

IN THE COURT OF APPEALS OF IOWA

No. 7-386 / 07-0645

Filed June 13, 2007

**IN THE INTEREST OF A.M., C.L., and J.L.,
Minor Children,**

T.L.L., Father,
Appellant,

M.A.M., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Judge.

A mother and father appeal from the order terminating their parental rights. **AFFIRMED ON BOTH APPEALS.**

Dennis Guernsey, Waterloo, for appellant father.

David Zellhoefer of Zellhoefer Law Office, Waterloo, for appellant mother.

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

Michael Lanigan, Waterloo, for minor child.

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

ZIMMER, J.

A mother and father appeal separately from the juvenile court order terminating their parental rights. We affirm on both appeals.

I. Background Facts and Proceedings

Maria is the mother of Antonio, born in May 1998; Charlie, born in October 2001; and Jesi, born in October 2003.¹ Terry is the father of Charlie and Jesi, and Brent is the putative father of Antonio. The children were removed from the parents' home on July 13, 2005, because of Maria's drug use and her failure to supervise the children. At that time, the children tested positive for exposure to illegal drugs.

The court adjudicated the children as children in need of assistance (CINA) on September 2, 2005. Following adjudication, the parents did not take advantage of the services they were offered or follow through with substance abuse and mental health treatment recommendations. Maria lied about attending a "Moms Off Meth" program and forged attendance slips. There have been several founded reports of child abuse against the mother and father involving these children.

The State filed a petition to terminate Maria's, Terry's, and Brent's parental rights on September 11, 2006. In an order filed March 26, 2007, the juvenile court terminated Maria's and Terry's parental rights pursuant to Iowa Code sections 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

¹ Maria also has another child, Wyatt, who was born in August 2006. Parental rights to Wyatt are not at issue in this appeal.

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 terminated Brent's parental rights pursuant to sections 232.116(1)(f), (h), and (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child). Maria and Terry have appealed.

II. Scope and Standards of Review

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). 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 children's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

III. Discussion

Maria and Terry both contend the statutory grounds for termination are not supported by clear and convincing evidence. Upon our review of the record, we find no merit in this argument.

Maria contends she has been generally appropriate during visits with the children, and she claims she has not used drugs except for an incident in August 2006 when "someone spiked a soft drink of hers." Terry also claims he has not used illegal substances in a substantial period of time except for an occasion where he was "drugged without [his] knowledge or consent." Both parents maintain the children could have been returned to their custody at the time of the termination hearing. We disagree.

At the termination hearing, a family therapist who supervised visits with the children and provided individual and family counseling testified that although the parents love their children, they are still unable to meet the children's needs. The therapist testified Maria and Terry did not always provide food for the children during visits, and they constantly needed reminders to change the youngest children's diapers and keep them clean. The therapist was also concerned that the parents talked about past drug use in front of the children, and Terry would transport the children in his vehicle even though he did not have a license. The therapist concluded the parents had not made "any significant progress," they failed to follow through with substance abuse treatment recommendations, and the children could not be returned to their home.

An in-home therapist testified the parents did not participate in substance abuse and mental health evaluations until October 2006, even though they had been ordered to submit to evaluations well before that time. During supervised visits, Maria and Terry would often watch television while the therapist had to supervise the children. The in-home therapist also testified Maria and Terry admitted to her they had not been honest with service providers. The in-home therapist concluded the children could not be returned to the parents' home.

A social worker with the Iowa Department of Human Services (Department) testified that although Terry successfully completed substance abuse treatment at one time, he has relapsed on two occasions. The social worker also testified Terry failed to consistently submit to drug testing and has not attended Alcoholics Anonymous meetings. In addition, Terry failed to follow

through with mental health treatment recommendations. The social worker noted the parents' relationship has not been stable because they have separated a number of times and they have also lived in six different residences since the children were removed from the home. The social worker recommended that Maria's and Terry's parental rights be terminated.

The record clearly demonstrates Antonio, Charlie, and Jesi cannot be returned to their parents' care now or in the foreseeable future. We conclude clear and convincing evidence supports the termination of Maria's and Terry's parental rights.

Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the children's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). 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).

Antonio, Charlie, and Jesi have been in out-of-home placements since July 2005. Maria and Terry have not followed through with substance abuse and mental health treatment recommendations, and there is no credible evidence in the record suggesting additional time would allow the children to be returned to the parental home. Antonio, Charlie, and Jesi deserve stability and permanency, which their parents cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). These children should not be made to wait any longer for Maria and Terry to become responsible parents. *J.L.W.*, 570 N.W.2d at 781. We conclude

termination of Maria's and Terry's parental rights is in the children's best interests.

IV. Conclusion

We affirm the juvenile court's decision to terminate Maria's and Terry's parental rights.

AFFIRMED ON BOTH APPEALS.