

IN THE COURT OF APPEALS OF IOWA

No. 9-255 / 09-0287
Filed May 29, 2009

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

L.B., Father,
Appellant,

A.S., Mother,
Appellant.

Appeal from the Iowa District Court for Poweshiek County, Michael R. Stewart, District Associate Judge.

A mother and father each appeal a juvenile court order terminating their parental rights. **AFFIRMED.**

Jane Odland of Walker & Billingsley, Newton, for appellant mother.

Dennis E. McKelvie of McKelvie Law Office, Grinnell, for appellant father of S.S.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Michael W. Mahaffey, County Attorney, and Rebecca L. Petig, Assistant County Attorney, for appellee State.

Michael Fisher of Fisher Law Office, Oskaloosa, guardian ad litem for minor children.

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

PER CURIAM

I. Background Facts

Amanda is the mother of Starlene, born in 2003, and Madison, born in 2006. Lawrence is the father of Starlene, and Jeremy is the father of Madison.¹ Starlene was removed from the mother's care in May 2005 due to drug use in the home. A hair sample of the child was positive for methamphetamine. Starlene was adjudicated to be a child in need of assistance (CINA) under Iowa Code section 232.2(6)(n) (2005).

After Amanda completed a residential substance abuse treatment program, Starlene was returned to her care in April 2006. Starlene was removed a second time in August 2006 due to the mother's continuing drug use. Madison was born in December 2006. Amanda had a period of sobriety, and Starlene was returned to the mother's care in February 2007.

In June 2007, Amanda tested positive for illegal drugs. The children were removed and placed in foster care. Madison was adjudicated CINA under sections 232.2(6)(c)(2) and (n) (2007). Amanda participated in services, but continued to demonstrate instability. In June 2008 Amanda was hospitalized for a drug overdose, and shortly thereafter was arrested for public intoxication.

Amanda decided to voluntarily terminate her parental rights. She signed releases of custody of the children. Throughout the juvenile court proceedings, neither father participated in services.

¹ Jeremy's whereabouts were unknown at the time of the termination proceedings. He has not appealed the termination of his parental rights.

The State filed a petition for termination of the parents' rights on December 17, 2008. At the time of the termination hearing in February 2009, Amanda was incarcerated for probation violations. Lawrence, a registered sex offender, was also incarcerated. The juvenile court terminated Amanda's parental rights to Starlene under sections 232.116(1)(a) and (f). Lawrence's parental rights were terminated under section 232.116(1)(f). Amanda's parental rights to Madison were terminated under sections 232.116(1)(a) and (h). The parental rights of Jeremy were also terminated. The court determined termination was in the best interests of the children. Amanda and Lawrence appeal the termination of their parental rights.

II. Standard of Review

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2000). The grounds for termination must be proved by clear and convincing evidence. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008). Evidence is clear and convincing when it leaves no serious or substantial doubt about the correctness of the conclusion drawn from it. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). Our primary concern is the best interests of the children. *In re A.S.*, 743 N.W.2d 865, 867 (Iowa Ct. App. 2007).

III. Amanda

A. Amanda claims termination of her parental rights is not in the children's best interests. She states that the juvenile court ordered a home study of the maternal grandfather, and asserts that because the children could possibly be placed with a relative, the court improperly terminated her parental rights.

Amanda claims she should be able to resume care of the children once she is released from prison.

On our de novo review of the record, we find termination of Amanda's parental rights is in the children's best interests. Amanda continues to struggle with substance abuse and with stability in her life. The children should not be forced to wait for permanency. We agree with the juvenile court's conclusion that termination was in the best interests of the children "giving primary consideration to the children's safety, to the best placement for furthering the long-term nurturing growth of the children, and to the physical, mental, and emotional condition and needs of the children."

B. Amanda also claims "her consent to termination was affected by medication that she took at the insistence of her probation officer." Amanda did not testify at the termination hearing, and no evidence on this issue was offered. Furthermore, in addition to consensual termination of parental rights under section 232.116(1)(a), her parental rights were terminated under sections 232.116(1)(f) (Starlene) and (h) (Madison). Amanda has not appealed the termination of her parental rights under these code sections, and we may affirm on these grounds. See Iowa R. App. P. 6.903(2)(g)(3) (2009) ("Failure to cite authority in support of an issue may be deemed waiver of that issue.").

IV. Lawrence

Lawrence contends that termination of his parental right is not in the best interests of Starlene. He asserts that the child could be placed with the paternal grandmother until he is released from prison.

We first note that this issue was not raised before the juvenile court, and we conclude it has not been preserved for our review. See *In re N.W.E.*, 564 N.W.2d 451, 455 (Iowa Ct. App. 1997) (noting an issue that was not raised before the juvenile court may not be raised for the first time on appeal). Additionally, Lawrence did not participate in services, or give any indication he was interested in assuming care of his child during the CINA proceedings. It would not be in Starlene's best interests to wait any longer for Lawrence to be in a position where he might be able to care for her. We conclude termination of Lawrence's parental rights is in the child's best interests.

We affirm the decision of the juvenile court.

AFFIRMED.