

IN THE COURT OF APPEALS OF IOWA

No. 7-980 / 07-1905
Filed January 16, 2008

**IN THE INTEREST OF R.L. and I.L.,
Minor Children,**

**S.K.L., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
District Associate Judge.

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

AFFIRMED.

Jack E. Dusthimer, Davenport, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, Michael J. Walton, Acting County Attorney, and Gerda Lane,
Assistant County Attorney, for appellee State.

Marsha Arnold, Davenport, for minor child.

Considered by Sackett, C.J., and Vaitheswaran and Baker, JJ.

VAITHESWARAN, J.

Stephanie appeals the termination of her parental rights to Isaiah, born in 2002 and Riley, born in 2005. She contends: (1) the record lacks clear and convincing evidence to support the grounds for termination cited by the juvenile court, and (2) the juvenile court should not have admitted certain exhibits.¹

I. We may affirm if we find clear and convincing evidence to support any of the grounds cited by the juvenile court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review of the record, we find clear and convincing evidence to establish that the children could not be returned to Stephanie's custody. See Iowa Code §§ 232.116(1)(f) (requiring proof of several elements including proof that child four years of age or older cannot be returned to parent's custody), (h) (same for child three years of age or younger) (2007).

The children were removed from Stephanie's care after Riley fractured his skull. Criminal charges were filed against Stephanie and her live-in boyfriend. Stephanie pled guilty to neglect of a dependent child. Her live-in boyfriend pled guilty to willful injury and child endangerment with serious injury.

Initially, Stephanie suggested reunification services were unnecessary because she did not believe the injury was intentionally inflicted. Later, she began cooperating with services. Stephanie made significant progress towards meeting Department of Human Services expectations. A department caseworker

¹ Stephanie also contends the children were not "removed" from her custody because she lived under the same roof as the children during a significant portion of the proceedings. However, she does not dispute that the juvenile court entered a removal order placing the children under their great-grandmother's care. See *In re J.O.*, 675 N.W.2d 28, 30 (Iowa Ct. App. 2004) ("No amount of contact with the child rises to the level of physical or legal custody without a judicial determination and an order returning the child to the parent.").

commended her for that progress and even went so far as to recommend a possible reevaluation of the case following disposition of the criminal charges.

The landscape changed after two people informed the department that Stephanie and the children were seen with her live-in boyfriend. When a department employee raised this contact with Stephanie, she responded, "Nobody did anything to hurt my kids." At the termination hearing, Stephanie acknowledged she made this statement.

Stephanie later agreed not to have any further contact with her live-in boyfriend but, by this time, the department had lost faith in her ability to sever her ties with him. The department declined to recommend reunification, based on the "adjudicatory risk of harm" to the children. The juvenile court agreed with this assessment and so do we.

II. Stephanie next argues that the juvenile court "erred in allowing the introduction of certain exhibits as part of the Termination Proceeding(s)." At the termination hearing, Stephanie raised a general objection to a batch of exhibits from a different case, noting that they included hearsay testimony. The exhibits were not identified and the record contains no further elaboration of the objection. Under these circumstances, we conclude Stephanie failed to preserve error. *State v. Williams*, 207 N.W.2d 98, 109-110 (Iowa 1973).

We affirm the termination of Stephanie's parental rights to Isaiah and Riley.

AFFIRMED.