

**IN THE COURT OF APPEALS OF IOWA**

No. 0-860 / 10-1033  
Filed November 24, 2010

**IN THE INTEREST OF E.S.,  
Minor Child,**

**C.D.S., Father,  
Appellant,**

**A.J.C., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

A mother and father appeal the termination of their parental rights to their child. **AFFIRMED.**

Carl Morgan Lasley of Dunakey & Klatt, P.C., Waterloo, for appellant father.

Tammy L. Banning of Tammy L. Banning, P.L.C., Waterloo, for appellant mother.

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

Christina Shriver, Hudson, attorney and guardian ad litem for minor child.

Considered by Sackett, C.J., and Vogel and Vaitheswaran, JJ.

**VAITHESWARAN, J.**

A mother and father appeal the termination of their parental rights to their child, born in 2007. The mother contends the juvenile court “erred in concluding that sufficient grounds exist to terminate [her] parental rights pursuant to Iowa Code sections 232.116(1)(g) and (h).” The father argues (1) “reasonable efforts to reunite parent and child were not provided” and (2) the juvenile court erred in waiving the reasonable efforts requirement.

***I. Mother’s Appeal***

We may affirm if we find clear and convincing evidence to support either of the grounds cited by the juvenile court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). We will focus on Iowa Code section 232.116(1)(g) (2009).

That section requires proof of several elements, including proof that “the parent continues to lack the ability or willingness to respond to services which would correct the situation” and “[t]here is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.” Iowa Code § 232.116(1)(g). On these and other elements, the juvenile court found the following:

[The mother] testifies to using drugs “all her life.” Reports reflect that [the mother] has been using methamphetamine since she was fourteen years of age. [The mother] has a lengthy history of substance abuse and law related difficulties as a result of her substance abuse. Because of her continued use of illegal substances, [the mother] has been incarcerated and had her parental rights terminated to another child. . . . [The mother] has participated in six inpatient residential substance abuse programs and reports to successfully completing treatment on two occasions. [The mother] has had the opportunity to participate in residential substance abuse programming, outpatient substance abuse programs and other community-based treatment programs as an adult and juvenile. Despite these numerous efforts she has always

resumed her use of controlled substances upon return to the community. [The mother] is currently in the Black Hawk County jail for probation violations after she recently left inpatient substance abuse programming without completion. [The mother] states she has “no excuses” for her leaving the most recent treatment program. [The mother] remains under the supervision of the Iowa Department of Corrections and believes she will be ordered into further residential substance abuse programming. [The mother] testifies that she has now “been clean” for forty-six days. Half of this time she has spent in jail. . . . The mother’s participation in services has been minimal.

Clear and convincing evidence supports these findings. The mother’s longest period of sobriety in the previous decade was for eighteen months. Based on our de novo review, we concur in the juvenile court’s decision to terminate the mother’s parental rights pursuant to Iowa Code section 232.116(1)(g).

## ***II. Father’s Appeal***

Both of the father’s challenges relate to the State’s obligation to make reasonable efforts towards reunification of the family. See *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). Therefore, we will address them together.

The juvenile court made the following pertinent findings:

[The father] has had the opportunity to participate in residential substance abuse programming, outpatient substance abuse programs and other community-based treatment programs as an adult and juvenile. Despite these numerous efforts he has always resumed [his] use of controlled substances upon return to the community. [The father] has continued to use marijuana throughout the Juvenile Court’s involvement. [The father] has a history of mental illness and admits to struggling with depression and anxiety. [The father] has not followed through with recommendations for outpatient mental health counseling and has also chosen to self-medicate. [The father] has not been honest with himself or the court throughout these proceedings. The assertions of impending change made by [the father] at time of hearing are therefore not credible.

The record supports these findings. Like the mother, the father was a chronic drug user. While he initially made some effort to stop using methamphetamine and, as a result, had the child returned to his custody, he acknowledged he “had a little trouble stopping smoking marijuana” and relapsed on methamphetamine.

At the termination hearing, the father also acknowledged the receipt of several reunification services. He testified the department dropped in at his home to ensure that he was not using drugs and was “a reliable father,” afforded him a substance abuse evaluation and counseling sessions, and supervised visits when the child was not in his care. These reunification services spanned several years. It was only after the father’s recent relapse on methamphetamine that the children’s guardian ad litem applied to waive the reasonable efforts requirement. See Iowa Code § 232.102(12) (providing that when aggravating circumstances exist, the court may waive the reasonable efforts requirement). In granting the application, the juvenile court itemized the services the father received and concluded “the offer or receipt of services would not likely within a reasonable period of time correct the conditions which led to the child’s removal.” Given the father’s incarceration at the time of the termination hearing, we fully concur in this assessment.

We affirm the termination of the mother and father’s parental rights to this child.

**AFFIRMED.**