(h) and (l) (2005). Sky appeals from this order.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern in termination proceedings is the best interests of the children. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

On appeal, Sky first maintains the State failed to support its termination petition by clear and convincing evidence. Second, she maintains the "State failed to meet its burden of proof concerning the necessity of termination." We interpret this as a best-interests argument.

Sky believes termination was inappropriate because she has largely met the expectations of the permanency plan, attended visitation, maintained stable housing, and held two jobs. However, upon our careful de novo review of the record, we conclude the termination of Sky's parental rights was appropriate under section 232.116(1)(f) which requires proof by clear and convincing evidence that Sky has a "severe, chronic substance abuse problem, and presents a danger to self or others . . . [and that] the child will not be able to be returned to the custody of the parent within a reasonable time . . . ". Iowa Code § 232.116(1)(f).

Much of the evidence and testimony presented at trial centered on Sky's longstanding and substantial drug usage. Sky reported to a substance abuse evaluator that she had been drinking prior to the incident in which Morgan was first removed from her care. She later reported to having started using drugs at the age of sixteen, and to having used alcohol, methamphetamine, ecstasy, cocaine, marijuana, and LSD. The children's April 2005 removal was prompted by Sky's positive urinalysis for a prescription drug and cocaine metabolites. Following that removal, both Morgan and Michael tested positive for cocaine, and in November of 2005, Sky tested positive for marijuana. Between April of 2005 and the termination hearing Sky was requested to provide thirty-six drug screens; however, she only provided eleven, three of which were diluted. At the time of termination, Sky was living with a man who had a "history of substance abuse and non-compliance with substance abuse treatment."

Despite the expectations of DHS and her participation in substance abuse treatment, Sky still found it appropriate to be a "social drinker" at the time of the

termination hearings. Based on this troubling history of Sky's substance abuse and her repeated exposure of Morgan and Michael to the dangers arising from her drug addiction, we find no reasonable prospects that the children can soon, if ever, be returned to Sky's custody. Rather, the clear evidence provides no confidence Sky will maintain sobriety or provide the children a safe, nurturing, and otherwise appropriate home. We find termination of Sky's parental rights to Morgan and Michael is in their best interests and affirm the ruling of the juvenile court.

AFFIRMED.