

IN THE COURT OF APPEALS OF IOWA

No. 7-528 / 07-1042
Filed September 19, 2007

**IN THE INTEREST OF P.B.,
Minor Child,**

J.M., Mother,
Appellant.

Appeal from the Iowa District Court for Plymouth County, Robert J. Dull,
District Associate Judge.

A mother appeals a juvenile court order in a termination of parental rights
proceeding. **AFFIRMED.**

Michele Lauters, Iowa Legal Aid, Sioux City, for appellant.

Dewey Sloan, Jr., Le Mars, for the father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Darrin J. Raymond, County Attorney, and Amy K. Oetken,
Assistant County Attorney, for appellee State.

John C. Polifka, Juvenile Law Center, Sioux City, guardian ad litem for
minor child.

Considered by Mahan, P.J., Miller, J., and Nelson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

NELSON, S.J.**I. Background Facts & Proceedings**

J.M. and M.B. are the parents of P.B, who was born in August 2003. M.B. had little contact with the child. J.M. has hereditary progressive muscular dystrophy (Friedreich's ataxia), scoliosis, and an unspecified adjustment disorder. In November 2005 J.M. was placed in a nursing home because she was not able to care for herself or the child. P.B. was removed from the mother's care and placed in foster care.

On February 8, 2006, the juvenile court adjudicated P.B. to be a child in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(c) (2005). The dispositional order was entered on May 31, 2006. J.M. requested reasonable accommodation under the Americans with Disabilities Act (ADA). The juvenile court found this requirement did not exceed the reasonable efforts requirement found in chapter 232. J.M. was ordered to participate in recommended services and counseling.

Before entering the nursing home, J.M. received in-home services. She was uncooperative with these services, stating she did not need help taking care of P.B. Social workers came to J.M.'s home to assist her, but she often relied upon them to care for P.B. When caring for P.B., J.M. often yelled at him and placed him in time-out. She relied upon him to help her, expecting him to perform age-inappropriate tasks. P.B. was developmentally delayed when he was removed from J.M.'s care. He has since made great progress.

After entering the nursing home, J.M. attended individual counseling, but made little progress because she felt she was capable of caring for P.B. J.M.

had skill development sessions and completed a parenting class. She attended supervised visitation. In July 2006 J.M. moved to the home of B.P., who had been one of her nurses at the nursing home. B.P. disagreed with the recommendations of social workers from the Iowa Department of Human Services. J.M. and B.P. both claimed all previous reports about J.M.'s inability to care for P.B. were lies.

In October 2006 the State filed a petition seeking termination of the parental rights of J.M. and M.B. On May 30, 2007, the juvenile court entered an order terminating J.M.'s parental rights under sections 232.116(1)(d) (child CINA for neglect, circumstances continue despite the receipt of services), (h) (child is three or younger, CINA, removed for at least six months, and cannot be returned home), and (i) (child meets definition of CINA, is in imminent danger, and services would not correct conditions). The juvenile court found, "Without exception every service provider has concluded that [J.M.] has been uncooperative with suggestions, and has consistently and repeatedly placed her desires and goals over the needs of [P.B.]." The court concluded termination of J.M.'s parental rights was in P.B.'s best interests.¹ J.M. appeals the termination of her parental rights.

II. Standard of Review

The scope of review in termination cases is *de novo*. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). Grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our

¹ The parental rights of M.B. were also terminated. He has not appealed the juvenile court's order.

primary concern is the best interests of the child. *In re C.V.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Merits

A. J.M. contends the State did not present sufficient evidence to show her parental rights should be terminated. “When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm.” *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999); *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

We find J.M.’s parental rights were properly terminated under section 232.116(1)(h). At the time of the termination order, P.B. was three years old, he had been adjudicated CINA, and he had been removed from his mother’s care for about seventeen months. Furthermore, there is clear and convincing evidence that P.B. could not be safely returned to his mother’s care. Aside from J.M.’s physical disabilities, which rendered her unable to care for herself, let alone a young child, the evidence showed J.M. was unwilling to learn new parenting techniques that could have increased her ability to supervise P.B. J.M. exhibited a “know-it-all” attitude and remained uncooperative with service providers. On our de novo review of the evidence, we conclude J.M.’s parental rights were properly terminated.

B. J.M. claims termination of her parental rights is not in P.B.’s best interests. In considering a child’s best interests, we look to the child’s long-range as well as immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). We look to a parent’s past performance, because this may indicate the quality of

care the parent is capable of providing in the future. *Id.* J.M. is not able to meet P.B.'s needs at the current time, and is unlikely to be able to do so in the future. We conclude termination of J.M.'s parental rights is in the child's best interests.

C. J.M. asserts she was not afforded reasonable accommodation under the ADA with regard to reunification with her child. J.M. has not cited any authority in support of this issue, and has not stated what reasonable accommodations she believes should have been made for her. "Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue." Iowa R. App. P. 6.14(1)(c). We conclude J.M. has waived this issue on appeal.

We affirm the decision of the juvenile court terminating the parental rights of J.M. to P.B.

AFFIRMED.