

IN THE COURT OF APPEALS OF IOWA

No. 9-776 / 09-1209
Filed October 7, 2009

**IN THE INTEREST OF A.R.L., B.A.-A. Jr., and A.C.A.-A.,
Minor Children,**

**A.R.W., Mother,
Appellant.**

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

A mother appeals from the order terminating her parental rights to her three children. **AFFIRMED.**

Maxine Buckmeier, Sioux City, for appellant mother.

Robert Pierson, Sioux City, for father.

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

Chad Thompson, Kingsley, for minor children.

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

MANSFIELD, J.

April appeals from the juvenile court's order terminating her parental rights to A.A., B.A., and A.L. pursuant to Iowa Code sections 232.116(1)(d), (e), (f), and (h) (2009). On appeal, April challenges the termination of her parental rights pursuant to section 232.116(1)(d) and asserts that termination was not in her children's best interests. We affirm.

April is the mother of A.A. (born 2003), B.A. (born 2004), A.L. (born 2005), and D.W. (born 2007). In January 2008, the children came to the attention of the Iowa Department of Human Services (DHS). The family had no money or food, and DHS workers arranged for emergency funding. However, days later April contacted DHS workers requesting her children be placed in foster care because she was losing her apartment. The children were placed in foster care and subsequently adjudicated to be in need of assistance.

For the next four months, April did not find housing. However, in June 2008, with the assistance of DHS, April obtained a three-bedroom apartment. On June 6, 2008, the children were returned to April on an extended visitation status. However, DHS soon petitioned for emergency removal of the children due to the children being exposed to domestic violence and drug use. There were numerous reports of domestic violence between April and her boyfriend, Francisco, including assaults and threats with a gun and knife. The children were also passengers in a car involved in a high speed chase. Francisco also used drugs and April alleged he was dealing drugs. While April was in jail, she left the children in Francisco's care. The children were again removed September 11, 2008.

After the children's removal, April continued her relationship with Francisco despite a no-contact order between them. She had additional contacts with police regarding her criminal activity, Francisco's criminal activity, and domestic violence incidents between April and Francisco. April failed to attend the next court hearing on October 1, 2008. She also failed to follow through with her mental health counseling, and her visitation with the children was suspended for several months.

In November 2008, the juvenile court warned her that her parental rights would likely be terminated if she continued her relationship with Francisco. Yet, April chose to continue her relationship with Francisco and did not follow through with services. In May 2009, April was observed riding on a bike with Francisco. She pled guilty to violating the no-contact order, although April later claimed she was not actually with him and had pled guilty on her attorney's advice.

The State petitioned to terminate April's parental rights to all four children. The Winnebago Tribe of Nebraska petitioned to transfer jurisdiction of the case concerning D.W., which relief the district court granted. See Iowa Code § 232B.5(10) (providing for the transfer of jurisdiction to tribal court). Thus, a hearing was held on the State's petition to terminate April's parental rights to A.A., B.A., and A.L.

At the time of the termination hearing, April had been receiving supervised visitation with the children, but had cancelled three visits in the two months preceding the hearing. A DHS worker testified that April was not employed, did not have housing, had not followed through with mental-health therapy, and had a relationship with a violent man that was inappropriate for the children. Since

June 2008, April had fourteen police contacts involving assault, burglary, domestic violence, drugs, theft, and violations of a no-contact order. The DHS worker did concede that April had “very good parenting skills” and that her children had bonded with her. However, she testified that April was unwilling to put her children ahead of her affections for Francisco. In her testimony, April was vague and defensive about her relationship with Francisco:

Q. How long has it been since you’ve seen him? A. A while. I don’t know.

On July 27, 2009, the juvenile court terminated April’s parental rights to A.A., B.A., and A.L. pursuant to sections 232.116(1)(d) (A.A., B.A., and A.L.), (e) (A.A., B.A., and A.L.), (f) (A.A. and B.A.), and (h) (A.L.).¹

We review termination of parental rights de novo. See *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). On appeal April argues there is not sufficient evidence to terminate her parental rights pursuant to section 232.116(1)(d). However, she does not challenge the termination of her parental rights pursuant to sections 232.116(1)(e), (f), and (h). Thus, we do not need to reach April’s sufficiency of the evidence argument. 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.”).

Nevertheless, we find sufficient evidence to support the termination of April’s parental rights. April’s main argument is “she was doing everything [DHS] had asked of her.” However, April’s own testimony undermines this claim. April

¹ The juvenile court also terminated the parental rights of the fathers of A.A., B.A., and A.L. The fathers have not appealed.

admitted that she did not follow through with her mental health services, even though she knew that not doing this therapy kept her away from her children. When asked what has kept her from seeking work over approximately the last year and a half, she answered, "I feel there's no reason to work. I don't have my kids. Why should I work?" The evidence thus demonstrates that April has failed to obtain employment and housing and has failed to follow through with mental health treatment. Furthermore, she has continued a relationship that is dangerous to the children. We find her argument without merit.

April also argues that termination is not in the best interests of the children because the children were separated into two different foster homes at the time of the termination hearing. At the time of the hearing DHS had placed A.A. and A.L. in a foster home and the Winnebago Tribe had placed B.A. and D.W. in another foster home, but was seeking to find a foster home for all four children. "There is no indication in the record this issue was raised in the juvenile court. As a general rule, an issue not presented in the juvenile court may not be raised for the first time on appeal." *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994).

Even if the issue were preserved, we find it is in the children's best interests that April's parental rights be terminated, although the children are separated temporarily or possibly permanently. See *id.* (stating that although siblings should be kept together whenever possible, the paramount concern is the children's best interests). A DHS worker testified that B.A. had behavioral problems that stem from not having a permanent home and the violent men that April exposed him to during his life. Additionally, A.A. had asked her foster

parents to adopt her. The children are in need of a safe and permanent home. See *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in determining a child's best interests).

For the foregoing reasons, we affirm the juvenile court's order terminating April's parental rights to A.A., B.A., and A.L.

AFFIRMED.