

IN THE COURT OF APPEALS OF IOWA

No. 9-202 / 09-0099
Filed April 8, 2009

**IN THE INTEREST OF N.H., M.H., C.H., and L.H.,
Minor Children,**

M.H., 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.

Jami Hagemeyer of Williams, Blackburn & Maharry, P.L.C., 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.

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

Considered by Mahan, P.J., and Miller and Doyle, JJ.

MAHAN, P.J.

Melissa appeals the district court's order terminating her parental rights to her ten-year-old daughter, L.H.; her nine-year-old son, C.H.; her five-year-old daughter, M.H.; and her three-year-old daughter, N.H. We affirm.

I. Background Facts and Proceedings.

L.H., C.H., M.H., and N.H. are the children of Melissa and Chad.¹ This case came to the attention of the Iowa Department of Human Services (DHS) in November 2006, when the children were removed from the parents' care due to Chad's arrest for domestic assault with a weapon and child endangerment and Melissa's allowing the children to have contact with their father even though it violated the safety plan.² The children were placed in relative placement, but were quickly moved to placement in foster care due to a domestic violence investigation at the residence of the relative placement. A case permanency plan was adopted, and Melissa was offered numerous services to reduce or eliminate the adjudicatory harms present in her home, including termination of Chad's parental rights, a no-contact order on Chad, mental health evaluation and services, psychiatric in-patient treatment for L.H., relative placement, foster care, in-home services, drug screens, House of Mercy, staffings, CASA, dyadic therapy for Melissa and the children, and family team meetings.³

¹ The parental rights of Chad were terminated on March 25, 2008. He did not appeal.

² This family first came to the attention of DHS in February 2001, when the State filed petitions alleging L.H. and C.H. to be children in need of assistance. M.H. and N.H. were not yet born.

³ In addition to the services ordered under the case permanency plan, the court also ordered individual therapy for Melissa, bus tokens for Melissa, liberal sibling contact with L.H., a post-removal conference, pursuit of van repair for Melissa, and family contact at DHS discretion.

On February 28, 2007, the children were adjudicated children in need of assistance (CINA) and continued in placement outside Melissa's home. In June 2007 a modification order placed the oldest child, L.H., at Beloit for psychiatric medical institution for children level treatment (PMIC). In November 2007 C.H., M.H., and N.H. were returned to Melissa's custody. Melissa and the children resided at House of Mercy. L.H. remained at PMIC. At that time, the children's guardian ad litem had filed a termination of parental rights petition with regard to Chad. On March 25, 2008, his parental rights were terminated.

In May 2008 Melissa was discharged from House of Mercy because she was no longer benefitting from the program. Matters deteriorated quickly thereafter. In June 2008 C.H., M.H., and N.H. were placed back in the custody of DHS for foster care placement due to Melissa's failure to take them to therapy and give them their medications, allowing them to spend the night with Chad's sister, having men around the children and lying about it, and living in an overall "chaotic" environment. The children have remained out of Melissa's care since that time. In July 2008 L.H. was discharged from PMIC and placed in a foster care family with her two sisters, M.H. and N.H. C.H. had been placed in a different foster care family. A review hearing was held in August 2008, and the court ordered the children to remain in their foster care placements.

On September 5, 2008, the State filed a termination petition. After a contested hearing, the court terminated Melissa's parental rights on January 13, 2009, pursuant to Iowa Code sections 232.116(1)(d) and 232.111(2)(a)(1) (2007). The court further terminated Melissa's parental rights with regard to L.H. and C.H. pursuant to section 232.116(1)(f). Melissa now appeals.

II. Scope and Standard of Review.

We review termination of parental rights de novo. *In re Z.H.*, 740 N.W.2d 648, 650-51 (Iowa Ct. App. 2007). Grounds for termination must be proved by clear and convincing evidence. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Our primary concern is the best interests of the children. *Id.*

III. Issues on Appeal.

A. Clear and Convincing Evidence.

Melissa argues the State failed to prove the grounds for termination by clear and convincing evidence. Under section 232.116(1)(d), parental rights may be terminated if the court finds by clear and convincing evidence (1) the child has been adjudicated in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts of omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance, and (2) subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance that led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services. Melissa contends the State failed to prove by clear and convincing evidence that the children would suffer adjudicatory harm if returned to her care, or that a six-month extension should not be granted.

