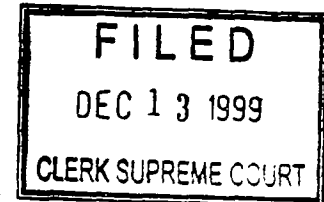


IN THE COURT OF APPEALS OF IOWA

No. 1999-431 (9-684) / 99-1040

Filed December 13, 1999



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

Appellant,

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

Mother appeals from the juvenile court order terminating her parental rights
to two of her children. **AFFIRMED.**

Martha M. McMinn, Sioux City, for appellant.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant
Attorney General, for appellee-State.

Joseph Kertels of the Juvenile Law Center, Sioux City, guardian ad litem for
minor children.

Heard by Sackett, C.J., and Zimmer, and Miller, JJ.

ZIMMER, J.

Melva B. appeals from the juvenile court order terminating her parental rights to two of her children, twins Monique and Makeyla. We affirm.

The twins were born in September of 1998 and tested positive for cocaine at birth. Melva admitted she had used approximately one week before they were born, despite having recently completed an inpatient treatment program. They were removed from Melva's custody on September 25, 1998, and adjudicated children in need of assistance.

Melva is the mother of seven children. Her parental rights have been terminated to three of her children. The other two children have been placed with a paternal grandparent. The terminations were primarily due to Melva's extensive substance abuse, even during pregnancy, and her failure to follow through with treatment. Only Monique and Makeyla are at issue in this appeal.

After the twins were born, Melva entered an intensive outpatient treatment program on September 29, 1998. She attended only two sessions and failed to appear for the twins' temporary removal hearing. On October 8, 1998, Melva was arrested for OWI and a few weeks later pleaded guilty to theft in the fourth degree. Melva was again to begin an outpatient treatment program in November but failed to attend. In mid-November, she disappeared for approximately one month. The children were adjudicated children in need of assistance (CINA) on December 17, 1998. Melva again began outpatient treatment on January 6, 1999.

On January 11, 1999, the State filed a petition to terminate Melva's parental rights to the twins. The hearing was held on April 6, 1999. Experts testified Melva's substance abuse treatment might take more than a year. They also noted it is difficult to manage children during recovery. The juvenile court waived the requirement that the State make reasonable efforts pursuant to Iowa Code section 232.102(12)(c) (1999). It then terminated Melva's parental rights under Iowa Code sections 232.116(1)(c) and (k).

Melva appeals. She claims there was no evidence to support the finding that Monique and Makeyla could not be returned to her within a reasonable time under section 232.116(1)(k). She notes her counselor's recommendation that the children live with her in a halfway house placement after her completion of outpatient substance abuse services. The State maintains Melva has failed to challenge the evidence supporting termination under section 232.116(1)(c) and waives that issue on appeal.

I. Scope of Review. We review proceedings to terminate a parent-child relationship *de novo*. *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa App. 1998). Our primary concern is the best interests of the child; we look at both the child's long-range and immediate interests. *Id.* The grounds for termination must be proven by clear and convincing evidence. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997).

II. Propriety of Termination. Since we find clear and convincing evidence termination was appropriate under section 232.116(1)(c), we decline to address

Melva's argument regarding subsection (k). Where parental rights are terminated on several grounds, we need only find sufficient evidence under one of the sections in order to affirm the termination. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996) (citation omitted).

Section 232.116(1)(c) provides termination may occur when both of the following exist:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Subsection (1) is clearly met. Two of Melva's other children have been adjudicated CINA.

Furthermore, the circumstances which led to the CINA adjudication continue to exist. Melva herself does not assert the children could be returned to her at this time; instead she asks for another twelve to eighteen months to get sober. Melva has received services for eight years and completed three substance abuse treatment programs in the recent past, but she relapsed soon afterward. A parent's past performance is indicative of the future care that parent is capable of providing. *In re T.T.*, 541 N.W.2d 552, 555 (Iowa App. 1995) (citing *In re R.M.*, 431 N.W.2d 196, 199 (Iowa App. 1988)). Most recently, Melva was arrested for OWI two weeks after

the twins were removed from her care and she had begun a treatment program. Melva has been in and out of jail and abusive relationships. Melva's parental rights have been terminated to several other of her children and she was aware what was at stake at the outset of these proceedings, yet she failed to attend treatment. The circumstances which led to the twins' CINA adjudication still exist.

AFFIRMED.