

IN THE COURT OF APPEALS OF IOWA

No. 8-587 / 08-0970

Filed July 16, 2008

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

A.T., 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.

Scott Fisher, West Des Moines, for appellant mother.

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

Michelle Saveraid of the Youth Law Center, Des Moines, for minor child.

Considered by Mahan, P.J., and Zimmer and Vaitheswaran, JJ.

ZIMMER, J.

A mother appeals from a juvenile court order that terminated her parental rights to her child. She contends the State failed to prove the statutory grounds for termination and argues that termination was not in the child's best interests. Upon our de novo review, we find no merit in either of her claims and affirm the decision of the juvenile court.

Ashley is the mother and Brad is the father of Elizabeth, born in June 2007. This appeal concerns only the termination of the mother's parental rights to Elizabeth.¹

Elizabeth was removed from her mother's home in September 2007 because Ashley was not providing proper supervision and care for her child. Elizabeth was adjudicated as a child in need of assistance (CINA) on October 1, 2007, based on a finding of neglect. The adjudication was based in part on Ashley's decision to leave her child in the care of a registered sex offender. Ashley received a variety of services through the Iowa Department of Human Services (Department) following the CINA adjudication; however, her cooperation with services was spotty at best.

The State filed a petition to terminate Ashley's and Brad's parental rights to Elizabeth on February 21, 2008. The juvenile court held a contested termination hearing on April 15, 2008. At the hearing, a Department worker testified that Elizabeth could not safely be returned to her mother's care because the mother had not been consistent with services and she had not been consistent with visiting Elizabeth. Ashley's family consultant opined that the

¹ The father has consented to the termination of his parental rights.

mother was not in a position to care for her daughter now or in the reasonably foreseeable future.

In an order filed May 15, 2008, the juvenile court terminated Ashley's parental rights to Elizabeth pursuant to Iowa Code section 232.116(1)(d) (child CINA for neglect and circumstances continue despite the receipt of services) and (h) (child three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home) (2007). The father's parental rights were also terminated. Only Ashley filed an appeal.

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the child's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

Ashley first contends the State failed to prove the statutory grounds for termination of her parental rights because the circumstances that led to the CINA adjudication no longer exist and Elizabeth can now be safely returned to her care. For the reasons which follow, we disagree.

Ashley has a well documented history of poor judgment, homelessness, unstable employment, and unstable relationships. Unfortunately, her participation in services and visitation has been erratic. Following the CINA

adjudication, Ashley left two residential programs without completing either of them. In January 2008 Ashley was prescribed medication for her mental health needs, but she was not taking the medication at the time of the termination hearing. Ashley left Iowa to visit her birth mother in Florida in February 2008 and missed family time with her daughter as a result. Ashley was hospitalized for alcohol poisoning after a bout of binge drinking a few weeks prior to the termination hearing. In addition, concerns continue to exist regarding Ashley's ability to keep Elizabeth away from unsafe people. At the time of the termination hearing, Ashley was not in residential treatment, even though she admitted she is in need of such treatment. Ashley had only recently obtained housing. The record reveals the circumstances that led to the CINA adjudication continue to exist and Elizabeth cannot be safely returned to her mother's care. We conclude clear and convincing evidence supports the juvenile court's decision to terminate Ashley's parental rights under sections 232.116(1)(d) and (h).

Ashley also asserts that termination of her parental rights is not in Elizabeth's best interests. Once again, we disagree.

The juvenile court concluded that Ashley has "demonstrated repeatedly throughout this case that she would put her own self interests ahead of those of Elizabeth." We agree with the court's assessment of the evidence. Ashley has failed to follow through with services on numerous occasions. The evidence does not support the conclusion that additional time would allow Elizabeth to be returned to her mother's care. When a parent is incapable of changing to allow a child to return home, termination is necessary. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995).

Elizabeth has been in her current foster home since September 2007. Elizabeth is doing very well in her foster home, and the foster parents are willing to adopt her. This child deserves stability and permanency, which her mother cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). We agree with the juvenile court's finding that termination of Ashley's parental rights is in the child's best interests. Accordingly, we affirm the juvenile court's decision to terminate Ashley's parental rights.

AFFIRMED.