

IN THE COURT OF APPEALS OF IOWA

No. 8-400 / 08-0700
Filed June 25, 2008

**IN THE INTEREST OF E.M.,
Minor Child,**

L.M., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Joe E. Smith, District
Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Jeremy Feitelson of Feitelson Law, L.L.C., West Des Moines, for appellant
mother.

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

Kimberly Ayotte of the Youth Law Center, Des Moines, for minor child.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

MAHAN, J.

Laura appeals from the order terminating her parental rights to her ten-month-old child, Edgar. We affirm.

I. Background Facts and Prior Proceedings

Edgar was born in May 2007 with a serious heart defect. Edgar's heart condition requires intensive supervision and frequent medical treatment. In July, Edgar came to the attention of the Iowa Department of Human Services (DHS) when Edgar's older siblings were allowed to play without supervision. Upon investigation, DHS discovered that Laura was not providing adequate supervision or medical treatment for Edgar. The juvenile court removed Edgar from Laura's care on or about July 30, 2007, and adjudicated him a child in need of assistance (CINA) on September 13, 2007.

Laura was offered numerous services to facilitate reunification. She did not take advantage of many of these services. Laura also exercised her visitation on an inconsistent basis. When she did attend, she exhibited no bond with her son and did not interact with him in an age appropriate manner. At one point, providers had to intervene when she fed her infant child Mountain Dew and Doritos. Even though the foster mother provided Laura with a list of Edgar's scheduled medical appointments, Laura failed to attend a single appointment.

The State filed a petition to terminate Laura's parental rights to Edgar in January 2008.¹ After a contested hearing, the court issued an order terminating Laura's parental rights to Edgar pursuant to Iowa Code sections 232.116(1)(d),

¹ The identity of the father is unknown, and Edgar's siblings are not a part of this proceeding.

(e), (h), and (l) (2007). Besides addressing Laura's lack of participation in services, inconsistent visitation, and failure to attend Edgar's medical appointments, the court also stated:

Laura was apparently not honest with the evaluator who did the substance abuse evaluation. Reliable reports indicate that she has an alcohol and drug problem, yet the evaluator did not recommend treatment, no doubt due to Laura's minimizing behavior.

On appeal, Laura contends the State failed to prove the grounds for termination. She concedes that the termination order adequately lists the facts material to her case, but takes exception to the above-quoted passage and contends there is nothing in the record to indicate that she has used any illicit drugs during the pendency of the underlying proceedings. She also asks for more time to pursue reunification.

II. Standard of Review

We review the termination of parental rights de novo. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). The State must prove the circumstances for termination by clear and convincing evidence. *Id.* Our primary concern is the best interests of the child. *Id.*

III. Merits

Because we find statutory grounds for termination under section 232.116(1)(h), we need not address the arguments pertaining to the other statutory grounds listed by the district court. *See id.* ("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.").

Section 232.116(1)(h) provides that parental rights can be terminated if the court finds by clear and convincing evidence that (1) the child is three or younger, (2) the child has been adjudicated in need of assistance, (3) the child has been removed from the home for six of the last twelve months, and (4) the child cannot be returned home at the present time. The first three elements are not in dispute in this case. The only dispute is whether the Edgar can be returned to his mother's care at this time. Laura contends the district court improperly considered her alleged and unproven drug usage when making this decision. Because we find there is sufficient evidence to prove the child cannot be returned to her care, regardless of whether she did or did not use drugs during the underlying proceedings, we need not address whether there was sufficient evidence of drug use during the underlying proceedings.

Edgar has serious health problems that require regular medical treatment. Edgar was adjudicated CINA amidst concerns that Laura was not providing him with appropriate medical treatment. After Edgar was removed and placed in foster care, the foster mother provided Laura with a schedule of Edgar's medical appointments; Laura did not attend a single one of her son's medical appointments. Likewise, her participation in scheduled visitation was sporadic. At the time of the termination hearing Laura had not attended a visitation for more than a month. There is nothing in the record to indicate Laura is ready to resume responsibility for Edgar and his special medical needs. We find this to be clear and convincing evidence that Edgar cannot be returned to his mother's care at this time.

We also find termination would be in Edgar's best interests and reject Laura's request for more time to prove she can care for her son. The law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills." *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). This patience has been built into the six-month statutory scheme set forth in section 232.116(1)(h). See *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). The purpose of this six-month limitation "is to prevent children from being perpetually kept in foster care and to see that some type of permanent situation is provided for the children." See *In re J.P.*, 499 N.W.2d 334, 339 (Iowa Ct. App. 1993) (discussing the limitation found in section 232.116(1)(e)). Rather than take advantage of the numerous offered services, Laura squandered the last six months and did little to show she is capable of putting her child's best interests above her own. "A child should not be forced to endlessly suffer the parentless limbo of foster care." *Id.* We see no reason to further deny Edgar the permanency he so desperately needs. See *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially) ("A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests.").

The State has provided clear and convincing reasons for termination under section 232.116(1)(h) and shown that termination is in Edgar's best interest. Accordingly, we affirm the district court's ruling terminating Laura's parental rights with regards to Edgar.

AFFIRMED.