

IN THE COURT OF APPEALS OF IOWA

No. 8-347 / 08-0441
Filed May 14, 2008

**IN THE INTEREST OF S.W.,
Minor Child,**

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

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

A mother appeals from the order terminating her parental rights to a
daughter. **AFFIRMED.**

Stephen Newport of Newport & Newport, P.L.C., Davenport, for appellant.

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

Robert Phelps, Bettendorf, guardian ad litem for minor child.

Considered by Vogel, P.J., and Zimmer and Baker, JJ.

VOGEL, P.J.

Amanda is the mother of Shyla, who was born in December 2004. The family first came to the attention of the Iowa Department of Human Services (DHS) as a result of Amanda's substance abuse. On April 13, 2007, Shyla was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and (6)(n) (2007), after Amanda continued to use drugs, even exposing Shyla to those drugs. Shyla was removed for placement in family foster care, where she has remained ever since. On November 27, 2007, the child's guardian ad litem filed a petition seeking to terminate Amanda's parental rights to Shyla. Following a hearing, the court granted the petition and terminated Amanda's parental rights¹ under sections 232.116(1)(d), (e), (h), (i) and (j). Amanda appeals from this order.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). Our primary concern in termination proceedings is the best interests of the child. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). The State must prove the circumstances for termination by clear and convincing evidence. *In re L.E.H.*, 696 N.W.2d 617, 618 (Iowa Ct. App. 2005). While the district court terminated the mother's parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

On appeal, Amanda concedes that the State met its burden of proof under subsection (h), but claims clear and convincing proof is lacking to support

¹ The court also terminated the parental rights of Shyla's father. He does not appeal from this order.

termination under subsections (d), (e), (i), and (l). Because Amanda concedes termination was appropriate under subsection (h), we may affirm on that ground alone. See *id.* However, regardless of her concession, upon our de novo review of the record we conclude termination is appropriate under that provision, which requires proof that the child is three or younger, has been adjudicated CINA, has been removed for six months, and cannot be returned to his mother's custody. The evidence amply supports that Shyla would be placed at high risk for adjudicatory harm were she to be returned to Amanda's care. In August 2007, Amanda gave birth to another child; both mother and child tested positive for high levels of cocaine. In October 2007, Amanda was incarcerated in the Scott County Jail upon a conviction for prostitution and she remained there until mid-February 2008. The only time she has made any progress to address her substance abuse was during her incarceration. All other attempts have failed. It is apparent Amanda has exhibited a limited ability to recognize the risks of harm that her substance abuse presents to Shyla.

We further reject Amanda's claim termination was not in Shyla's best interests. Amanda's drug problems are long-standing and substantial, in spite of the variety of treatments offered to her. Shyla has been out of her mother's care for over one year now, and the record does not lend any level of confidence that Amanda can maintain long-term sobriety or provide that stability that a young child needs. See *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially) (noting a child's safety is a paramount consideration). Furthermore, Shyla is currently in her prospective adoption home and with people to whom she is strongly bonded.

Finally, Amanda claims “having a lower I.Q. is not a sufficient reason to terminate parental rights.” While Amanda clearly possesses limited intellectual functioning that negatively impacted her ability to parent, that was but one of many factors that support termination in this case, including her criminal involvement, severe and long-standing drug use, failure to cooperate with the many services offered, and instability in housing. When viewed in their totality, those factors fully support the decision to terminate her parental rights. We therefore affirm.

AFFIRMED.