

IN THE COURT OF APPEALS OF IOWA

No. 7-251 / 07-0342

Filed April 25, 2007

**IN THE INTEREST OF J.M.H. JR., D.R.T.-M. and A.J.N.H.,
Minor Children,**

**J.A., Mother,
Appellant.**

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

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

AFFIRMED.

Molly Vakulskas Joly, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Patrick Jennings, County Attorney, and Dewey P. Sloan, Assistant County Attorney, for appellee.

Matthew R. Metzgar of Rhinehart Law, P.C., Sioux City, attorney and guardian ad litem for minor children.

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

EISENHAUER, J.

A mother appeals the termination of her parental rights to her children. She contends the State failed to prove the grounds for termination by clear and convincing evidence, termination is not in the children's best interest, and the State failed to make reasonable efforts to reunite her with her children. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

The mother's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d) and (e) (2005). Parental rights to J.M.H. Jr. and A.J.N.H. were also terminated pursuant to section 232.116(1)(h). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(1)(d) where:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

The mother does not dispute the first element has been proven. Instead, she contends there is not clear and convincing evidence that the circumstances that led to the adjudication of her children as in need of assistance continue to exist.

We conclude there is clear and convincing evidence warranting termination of the mother's parental rights pursuant to section 232.116(1)(d). The children were adjudicated in need of assistance because they were found to have been neglected and imminently likely to suffer further harm from physical

abuse or neglect as a result of the mother's failure to supervise the children and exposing them to domestic violence. These circumstances continue to exist. The mother did not participate in services that would allow her to address her involvement in abusive relationships and concerns about the mother's relationships continue to exist. The mother also did not adequately address concerns about her parenting abilities. At the time of the termination hearing, the mother did not have housing or steady employment. Termination is appropriate.

Termination is also in the children's best interest. The juvenile court found:

[The mother] has been an ever present source of harm to these children. She has both neglected the children and herself by denying problems exist and avoiding changes to address those problems. Her resistance to change caused the children to be removed from her custody. After nearly 1 ½ years of services, she still has not furthered her education, has yet to show she can sustain a vocation, and has persisted in a dysfunctional/chaotic lifestyle. She remains ill equipped to provide for these children and is still a source of constant harm to them.

During the period of services, [the mother's] contact with the children became restricted. She failed to complete responsibilities of case permanency plans that would have helped her provide emotionally and financially for these children. She did not take advantage of services that could have helped her complete responsibilities of case plans and assume effective parenting. Her contact since modification of the children's custody a year ago has been neither significant nor meaningful.

The children have been out-of-home for the last year. [The mother] still sees no problem that warranted court intervention. Due to her blindness/denial, these children would be at imminent risk to be harmed due to her neglect. There is no indication that these children could be returned to her custody and protected from such harm any time in the foreseeable future.

We adopt these findings as our own. The future can be gleaned by the mother's past performance. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). Because

the mother is unable to see the deficiencies in her parenting, termination is appropriate.

Finally, the mother contends the State failed to make reasonable efforts to reunite her with her children. The mother was provided with a myriad of services, but was selective about her cooperation with these services. Although the mother requested additional services on October 27, 2006, some of these services were being provided or the mother wanted to control who provided these services.

The reasonable efforts requirement is not a strict substantive requirement for termination. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). Instead, the services and the scope of the efforts provided by the Department of Human Services (DHS) to reunify parent and child after removal impacts the State's burden of proving the child cannot be safely returned to the care of a parent. *Id.* The mother did not want the DHS involved with her children and did not believe she needed any services.

We conclude the State met its burden in proving the children cannot be returned to the mother's care. The DHS offered reasonable services to reunite the mother and her children. The mother chose not to participate in those services. We do not believe offering any additional services would have remedied the problems in this case.

AFFIRMED.