IN THE COURT OF APPEALS OF IOWA

No. 9-146 (1999-35) / 98-1531

FILED

IN THE INTEREST OF
M.H. and A.H.,
Minor Children,

K.P., Mother,
Appellant.

Appeal from the Iowa District Court for Hardin County, Peter B. Newell, Associate Juvenile Judge.

Mother appeals the termination of her parental rights to two of her children.

AFFIRMED.

Chad R. Frese of the Moon Law Office, Marshalltown, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Rick Dunn, County Attorney, for appellee-State.

Mona Bowden, Iowa Falls, guardian ad litem for minor children

Heard by Huitink, P.J., and Streit and Zimmer, JJ.

STREIT, J.

A mother appeals the termination of her parental rights pursuant to Iowa Code Section 232.116(1)(d) contending insufficient evidence proved she failed to maintain significant and meaningful contact with her children. Because we find sufficient evidence in the record significant and meaningful contact was not maintained and the other requirements of the statutory section were proved, we affirm the termination of parental rights.

Kimi is the mother of Matthew, born in August 1992, and Andrea born March 1994. Both children were adjudicated in need of assistance in February of 1997, pursuant to Iowa Code sections 232.2(6)(a) and 232.2(6)(e) (1997). The court later placed them in custody of the Department of Human Services (DHS) for placement in foster care and informed Kimi that in order to regain placement of her children she would have to "establish a stable home" with "stable employment, a stable relationship, and a stable place of residence."

In March 1998 the State filed a petition requesting termination of Kimi's parental rights pursuant to sections 232.116(1)(d).[1] On July 28, 1998, the court

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[1] Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

. . .

d. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.

(3) There is clear and convincing evidence that the parents have not

granted the petition. Kimi appeals contending the State did not meet its burden of proving she had not maintained significant and meaningful contact with the children during the previous six months.

> Significant and meaningful contact includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

Iowa Code § 232.116(1)(d)(3) (1997).

There is clear and convincing evidence in the record that Kimi has not maintained significant and meaningful contact with her children.

In the six months preceding the termination hearing, the mother had attended four of thirteen visitations with her children. Some of the visits were canceled by Kimi due to doctors appointments or lack of transportation. Many visitations Kimi would simply fail to attend.

When Kimi missed scheduled visitation without prior notification Matthew was devastated. On one occasion, for example, Kimi had scheduled visitation with her children at her aunt's home in Garwin, Iowa, the day before Christmas 1997 at noon. Gifts were to be exchanged. Kimi got into a fight with her aunt and left the home at 11:40 a.m. She did not wait twenty minutes for her children to arrive. She

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maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

did not notify anyone where she had gone so the visitation could take place at another location. When the children arrived at the home, no one was there and the door was locked. Matthew was extremely upset. He demanded the door be unlocked. When the social worker informed him she did not have a key, he told her to get one and open the door because they had to meet at the house for Christmas. When the social worker told him there was nothing more she could do Matthew curled up in a ball in the back seat of the car, rocking rapidly, and refusing to speak.

On other occasions, after Kimi missed scheduled visitations, Matthew would be more aggressive at school and demonstrate a high degree of fear and frustration. Andrea, because she does not remember much about her mother, is not affected like Matthew.

From the end of March 1998 until July 1998 Kimi had no face-to-face contact with her children. She provided them no financial support. She sent no letters, cards, or gifts. She attempted to call them on only two occasions.

Kimi contends DHS did not facilitate her visitation with her children because they did not contact her by phone or letter to help her facilitate visitation with her children. In fact, DHS sent numerous letters to Kimi's address, which were returned marked "undeliverable." Kimi did call and leave messages with a social worker on at least two occasions, but left no return telephone number where she could be reached. Another visitation worker, Lou Freeman, left messages for Kimi at her place of work in an attempt to establish visitation, but Kimi did not call him back. Kimi

never wrote letters to DHS to resume her visits and never personally appeared at the DHS office to discuss visitation.

These facts constitute clear and convincing evidence Kimi has not maintained significant and meaningful contact with her children. For these reasons, we affirm the trial court's termination of Kimi's parental rights.

AFFIRMED.

No. 98-1531. [9-146 (1999-35)] IN RE M.H.

Appeal from the Iowa District Court for Hardin County, Peter B. Newell, Associate Juvenile Judge. **AFFIRMED.** Heard by Huitink, P.J., and Streit and Zimmer, JJ. Opinion by Streit, J. (5 pages $2.00)

A mother appeals the termination of her parental rights pursuant to Iowa Code Section 232.116(1)(d) contending insufficient evidence proved she failed to maintain significant and meaningful contact with her children. In the six months preceding the termination hearing, the mother had attended four of thirteen visitations with her children. When Kimi missed scheduled visitation without prior notification her son was devastated. After a missed Christmas visit, he curled up in a ball in the back seat of the car, rocking rapidly, and refusing to speak. On other occasions, he would be more aggressive at school and demonstrate a high degree of fear and frustration. From the end of March 1998 until July 1998 Kimi had no face-to-face contact with her children. She provided them no financial support. She sent no letters, cards, or gifts. She attempted to call them on only two occasions. These facts constitute clear and convincing evidence Kimi has not maintained significant and meaningful contact with her children.