

IN THE COURT OF APPEALS OF IOWA

No. 9-511 / 09-0685
Filed July 22, 2009

**IN THE INTEREST OF D.D. and D.D.,
Minor Children,**

S.S., Mother,
Appellant.

Appeal from the Iowa District Court for Plymouth County, Robert J. Dull,
District Associate Judge.

A mother appeals the termination of her parental rights to her children.

AFFIRMED.

Michael P. Murphy of Murphy, Collins & Bixenman, P.L.C., LeMars, for
appellant mother.

Jeffrey S. Kuchel of Metcalf, Thompson & Phipps, Remsen, for appellee
father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Darin J. Raymond, County Attorney, and Amy K. Oetken,
Assistant County Attorney, for appellee State.

Jim Bybee, LeMars, for intervenor L.B.-D.

John Polifka of Juvenile Law Center, Sioux City, for minor children.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

VAITHESWARAN, P.J.

Sara appeals the termination of her parental rights to her two children, born in 2003 and 2005. She essentially argues that the State failed to prove the grounds for termination cited in its petition. On our de novo review, we find clear and convincing evidence to establish that the children could not be returned to her custody. See Iowa Code § 232.116(1)(f), (h) (2007).

The Department of Human Services became involved with the family in 2006 when the agency received a complaint about Sara's care of her older autistic son. Following an investigation, the department concluded that Sara was "worn out" but did not inflict physical injury or act unreasonably or imprudently in caring for the child. The department nonetheless instituted services to assist Sara.

It soon became apparent that Sara regularly used marijuana. She underwent inpatient substance abuse treatment but continued to test positive for the presence of the drug in her system. The children were placed in foster care and, by early 2009, had been with foster parents for approximately one year.

Sara entered another residential treatment facility in January 2009. She was discharged to a halfway house one month later and was expected to remain there for about three months. However, at the termination hearing, Sara testified that she left the house the previous week because too many of the residents "were sneaking out and using drugs and alcohol." Sara returned to her boyfriend, who was addressing substance abuse issues of his own.

At the termination hearing, Sara testified that she simply wanted "more time" to finish outpatient treatment. When asked when that treatment would

begin, she stated "I don't know." She acknowledged she hadn't "had a really lot of time within the past year," to spend with her boys but stated she loved them and they loved her.

Love was not enough. As a Department employee stated,

Sara's drug use has continued to interfere with her ability to keep her children safe. She also displays an attitude that her problems are brought on by everyone else. She continues to blame the system for her drug use.

We conclude Sara was not in a position to have the children returned to her custody. Accordingly, we affirm the termination of her parental rights to these children.

AFFIRMED.