

IN THE COURT OF APPEALS OF IOWA

No. 7-630 / 07-1231
Filed September 6, 2007

**IN THE INTEREST OF H.P., D.P., and J.A. IV.,
Minor Children,**

**M.A., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Susan Flaherty,
Associate Juvenile Judge.

The mother of three children appeals from the juvenile court's finding her
children are in need of assistance. **AFFIRMED.**

Sharon D. Hallstoos, Cedar Rapids, for appellant-mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Harold Denton, County Attorney, and Lance Heeren, Assistant County
Attorney, for appellee-State.

John Bishop, Cedar Rapids, for father of H.P. and D.P.

Brian Johnson, Cedar Rapids, for father of J.A.

Deb Skelton, Walford, guardian ad litem for minor children.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

SACKETT, C.J.

Michelle, the mother of three children, Hailei, born in December of 1993, Dakota, born in July of 1996, and James IV, born in May of 2005, appeals from a finding of the juvenile court that her children were children in need of assistance pursuant to Iowa Code section 232.2(6)(c)(1) and (2) (2005)¹ as a result of the children's "exposure to domestic violence and inadequate supervision by a parent."² We affirm.

SCOPE OF REVIEW. Our review of a finding that children are in need of assistance is de novo. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). We give weight to the fact findings of the juvenile court, especially when considering the credibility of witnesses, but are not bound by those findings. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990). The State has the burden of proving the allegations by clear and convincing evidence. Iowa Code § 232.96(2) (2005). "Clear and convincing evidence" is evidence leaving "no serious or substantial doubt about the correctness of the conclusion drawn from it." *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002).

¹ Iowa Code sections 232.6(c)(1) and (2) provide:

6. "Child in need of assistance" means an unmarried child:

. . .

c. Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:

(1) Mental injury caused by the acts of the child's parent, guardian, or custodian.

(2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

² The father of her two older children appeared at the adjudication hearing, as did the father of her youngest child. Neither has appealed. The juvenile court set the stage to re-establish the older children's relationship with their father if he has his substance abuse problem resolved. James, the father of the youngest child, received supervised visits.

BACKGROUND. The two older children have the same father. Michelle has been divorced from him for some period. He has had little interaction with the children but he does pay child support of \$90 a week, apparently on a less-than-regular basis. The family came to the attention of the Department of Human Services in October of 2006 when James, Michelle's current husband and the father of James IV, hit Dakota with a basketball. Michelle believed it was done intentionally. She took pictures of the child's face and took them to a Wal-Mart store to have them developed. She left the children in the car while she entered the store. James followed her to the store and attempted to take his son from Michelle's car. Michelle tried to stop him and James assaulted her. James was arrested for domestic assault and the Department of Human Services was notified. Subsequent interviews of the children revealed that James had hit Michelle earlier and one time when he took the children fishing he left the children under a bridge for a period at night while he went to purchase food. Hailei also related when she was seven years old she was sexually abused by a man staying overnight in her home.

Michelle was interviewed and admitted she had been in other relationships with other men who were abusive to her and to her daughter.

The juvenile court found, and we agree, that Michelle truly cares for her children and has good parenting skills. Despite a strained financial situation she has provided the children with food, clothing, and shelter, as well as being a loving and nurturing parent. Michelle is employed but earns less than \$20,000 a year. She is reported to be both punctual and proactive in her employment. She has a close, supportive family who were available to her. She indicated she has

support from her church. The children have a strong bond with their mother and have no serious behavioral problems. Michelle has been cooperative and open with the department. She agreed to a safety plan.

MERITS. Michelle first contends there is not clear and convincing evidence that the children suffered mental injury as a result of her actions; consequently, there was insufficient evidence to support a finding the children are children in need of assistance as defined by Iowa Code section 232.2(6)(c)(1). She further contends the juvenile court's finding that the children's exposure to domestic violence and inadequate supervision by a parent did not support a finding under section 232.2(6)(c)(2). While she admits to having had men in her home who were a potential danger to her children, she argues that she separated herself and her children from these men once she was aware that they might harm her children.

The provisions of Iowa Code chapter 232 are preventative as well as remedial. *L.L.*, 459 N.W.2d at 494. Their goal is to prevent probable harm, and they do not require delay until harm has occurred. *In re T.A.L.*, 505 N.W.2d 480, 483 (Iowa 1993). When the juvenile court finds children to be in need of assistance on multiple grounds, we need only find clear and convincing evidence to support a finding on one of the grounds to affirm the juvenile court. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

While we have recognized the strengths of Michelle's parenting, we cannot ignore the history of the risks she has created for her children with her relationships. Even after the incident at Wal-Mart, when a no contact order was

in place preventing James from contacting her, she moved a man into her home who had a long history of substance abuse issues.

There is clear and convincing evidence to support the finding that Michelle, as well as her children's fathers, have failed to exercise a reasonable degree of care in supervising their children. The evidence clearly supports the juvenile court's findings that Michelle has shown little insight into the effect on her children of adults she brings into her household. She has allowed her children on numerous occasions to be placed at risk because of the presence of certain males in her home. We affirm.

AFFIRMED.