Melissa has been involved with DHS in some capacity since 2001 and in the instant matter since November 2006. She has received a number of services designed to eliminate the adjudicatory harms present in her home and to help her become a fit mother. As the juvenile court stated:

Melissa has had numerous parenting skill building opportunities throughout the many months of this case. She's been given hands-on direction on how to manage the behaviors in addition to parenting classes, but she still cannot demonstrate that she can manage her children's behaviors. In fact, when pressed, she admitted on the record she didn't follow through and use the skills that she had been taught over and over.

Melissa also admitted she had not been tending to her own mental health needs as demonstrated by her failure to go to Broadlawns Medical Center for her medications. She relies on her regular doctor to give her samples if her doctor happens to have them. She then agreed that she needs to meet her own mental health needs before the children can safely reunify.

Finally, when asked why it was that after 24 months of intensive services there was still so many things that she needed to take care of, Melissa said she didn't know. When asked if the children could return to her care today and be safe, she again paused, became upset, and shook her head no. After a pause, she said, "No."

Although Melissa has been very motivated at times to be a good mother, she has not consistently improved her parenting skills or maintained a safe living environment for her children. Melissa has admitted she struggles to care for all her children at once and that their exposure to domestic violence and her destructive patterns as a mother have been traumatic to the children. She does not recognize or take responsibility for her role in the harm placed on the children, however, as she continues to blame the children for all the family's problems. As a result, Melissa is unable to protect the children from similar harms now and in the future.

Ultimately, the juvenile court determined that "the children cannot safely return to the custody of their mother at the present time or in the foreseeable future without further adjudicatory harm." We agree. There continue to be major concerns about Melissa's mental health, instability, parenting skills, and lack of responsibility for the harms she places on the children. The children have been

out of her care for the majority of the past two years. Melissa has not consistently accessed services offered to her and has not demonstrated significant improvement over many months of services. We find clear and convincing evidence supports termination of Melissa's parental rights.⁴

B. Best Interests.

Melissa also argues termination of her parental rights is not in the best interests of the children. Although Melissa clearly loves the children and the children are bonded to her, Melissa has many issues to address and improve on before she could safely and effectively parent the children. As the juvenile court stated:

In various ways, these children have endured an extraordinary amount of chaos, abuse, violence, abandonment, and general harm. While there is no question that Melissa loves her children and that the children love Melissa, it takes more than love to give children what they need in order to meet a child's needs for safety, stability, and permanency.

.....
Despite the numerous services received, visits must be professionally supervised at the current time in order to ensure the children's safety and well being while with their mother. Given Melissa's inconsistency and inability to benefit from numerous and intensive services, it is unlikely that she will be ready to parent these children within the foreseeable future. These children are certainly in need of permanency. They deserve to know, once and for all, who will be providing them with the safety and structure that they need in order to move forward in their lives. These children's birth parents have repeatedly let them down and kept them in

⁴ Melissa further argues the State failed to prove the grounds for termination under sections 232.116(1)(f) and 232.111(2)(a)(1). We have already determined that clear and convincing evidence supports termination of Melissa's parental rights under section 232.116(1)(d). Because we find statutory grounds for termination under section 232.116(1)(d), we need not address the arguments pertaining to the other statutory grounds supporting termination by the juvenile court or by Melissa on appeal. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) ("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."). We therefore decline to address these issues and affirm the juvenile court.

limbo. It is time for these children to stop wondering who will take care of them. Termination of parental rights is in their best interest and would be less detrimental than the harm that would be caused to them by continuing the parent/child relationship with Melissa. There are no compelling reasons to maintain the parent/child relationship.

We are convinced that L.H.'s, C.H.'s, M.H.'s, and N.H.'s interests are best served by terminating Melissa's parental rights and continuing the children's placements in safe and stable homes. By the time of the termination hearing, the children had been removed from Melissa's care for the majority of the past two years. Melissa has many unresolved mental health, parenting, and responsibility issues, and the children have suffered a long history of trauma while in her care. The law demands patience to allow parents to remedy their deficiencies, but that time must be limited because the delay may translate into intolerable hardship for the children. *In re C.D.*, 524 N.W.2d 432, 435 (Iowa App. 1994). There is no reason to further delay the children the permanency they need and deserve. We find termination of Melissa's parental rights is in L.H.'s, C.H.'s, M.H.'s, and N.H.'s best interests.

AFFIRMED.