

IN THE COURT OF APPEALS OF IOWA

No. 6-728 / 06-1191
Filed October 11, 2006

**IN THE INTEREST OF A.H. and K.H.,
Minor Children,**

**M.V.H., Mother,
Appellant.**

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

A mother appeals the termination of her parental rights. **AFFIRMED.**

Angela Railsback of Nazette, Marner, Wendt, Knoll & Usher, L.L.P., Cedar
Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Troy Powell, Assistant
County Attorney, for appellee State.

Carrie Bryner, Cedar Rapids, for minor child.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

ZIMMER, J.

A mother appeals from the termination of her parental rights to her two children. Upon our de novo review, we affirm.

I. Background Facts & Proceedings

Melena is the mother of Aaron, born in October 2001, and Kara, born in April 2003.¹ Ralph is the father of Aaron, and Timmy is the father of Kara.

Melena has a history of substance abuse and criminal activity. Her drug of choice is cocaine. Aaron was born while his mother was in prison in Kansas. Melena used alcohol and cocaine while she was pregnant with Kara. The Iowa Department of Human Services (DHS) has been involved with Melena and the children since August 2004. Aaron and Kara were adjudicated children in need of assistance (CINA) on October 21, 2004, due to Melena's drug abuse and her failure to adequately supervise her children.

On December 8, 2004, the juvenile court ordered custody of the children to remain with Melena under the protective supervision of DHS. However, the children were removed from Melena's custody and placed in family foster care on June 1, 2005, when Melena failed to pick them up from daycare. Melena missed many opportunities for visitation with her children. She has been arrested twice for operating while intoxicated since October 2005. Melena failed to submit to random urinalysis, and she has not completed a substance abuse treatment program.

¹ Melena is the mother of five children. Her oldest child, Jonathan, drowned at age four. Her second child, LeTasha, lives in Kansas with relatives, and her third child, Jaron, lives in another state with his father.

On April 4, 2006, the State filed a petition to terminate Melena's, Ralph's, and Timmy's parental rights. Following a hearing, Melena's parental rights were terminated by the juvenile court in an order filed July 7, 2006.² Melena has appealed.

II. Scope & Standards of Review

We review termination proceedings de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the best interests of the children in termination proceedings. *In re R.R.K.*, 544 N.W. 2d 274, 275 (Iowa Ct. App. 1995).

III. Discussion

On appeal, Melena contends: (1) the State did not present clear and convincing evidence the children could not be returned to her care, (2) reasonable efforts were not made to reunite her with her children, (3) the court erred in failing to grant her an additional six months to assume care, and (4) termination is not in the best interests of the children.

The juvenile court terminated Melena's parental rights to Aaron pursuant to Iowa Code section 232.116(1)(f) (2005) (child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home), and her rights to Kara pursuant to section 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). The court also terminated the mother's

² Neither father attended the termination hearing. Their parental rights are not at issue in this appeal.

parental rights to both children pursuant to section 232.116(1)(I) (child CINA, parent has substance abuse problem, children cannot be returned within a reasonable time).

Melena first claims the State failed to present clear and convincing evidence the children could not be returned to her custody. We find no merit in this argument. The children have been out of their mother's care since May 2005. The record reveals Melena has failed to adequately address her longstanding substance abuse problems since the children were removed from her care. As the juvenile court noted, Melena had not been submitting to random urinalysis, she failed to follow through with substance abuse after care, she was dishonest with DHS, and she failed to address her mental health issues. At the termination hearing, Melena admitted she used drugs only ninety days prior to the hearing. We agree with the juvenile court's conclusion that clear and convincing evidence supports the statutory grounds for termination relied on by the State in this case.

Melena next contends reasonable efforts were not made to reunite her with her children. We disagree. Melena was offered a variety of services including supervised visitation, family centered services, family team meetings, substance abuse evaluations, random urinalysis, family foster care, mental health evaluation, domestic abuse counseling, referral to Heart of Iowa, Grant Wood AEA services, and Early Access services. We reject this claim of error.

The third argument Melena raises on appeal is that the court erred in failing to grant her an additional six months to assume care for the children. As discussed above, the juvenile court found Melena had made little progress

despite receiving assistance for nearly two years. The juvenile court returned the children to Melena's custody once, but it had to remove them again when she failed to pick them up from daycare. These children have spent much of their lives living in chaos with their mother or in the limbo of foster care. Aaron and Kara should not have to wait any longer for Melena to learn how to become a responsible parent. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). We agree with the juvenile court's decision to deny Melena an additional six months to attempt reunification.

Melena's final contention is that termination is not in the best interests of the children. The decision to terminate parental rights must reflect the children's best interests even when the statutory grounds for termination are met. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). It is apparent that serious concerns still exist regarding Melena's stability, continued sobriety, and ability to provide adequate care for her children. Despite the provision of numerous services, Melena remains unable to provide a safe and secure home for her children. When we consider the children's best interests, we look to their long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The juvenile court found the children to be adoptable and in immediate need of security and permanency. We agree with the juvenile court's finding that termination of Melena's parental rights is clearly in the children's best interests.

IV. Conclusion

We affirm the juvenile court's decision to terminate Melena's parental rights.

AFFIRMED.