

IN THE COURT OF APPEALS OF IOWA

No. 7-445 / 07-0900

Filed July 12, 2007

**IN THE INTEREST OF M.A., M.B.M., and B.W.,
Minor Children,**

**B.L.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Constance Cohen,
Associate Juvenile Judge.

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

Andrea Flanagan of Sporer & Ilic, P.C., Des Moines, for appellant.

Christopher Kragnes of Kragnes & Associates, Des Moines, for father of
M.A.

Rodney Ryan, Des Moines, for father of B.W.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Andrea Vitzthum,
Assistant County Attorney, for appellee State.

Robert Wright, Des Moines, for intervenors.

Nicole Garbis Nolan of the Youth Law Center, Des Moines, for minor
children.

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

ZIMMER, J.

Brandi appeals from the juvenile court order terminating her parental rights to three of her children. We affirm.

I. Background Facts and Proceedings

Brandi is the mother of Myjah, born July 1999; Malaysha, born April 2001; and Brandon, born July 2006.¹ Bryce is the father of Myjah; Les Jr. is the father of Malaysha; and Ronnie Jr. is the father of Brandon.²

In May 2005 neighbors and relatives found Brandi wandering around her neighborhood while her young children were alone in her apartment. Brandi was hospitalized for mental health treatment, and she consented to the temporary removal of Myjah and Malaysha from her care. Prior to this incident, there had been three child abuse reports involving Brandi.

Brandi revoked her consent for temporary removal on July 7, 2005, and requested a hearing. Following a contested hearing, the court confirmed the removal of the children and continued placement in the custody of a family friend.

Myjah and Malaysha were adjudicated children in need of assistance (CINA) on July 22, 2005. On July 25 the court modified the children's placement after Brandi had a physical altercation with the custodian of the children in the presence of one of the children and attempted to leave with Myjah. The children were placed in foster care.

¹ Brandi is also the mother of Mariyah. Her parental rights to this child were terminated in January 2007 and are not at issue in this appeal.

² None of the fathers have appealed from the termination of their parental rights.

Following adjudication, Brandi received a variety of services designed to safely transition the children back to her care. On May 22, 2006, the juvenile court found Brandi had demonstrated positive progress with her mental health issues. The court ordered that the children be returned to their mother's care within two weeks as long as the mother was complying with court ordered services. However, the court subsequently learned Brandi had missed a three-hour visit with the children and lied to the Iowa Department of Human Services (Department) about being employed. The court also learned she had stopped attending individual therapy. The court modified the reunification plan and ordered Brandi to resume therapy and obtain employment. Following a contested permanency hearing on June 9, 2006, the court ordered Myjah and Malaysha returned to Brandi's custody immediately.

Brandi gave birth to Brandon in July 2006. The children were removed from Brandi's care once more on September 19, 2006, and in a CINA disposition review order, the court found Brandi was dishonest about her compliance with medication and therapy, her mental health had significantly deteriorated, she was disoriented, and she was overwhelmed attempting to care for three children. The mother was hospitalized again in October 2006 after she began hearing voices and throwing away her belongings.

The State filed a petition to terminate Brandi's parental rights on January 29, 2007. The juvenile court held a contested termination hearing on April 19. At the hearing, an in-home worker testified Brandi was not capable of supervising her children. She also stated she was concerned about Brandi's inconsistency taking her medication and her resistance to meeting her mental

health needs on a regular basis. The in-home worker testified she did not believe the children could be returned to their mother's care even if the court granted an additional six months to attempt reunification. The in-home worker concluded that once the court was no longer involved in Brandi's life, she would fail to meet her mental health needs. The children's guardian ad litem agreed with the in-home worker's conclusion that it was in the children's best interests to terminate Brandi's parental rights. The record reveals that two weeks prior to the termination hearing, Brandi was still being evasive when she was questioned about taking her medication, and she had run out of her current prescription.

In an order filed May 2, 2007, the juvenile court terminated Brandi's parental rights to Myjah and Malaysha 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 232.116(1)(k) (child CINA, parent has chronic mental illness, child cannot be returned within a reasonable time). The court terminated the mother's parental rights to Brandon pursuant to sections 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) and 232.116(1)(k). Brandi has appealed.

II. Scope & 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

In this appeal, Brandi contends the grounds for termination were not supported by clear and convincing evidence. She also maintains termination is not in the best interests of the children. Upon our review of the record, we find no merit in any of the mother's arguments.

When the juvenile court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate under one of the sections cited by the court in order to affirm the court's ruling. *In re S.R.*, 600 N.W. 2d 63, 64 (Iowa Ct. App. 1999). In this case, we choose to focus our attention on section 232.116(1)(k) (child CINA, parent has chronic mental illness, child cannot be returned within a reasonable time) as the basis for termination.

Brandi contends the court erred in terminating her parental rights because the State failed to prove by clear and convincing evidence that she had been "repeatedly institutionalized for mental illness" and "presents a danger to self or others as evidenced by prior acts." See Iowa Code § 232.116(1)(k)(2). We disagree. Brandi was hospitalized on two occasions for mental illness during the pendency of this case. Despite receiving extensive mental health services, she is still not capable of supervising children alone. She denies she needs therapy and is not medication compliant. The mother has a history of aggressive behavior going back to 2001. Her criminal record includes two convictions of assault. Prior to the inception of this case, Brandi was the subject of three founded reports of child abuse. Two of the reports were confirmed for denial of critical care. One report was based on physical abuse with Myjah as the victim. As we have already mentioned, Brandi had an altercation with the custodian of

her children while one of the children was present. We find clear and convincing evidence supports the juvenile court's decision to terminate Brandi's parental rights under section 232.116(1)(k).

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). These children have been living together and thriving in their foster home, and their foster parents have made a commitment to adopt all three children in addition to their sibling, Mariyah.

It is apparent that serious concerns still exist regarding Brandi's stability, her willingness to address her mental health issues, and her ability to provide adequate care for her children. Brandi has been provided with extensive mental health services since the inception of this case; however, she has continually resisted therapy and denied she needs assistance to manage her mental health despite obvious evidence to the contrary. Brandi's pattern of noncompliance and lack of investment in managing her mental health concerns supports the juvenile court's conclusion that the children could not safely return to their mother's care in the foreseeable future. The evidence does not support the conclusion that additional time would allow the children to be returned to their mother's care.

When a parent is incapable of changing to allow the children to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). These children deserve stability and permanency, which their mother

cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). We conclude termination of Brandi's parental rights is in the children's best interests.

IV. Conclusion

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

AFFIRMED.