

**IN THE COURT OF APPEALS OF IOWA**

No. 1-787 / 11-1324  
Filed October 19, 2011

**IN THE INTEREST OF R.L.F., Jr.,  
Minor Child,**

**L.A.A.F., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

A mother appeals the termination of her parental rights. **AFFIRMED.**

Tod J. Deck of Deck Law, Sioux City, for appellant mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, Patrick Jennings, County Attorney, and Dewey P. Sloan, Assistant County Attorney, for appellee State.

Douglas Roehrich, Sioux City, for appellee father.

Joseph Kertels and Michelle Hynes of Juvenile Law Center, Sioux City, attorneys and guardians ad litem for minor child.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ.

**POTTERFIELD, J.**

A mother appeals the termination of her parental rights. The mother is a member of the Rosebud Sioux Indian tribe. The mother argues: (1) the court erred in finding there was testimony by a qualified expert witness as required by Iowa Code section 232B.6(6)(a) (2011); (2) the State did not make active efforts to provide remedial services as required by section 232B.5(19); (3) the State failed to prove by clear and convincing evidence the statutory grounds for termination; and (4) termination is not in the child's best interests.

**I. Qualified Expert Witness**

We first reject the mother's contention that the juvenile court erred in terminating parental rights without the testimony of a qualified expert witness.

Pursuant to section 232B.6(6)(a), a court shall not terminate parental rights over an Indian child in the absence of a determination, including qualified expert testimony, that the continued custody of the child by the child's parent is likely to result in serious emotional or physical damage to the child. Section 232B.10(3)(d) defines "qualified expert witness" to include "[a] professional person having substantial education and experience in the person's professional specialty and having substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child's tribe."

At the termination trial, the State presented the testimony of Mary Kohn, a licensed social worker with the Iowa Department of Human Services (DHS) assigned to the unit that specializes in working with Indian children and families. Kohn has served in that capacity since 2005 and received specialized training regarding Indian families and the Iowa Indian Child Welfare Act (ICWA), codified

at chapter 232B. Kohn has testified as a qualified expert more than once in the past. Kohn testified regarding her work handling the services of this family. Kohn had recently worked with the mother in regards to the termination of her parental rights to three older children. Kohn exhibited substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the tribe. We conclude Kohn possessed the qualifications described in section 232B.10(3)(d) and met the requirements for a qualified expert witness.

## **II. Active Efforts**

A party seeking termination of parental rights over an Indian child must provide evidence to the juvenile court that “active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.” Iowa Code § 232B.5(19). We decline to address the State’s argument that the mother did not preserve this issue because we find active efforts were made to prevent the breakup of this Indian family.

The tribe was notified of DHS’s involvement early in the case and was kept apprised of the services provided to the mother. Kohn testified she made efforts to coordinate services with the mother’s tribe and that she attempted to make services more meaningful relative to the mother’s Indian heritage. DHS contacted the child’s maternal grandmother as well as two extended family members to investigate possible placement of the child in these homes. Ultimately, the mother’s tribe approved the child’s placement with the foster family for foster care.

Further, throughout the pendency of these proceedings, the mother received numerous services. Social histories were completed to identify the sources of the mother's issues and to develop a case plan. Mother received family safety, risk, and permanency services; group therapy; substance abuse assessments; inpatient substance abuse treatment in two different facilities, including services in a facility that allowed her child to reside with her; counseling for male dependency issues; family team meetings; visits; and transportation. Kohn testified active efforts had been made to provide rehabilitative services to the mother. Another individual involved with this family, Shirley Bad Wound, testified through stipulated testimony that active efforts had been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. Based on this evidence, we conclude the State met the ICWA active efforts requirement through a showing by clear and convincing evidence that a "vigorous and concerted level of casework beyond the level" typically constituting reasonable efforts was provided. See Iowa Code § 232B.5(19); *In re C.A.V.*, 787 N.W.2d 96, 100 (Iowa Ct. App. 2010).

### **III. Statutory Grounds and Best Interests of the Child**

The mother also asserts the juvenile court erred in concluding the statutory grounds for termination had been met and that termination was in the child's best interests. Concerning these issues, we have carefully reviewed the record, the briefs of the parties, and the juvenile court's well-reasoned, well-written ruling. After a de novo review of the record, we agree with the juvenile court's findings and adopt them as our own. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa

2010) (“[T]he proper standard of review for all termination decisions should be de novo.”).

**AFFIRMED.**