

**IN THE COURT OF APPEALS OF IOWA**

No. 6-336 / 06-0413

Filed May 10, 2006

**IN THE INTEREST OF  
D.J.G, J.M., AND K.J.,**  
Minor Children,

**S.G., Father of D.J.G.,**  
Appellant,

**S.J., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Clinton County, Nancy S. Tabor,  
Judge.

A mother and father appeal the termination of their parental rights.

**AFFIRMED.**

Neill Kroeger, Davenport, for appellant-father.

Mary Lynn Wolfe of Wolfe Law Office, Iowa City, for appellant-mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant  
Attorney General, and Joel Walker, Assistant County Attorney, for appellee-  
State.

Richard W. Farwell of Farwell and Bruhn, Clinton, for appellee-intervenor.

Edward Kross, Guardian ad litem, Clinton, for minor children.

Considered by Vogel, P.J., and Zimmer and Vaitheswaran, JJ.

**VAITHESWARAN, J.**

Sherry has three children, Kyle, Jacey, and Devon. Scott is the father of Devon. Sherry and Scott abused illegal substances and had a relationship that was marred by domestic violence.

When Devon was born in late 2004, he had marijuana and methamphetamine in his system. As a result, Devon, Kyle, and Jacey, were removed from Sherry's care.

Eventually, the district court terminated the parental rights of Sherry and Scott. On appeal, the parents raise several arguments in support of reversal, none of which we find persuasive.

***I. Father***

Scott acknowledges that he abused illegal substances and did not follow a case plan drafted by the Department of Human Services. He asserts, however, that he was "making progress," and simply required "[a] little more time" to resolve his issues. He claims: (A) termination was not in Devon's best interests, (B) he was entitled to an additional six-month period to reunify with Devon, and (C) the Department stopped making reasonable efforts toward reunification several months before the termination hearing.<sup>1</sup> Our review of these issues is de novo.

**A. *Best Interests.*** In termination-of-parental-rights proceedings, the ultimate consideration is the child's best interests. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Scott exercised minimal visitation with his child and never served as his caretaker. Just one month before the termination hearing, Scott had yet to

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<sup>1</sup> The hearing was a combined permanency/termination hearing.

undergo a substance abuse evaluation as recommended by the Department. In addition, a hair test revealed the presence of cocaine in his system. Under these circumstances, termination was in Devon's best interests.

**B. Extension of Time.** Scott maintains "there was good cause to grant him an additional six-month period to reunify with Devon." See Iowa Code § 232.104(2)(b) (2005). For the reasons stated above, we disagree.

**C. Reasonable Efforts.** Scott maintains the Department prematurely curtailed reunification services. To the contrary, representatives of the Department, as well as service providers, met with Scott during the three months preceding the termination hearing. Scott acted belligerently towards the individuals assigned to assist him. Despite his attitude, the Department helped him gain admission to an inpatient substance abuse treatment program. Two weeks before the termination hearing, he obtained a substance abuse evaluation and began the program.

We conclude the Department did not prematurely end reunification services. We further conclude the services provided were reasonable under the circumstances.

## **II. Mother**

Sherry argues: (A) the State did not prove one of the grounds for termination cited by the district court and (B) termination was not in Kyle's best interests.

**A. Grounds for Termination.** The district court terminated Sherry's parental rights pursuant to Iowa Code sections 232.116(1)(e) (requiring proof of the absence of significant and meaningful contact), (f) (requiring proof that the children cannot be returned to the custody of parent), and (h) (same). Sherry

only challenges the evidence supporting the first ground. Therefore, we agree with the State that we may affirm the termination decision on the other grounds. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

Even if Sherry had appealed the other grounds, she would not have prevailed. At the hearing, she testified that, in light of her relapses, she was not allowed to exercise visitation with her children for several months. When asked what relief she wanted, she stated that she wished to resume supervised visitation and wished to have a six-month extension to continue reunification efforts. Iowa Code § 232.116(1)(f), (h). She did not state that she was ready for a return of the children to her custody.

**B. Best Interests.** Sherry also contends it was in Kyle's best interests to delay termination, given the "strong bond" between parent and child and the fact he was placed with a relative. On our de novo review, we disagree.

Sherry struggled with maintaining sobriety. She initially entered an inpatient substance abuse treatment program but, due to funding concerns, had to leave before her treatment was completed. There was also evidence that she relapsed into methamphetamine use while still enrolled in the program. Sherry then enrolled in an outpatient treatment program, but left after two days. The Department did not hear from her for approximately six weeks. At that point, Sherry contacted the Department and asked to have the agency resume reunification services, including visitation. A service provider recommended that she complete an inpatient treatment program and "commit to attending parenting sessions and visits on a regular basis," before contact was resumed. The

service provider noted that Sherry had attended only seven out of thirty-two possible visits between December 2004 and August 2005.

During the month of the termination hearing, Sherry completed a residential drug treatment program, but a Department worker felt she had not shown enough stability to warrant the resumption of visitation with her children. Notably, Sherry continued to maintain a relationship with Scott, despite an incident involving domestic violence just three months before the termination hearing and despite evidence of his continued drug use.

Due to Sherry's belated progress toward sobriety, Kyle did not have a chance to see his mother for several months. While there is no question he still loved and was attached to her, he had not overcome the trauma of living in her chaotic household. Shortly before the termination hearing, his therapist recommended against visitation with Sherry.

In light of this evidence, we conclude termination was in Kyle's best interests.

### ***III. Disposition***

We affirm the termination of Sherry's parental rights to Kyle, Jacey, and Devon. We affirm the termination of Scott's parental rights to Devon.

**AFFIRMED.**