

**IN THE COURT OF APPEALS OF IOWA**

No. 9-174 / 08-1938  
Filed March 26, 2009

**IN THE INTEREST OF J.S., J.S., and M.S.,  
Minor Children,**

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

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Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, Associate Juvenile Judge.

A mother appeals from the order adjudicating her children as children in need of assistance. **AFFIRMED.**

William Lansing, Dubuque, for appellant mother.

R.W., Dubuque, father, pro se.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Ralph Potter, County Attorney, and Jean Becker, Assistant County Attorney, for appellee State.

Sarah Stork Meyer, Dubuque, for minor children.

Considered by Sackett, C.J., and Potterfield and Mansfield, JJ.

**MANSFIELD, J.**

Maggie, Jesse, and Jacob, age fourteen, eight, and five respectively at the time of the hearing, are the children of Laura. On August 3, 2008, Laura hit Maggie in the mouth in the course of an argument, causing her to bleed. The police were called. When an Iowa Department of Human Services (DHS) worker came a few days later to investigate, she also noticed that Jesse and Jacob had a cigarette lighter in the house and were using it to melt crayons and burn paper. The caseworker also saw one of the boys simply leaving the house and telling his mother he was going to a friend's without identifying the friend or stating where he was going. On August 13, 2008, Laura, who has a lengthy history of drug use, refused a urinalysis. Laura did so even when Maggie cried in front of her and said that if she did refuse, the children would be taken away. Laura did sign a safety plan for her children but on four out of six days thereafter refused to allow the service providers into her home. She stated at that time she does not let anyone into her house. These developments led the State, on August 22, 2008, to file petitions to have Maggie, Jesse, and Jacob adjudicated children in need of assistance (CINA).

At the subsequent hearing, the following facts came to light. Laura has no regular employment. She does receive child support payments. The month before the hearing, Laura earned thirteen dollars from babysitting. Laura was in the process of being evicted from the house where she and the children reside. (However, at the time of the disposition hearing, a month later, Laura had worked things out with the landlord so she was not evicted.)

Another concern expressed at the hearing was that Laura allows her adult son (Maggie's half-brother) to be around Maggie despite a prior incident of sexual abuse involving him and Maggie.

Laura denies that she needs help finding employment or housing. She has been offered mental health services, but has declined them. Laura has been diagnosed with methamphetamine and cocaine induced dementia. Laura has had some recent drug tests since August 2008 that were negative.

Additionally, the children have been previously involved with DHS. In December 2007, Maggie was found on the run from the home and, in February 2008, she was adjudicated CINA. However, in April 2008 she returned home on a trial visit, where she remained until the events of August 2008 described above. Maggie, Jesse, and Jacob also had a previous stint in foster care in 2004.

On October 23, 2008, the juvenile court found Maggie, Jesse, and Jacob were CINA on the grounds that they were imminently likely to suffer harmful effects as a result of the failure of the parent to exercise a reasonable degree of care in supervising them. See Iowa Code § 232.2(6)(c)(2) (2007). Laura appeals.

We review CINA proceedings de novo. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). We give weight to the district court's findings of fact, especially when considering the credibility of witnesses, but we are not bound by them. *Id.*; *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990). Our overriding concern is the best interests of the children. *K.N.*, 625 N.W.2d at 733.

Laura argues that the court erred in finding clear and convincing evidence that the children were in need of assistance pursuant to section 232.2(6)(c)(2).

She maintains that the record contains no proof that any of the children have suffered injury from inadequate care from Laura. However, the relevant question is not whether they have suffered injury, but whether they are imminently likely to suffer harmful effects. See also *L.L.*, 459 N.W.2d at 494 (discussing that the provisions of Iowa Code chapter 232 are preventative as well as remedial). We believe the State carried its burden in this case.

During just the August 2008 timeframe, the record shows that the young boys were playing with a cigarette lighter, and were being allowed to go to other houses without informing their mother specifically where they were going. The record also shows that their mother, with a long history of drug use, refused a drug test even though her daughter begged her not to do so.

Laura cites to her hearing testimony, which contains her explanations for some of these events. However, the overall gist of her testimony, which we believe was accurately captured in the judge's order, showed a tendency to blame others and to be resistant to changes that might benefit the children. At the end of the day, the most important consideration in any CINA case is the best interests of the children. *In re D.D.*, 653 N.W.2d 359, 362 (Iowa 2002).

For the foregoing reasons, we affirm the order of the juvenile court.

**AFFIRMED.**