

IN THE COURT OF APPEALS OF IOWA

No. 9-309 / 09-0368
Filed April 22, 2009

**IN THE INTEREST OF K.M.E.S.,
Minor Child,**

R.S., Mother,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

A mother appeals the juvenile court order terminating her parental rights.

AFFIRMED.

Patrick H. Tott, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Patrick Jennings, County Attorney, and Dewey Sloan, Assistant County Attorney, for appellee State.

Mayer Kanter, Sioux City, for the father.

Michelle Dreibelis, Juvenile Law Center, Sioux City, guardian ad litem, and Mercedes Ivener, Sioux City, attorney for minor child.

Considered by Vogel, P.J., and Eisenhauer and Mansfield, JJ.

PER CURIAM

Renie and Robert are the parents of Kolyn, born in 2002.¹ Renie has a history of substance abuse. Kolyn was removed from Renie's care in May 2007 when she was arrested for possessing and selling marijuana. Kolyn was present in Renie's home when police officers arrived, finding the home heavy with marijuana smoke, and with marijuana and drug paraphernalia in plain sight in the home. Renie admitted smoking marijuana with an older child, who was then fifteen. Kolyn was placed with his maternal aunt and uncle.

The juvenile court determined Kolyn was a child in need of assistance (CINA) under Iowa Code sections 232.2(6)(a), (b), (c)(2), (h), (m) and (n) (2007). Renie completed a substance abuse treatment program. There continued to be concerns regarding housing, lack of transportation, employment, and her progress in treatment.

Kolyn was hospitalized for a period of time in October 2007 for aggression, self-harming, and emotional instability. He was diagnosed with depression, anxiety, and attention deficit hyperactivity disorder. Kolyn attends therapy on a weekly basis to address fears and anxiety. Kolyn made significant progress with his behaviors and mental health status while living with his aunt and uncle. He remained very fearful, however, that he would be removed from their care. His behavior regressed after having unsupervised visits with Renie, and supervised visits resumed.

¹ Robert has never had any contact with Kolyn. Robert's parental rights were terminated, and he has not appealed.

On August 8, 2008, the State filed a petition seeking termination of the parents' rights. At a permanency review hearing, the court agreed to give Renie additional time to work on reunification. Kolyn continued to have behavioral problems, nightmares, and anger issues, and on the recommendation of his therapist, visits with Renie were suspended in December 2008.

The termination hearing was held on January 29, 2009. The juvenile court terminated Renie's parental rights under sections 232.116(1)(d), (e), and (f). The court concluded termination was in Kolyn's best interests, noting the child needed the opportunity to establish permanency and stability, which Renie could not provide. Renie appeals the termination of her parental rights.

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 proven 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).

Renie contends the district court did not present sufficient evidence to support termination of her parental rights. She points out that her older child was returned to her care, and asserts that Kolyn could also be returned to her. When parental rights have been terminated on more than one statutory ground, the termination may be affirmed on only one of those grounds. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

We determine there is clear and convincing evidence in the record to support termination of Renie's parental rights under section 232.116(1)(f). Kolyn was more than four years old. He had been adjudicated CINA under multiple code sections. He had been removed from the home since May 2007. In addition, Kolyn could not be safely returned to his mother's care. Renie had not adequately addressed her mental health problems, and did not fully recognize Kolyn's mental health problems. There were also concerns that Renie had been unsuccessfully discharged from an outpatient treatment program. The juvenile court noted, "there have continued to be concerns regarding Renie's housing, her lack of transportation, her progress in treatment, the people with whom she associates, her manipulation, her dishonesty, and her denial of her needs and the needs of her children."

In addressing the return of the older child, the court carefully noted that the circumstances surrounding that case were different than those in Kolyn's case. The older child was then seventeen and one-half years old, and resisted further services by the court. Furthermore, Renie's ability to care for her teenage child is not reflective of her ability to care for Kolyn, who was much younger and had mental health and behavioral problems. We affirm the juvenile court's termination of Renie's parental rights under this code section.

Renie also contends that termination of her parental rights is not in Kolyn's best interests. Kolyn especially needs stability and permanency due to his mental health issues and behavioral problems. Renie was not able to provide

the stability and permanency he needs. We determine termination of Renie's parental rights is in Kolyn's best interests.

We affirm the decision of the juvenile court.

AFFIRMED.