

IN THE COURT OF APPEALS OF IOWA

No. 0-992 / 10-1523
Filed January 20, 2011

**IN THE INTEREST OF I.H.,
Minor Child,**

**J.K.C., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Colin J. Witt, District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

David A. Pargulski, Des Moines, for appellant mother.

Jesse Macro, West Des Moines, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellee State.

Kimberly S. Ayotte of the Youth Law Center, Des Moines, for minor child.

Considered by Eisenhauer, P.J., and Potterfield and Doyle, JJ.

DOYLE, J.

A mother appeals the termination of her parental rights to her child. She contends the State failed to prove the grounds for termination by clear and convincing evidence. We review her claims de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The mother's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d) and (g) (2009). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(1)(d) where the State proves by clear and convincing evidence the following:

(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.

The mother does not dispute the first element has been proved, but argues there is not clear and convincing evidence that the circumstances continue to exist despite the offer or receipt of services. We disagree.

The mother has had her parental rights terminated with respect to two of her other children.¹ The child at issue in this case, I.H., was born in November 2004. The child was first adjudicated a child in need of assistance (CINA) in

¹ The termination of the mother's parental rights to those children is not at issue in this case.

2005, due to concerns the mother was using methamphetamine and other issues. The child was out of the mother's care for approximately a year. During that time, a significant array of services was offered to the mother, including substance abuse treatment, with which the mother complied. The child was eventually returned to the mother's custody, and the CINA case was closed in 2007. At that time, the child did not have any noted developmental delays. The mother was to continue to participate in services, including Area Education Agency services recommended for the child. However, the mother moved from Iowa and stopped participating in these services.

The mother later moved back to Iowa with the child. In 2010, the child, then five years old, was found at home alone after the mother chose to go out with friends to a bar. The mother was charged with and pled guilty to child endangerment. The child was again adjudicated CINA and placed in foster care. Thereafter, the juvenile court waived reasonable efforts in the case and directed the State to file a petition for termination of the mother's parental rights.

After the child was placed in foster care the second time, concerns arose about the child's level of functioning, specifically whether the child was mentally retarded. A clinical psychologist evaluated the child's level of cognitive and developmental function. Based upon that evaluation, the psychologist opined that the child's developmental delays were based upon lack of environmental experiences and lack of experience in a learning or enriching environment, as opposed to any organic causes such as mental retardation or pervasive developmental delays. The psychologist continued to meet with the child and stated the child continued to make slow but steady progress.

A hearing on the petition was held in August 2010. The mother testified she had moved into the House of Mercy, a provider of services for women with addiction, as a condition of her probation concerning her child endangerment conviction. The mother testified that she had an addiction to alcohol and methamphetamine, and she attended groups at the House of Mercy to assist her in overcoming her addictions. However, she testified she had missed two or three groups because of stress, and she acknowledged she needed to do a better job of attending all of her groups. She acknowledged that she had had substance abuse treatment in the past.

Upon our de novo review of the record, we find the State presented clear and convincing evidence that the mother has previously been offered or received services to correct the circumstances that led to the adjudication, and the circumstances continue to exist despite the offer or receipt of services. The State therefore proved the grounds for termination under Iowa Code section 232.116(1)(d). Accordingly, we affirm the termination of the mother's parental rights.

AFFIRMED.