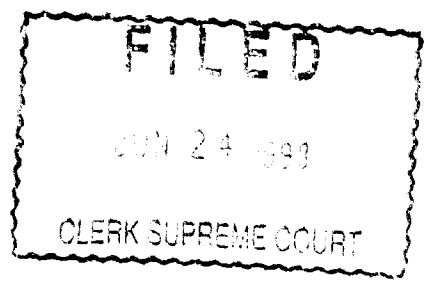
IN THE COURT OF APPEALS OF IOWA

No. 8-249 / 97-1799



IN THE INTEREST OF P.M.H., Minor Child,

L.H., Mother,

Appellant.

Appeal from the Iowa District Court for Scott County, John G. Mullen, Associate Juvenile Judge.

The mother of a minor child appeals the juvenile court decision terminating her parental rights. **AFFIRMED.**

James M. Stein, Davenport, for appellant.

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

Murray W. Bell, Davenport, guardian ad litem for minor child.

Considered by Cady, C.J., and Vogel and Mahan, JJ.

VOGEL, J.

Laura is the mother of Perris, who was born in March 1996. At the time of the birth, both Laura and Perris tested positive for the presence of cocaine. The Department of Human Services (DHS) instituted services to assist Laura in caring for Perris. Due to Laura's continuing problems with substance abuse, Perris was removed from her care after about one week and placed in foster care. Perris was adjudicated to be a child in need of assistance.

Laura has a history of criminal behavior and substance abuse. Laura was not cooperative with services after Perris was removed from her care. She was homeless and DHS workers were often unable to contact her. She attended only one individual session with her service provider and she was inconsistent in attending visitation with Perris.

In June 1996, Laura entered a half-way house for treatment of her substance abuse. She was discharged from the program before completion because she tested positive for cocaine. In September 1996, Laura was arrested for theft in the second and fifth degrees, harassment, and possession of drug paraphernalia. She was sentenced to a term of imprisonment not to exceed two years.

In April 1997, the State filed a petition to terminate Laura's parental rights. At the termination hearing, Laura testified she had taken classes to become a better

parent while in prison. She expected to be released in September 1997. Laura planned to enter a substance abuse treatment program on her release from prison.

The juvenile court entered an order terminating Laura's parental rights. The court concluded Perris would be subject to a high risk of abuse or neglect if she were placed in Laura's custody. The court terminated Laura's parental rights pursuant to Iowa Code sections 232.116(1)(c), (d), (g), and (h).[1] Laura appealed.

I. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Laura contends the juvenile court improperly allowed reports into evidence when the author of the reports was not present to testify at the hearing. These reports had been previously admitted during the child in need of assistance proceedings (CINA). The juvenile court found Laura's objections were untimely because the authors of the reports could have been cross-examined during the CINA proceedings.

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[1] The order terminating Laura's parental rights provides her rights were terminated under sections 232.116(1)(c), (d), (e), and *(l)*. However, the petition to terminate parental rights sought termination under sections 232.116(1)(c), (d), (e), and *(h)*. We determine the reference to subsection (l) was a typographical error and Laura's parental rights were actually terminated under subsection (h).

Laura now argues:

> This reasoning requires the parent in such a proceeding to anticipate all issues which may arise in the event of a contested termination hearing. That is simply unfair to the parent and may even be impossible. Often, reports are entered under the relaxed rules governing CINA cases, and the authors are not present at those hearings either. In such cases, the report would wind its way into a contested termination without its author ever being subject to cross-examination.

We reject Laura's argument. Due process gives a parent the right to confront and cross-examine adverse witnesses in a CINA proceeding. *See In re A.M.H.*, 516 N.W.2d 867, 870 (Iowa 1994). This means a parent has the right to subpoena any witness for examination or cross-examination. *In re Long*, 313 N.W.2d 473, 479 (Iowa 1981). When a parent fails to exercise the right to subpoena the author of a report, the parent cannot complain his or her confrontation rights were denied by the admission of the report. *Id.* Here, Laura failed to subpoena the authors of the objectionable reports at the CINA proceedings.

CINA and termination proceedings are not separate and distinct actions, but are interdependent. *In re E.J.R.*, 400 N.W.2d 531, 532 (Iowa 1987). A parent's case history is entitled to much probative force in a termination proceeding. *In re A.J.*, 553 N.W.2d 909, 913 (Iowa App. 1996). Evidence which was properly admitted in a CINA proceeding is admissible in a termination proceeding concerning the same child. *A.M.H.*, 516 N.W.2d at 873. We conclude the juvenile court correctly found the reports which had been admitted at the CINA proceedings were admissible at the termination proceeding.

III. Laura claims the State presented insufficient evidence to warrant termination of her parental rights. She asserts the State failed to show Perris could not be returned to her care, which is an element of section 232.116(1)(e).

Laura's parental rights were terminated under sections 232.116(1)(c), (d), (e), and (h). Laura's failure to address sections 232.116(1)(c), (d), and (h) means she has waived any arguments on appeal based on these sections. *See Smith v. CRST Int'l, Inc.*, 553 N.W.2d 890, 895 (Iowa 1996). Failure in an appellate brief to state, to argue, or to cite authority in support of an issue may be deemed waiver of that issue. Iowa R. App. P. 14(a)(3). The termination of Laura's parental rights may be upheld based on the sections which she did not appeal.

We affirm the decision of the juvenile court terminating Laura's parental rights.

AFFIRMED.