

IN THE COURT OF APPEALS OF IOWA

No. 8-592 / 08-1022
Filed July 30, 2008

**IN THE INTEREST OF C.W.M.-I.
Minor Child,**

**C.M., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Constance Cohen,
Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Jesse Macro, Jr., Des Moines, for appellant mother.

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

Jerry Foxhoven of the Drake Legal Clinic, Des Moines, guardian ad litem
for mother.

Kimberly Ayotte of the Youth Law Center, guardian ad litem for minor
child.

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

ZIMMER, J.

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

I. Background Facts and Proceedings.

Candace is the mother of Carlin, born in August 2007 with special needs.¹ Carlin was born while Candace was incarcerated. The child was removed from his mother's care and subsequently adjudicated as a child in need of assistance (CINA), based upon Candace's incarceration and her history of mental health related issues.

Following the CINA adjudication, Candace received a variety of services while she was incarcerated and thereafter through the Iowa Department of Human Services (Department). The services she received included family team meetings, parenting classes, visitation, paternity testing, early access services, bus tokens, and community support advocate service coordination. Most of these services were tailored to address Candace's mental health issues. She was also provided with a guardian ad litem and psychiatric evaluations. Candace was offered many other services but declined to accept them. Despite receiving

¹ This appeal concerns only the termination of Candace's parental rights. The father of Carlin is unknown.

extensive services, Candace did not progress to the point where she could safely parent her son.

The State filed a petition to terminate Candace's parental rights to Carlin on April 8, 2008. Following hearing, the court granted the State's request. It terminated Candace's parental rights under Iowa Code sections 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). Candace appeals.

II. Scope and Standards of Review.

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 his long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

III. Discussion.

A. Statutory Grounds.

Candace 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 Carlin can now be safely returned to her care. For the reasons which follow, we disagree.

The record reveals that Candace has a lengthy history of cognitive and adaptive behavioral delays, dating back to her early school days.² Unfortunately, she also has a well documented history of refusing to participate in services that would clearly benefit her. Although she is now twenty-five, Candace consistently exercises poor judgment in a wide variety of situations. She has anger and impulse control issues, and she has often involved herself in harmful relationships with violent men.

Despite the offer and receipt of services during the pendency of this case, Candace remains unable to retain the parenting skills she has been taught. She has often resisted taking parenting skills instructions, and she becomes angry when instructed on how to handle Carlin safely. Candace frequently did not support Carlin's head as required for a child with his special needs, and she often exhibited unrealistic expectations for Carlin given his young age.

In addition, serious concerns continue to exist regarding Candace's ability to keep Carlin away from unsafe people. Candace again involved herself in an abusive relationship in the months immediately preceding the termination hearing. Initially, she denied the relationship when testifying at the hearing, but later admitted it when confronted with police reports she had made. Candace had filed a no-contact order against the abuser, but dropped the order because

² A psychologist evaluated Candace and concluded she was within the range of mild mental retardation.

she thought she might be pregnant with the abuser's child. It is clear Candace continues to allow dangerous people into her home.

Additionally, concerns exist as to Candace's ability to provide Carlin with a sanitary and safe home environment. Visits with Carlin could not take place in the mother's home because the home was filthy. For example, the mother has numerous cats in her home, but no litter box. She uses the shower in her bathroom as a "litter box" for the cats.

The record reveals the circumstances that led to the CINA adjudication continue to exist, and Carlin cannot be safely returned to his mother's care. We conclude clear and convincing evidence supports the juvenile court's decision to terminate Candace's parental rights under sections 232.116(1)(d) and (h).

B. Best Interests.

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

It is clear Candace loves Carlin and would like to develop a relationship with him. However, upon our review of the record, it is apparent that serious concerns still exist regarding Candace's stability and her ability to provide adequate care for Carlin, especially given Carlin's special needs. Carlin deserves stability and permanency, which Candace cannot provide. See *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). The evidence does not support the conclusion that additional time would allow Carlin to be returned to his 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).

C. Reasonable Services.

Finally, Candace contends the State has not provided reasonable services to reunify the family safely. Specifically, she asserts the State failed to provide her with a psychosocial evaluation, violating the requirements of the Americans with Disabilities Act and demonstrating that reasonable efforts have not been provided. We find no merit in this argument. We concur with the district court's conclusion that "[i]t is not reasonable to believe that a psychosocial evaluation would have unlocked the magic key to resolving the protective issues, especially in light of [Candace's] refusal to accept many offers of supportive assistance." Candace received psychiatric evaluations, and the Department and the case workers involved tailored the recommendations of the evaluators in providing services to Candace. As we have already mentioned, Candace often declined to accept services that were offered. We agree with the juvenile court's conclusion that the State complied with the Americans with Disabilities Act. As the juvenile court also noted, the mother "has had the benefit of nearly every service that was reasonably related to the remedial issues in this case, as well as dedicated commitment of professionals to providing these services, but safety concerns persist." We agree. The record reveals no known services that could have been provided to the mother which would afford a reasonable expectation that Candace could safely parent Carlin.

AFFIRMED.