

**IN THE COURT OF APPEALS OF IOWA**

No. 6-516 / 06-0829

Filed July 26, 2006

**IN THE INTEREST OF J.N.H.,  
Minor child,**

**M.B., Mother,**  
Appellant,

**A.H., Father,**  
Appellant.

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Appeal from the Iowa District Court for Keokuk County, Lucy J. Gamon,  
District Associate Judge.

Two parents appeal from the termination of their parental rights.

**AFFIRMED.**

Leslie D. Lamping of Day, Meeker, Lamping, Schlegel & Salazar,  
Washington, for appellant father.

Edward M. Conrad of Conrad Law Office, Sigourney, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, and John Schroeder, County Attorney, for appellee State.

Joel Yates of Clements Law Firm, Oskaloosa, guardian ad litem for minor  
child.

Considered by Mahan, P.J., Hecht and Eisenhauer, JJ.

**HECHT, J.**

Misty and Art are the biological parents of Jasmine, who was born in 2005. Jasmine was removed from their custody by the Iowa Department of Human Services (DHS) when she was twelve-days old due to her parents' ongoing drug abuse. At the time of her removal, Jasmine tested positive for amphetamine and methamphetamine. Shortly thereafter, Jasmine was found to be a child in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(o) (2005) based on the presence of drugs in her body. DHS requested that Misty and Art submit to services and undergo random drug testing. On March 23, 2006, the State filed a petition seeking to terminate Art's and Misty's parental rights. Following a hearing, the court granted the petition and terminated Art's rights under section 232.116(1)(h) and Misty's rights under sections 232.116(1)(h) and (g). Misty and Art both appeal from this ruling.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern in termination proceedings is the best interests of the child. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

With regard to Misty, upon our careful de novo review, we conclude termination was appropriate under section 232.116(1)(g), which requires a finding that the court has previously terminated the parent's rights with respect to another child and that the parent continues to lack the ability or willingness to respond to services which would correct the situation. Just over a year prior to

Jasmine's birth, Misty's parental rights to another daughter were terminated. That case, like this one, was initiated due to the child's exposure to illegal substances. In addition, the former termination case presented serious concerns about Misty's mental functioning that impaired her ability to supervise the child. In the case now before the court, social worker Sharon Lehn testified that those persistent concerns led to Jasmine's removal and adjudication.

Misty relapsed into drug use in November of 2005. Lehn further testified that at the time of the termination hearing there was no plan to return Jasmine to her parents in the next few months and that the parents were still receiving only supervised visits at that time. Given Misty's substance abuse history, in addition to her limited intellectual capabilities and mental health issues<sup>1</sup>, it is apparent that Misty continues to lack the ability or willingness to respond to services which would permit her to resume the role of custodial parent.

We conclude Misty has failed to preserve for appellate review her claim that DHS did not make reasonable efforts to reunify the family. First, the list of services that were provided to Misty and the family covered nearly one full page of the juvenile court's termination order. Moreover, there is no indication in the record that she ever demanded other, different, or additional services prior to the termination hearing. See *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999). We therefore affirm the termination of her parental rights.

We also conclude the court properly terminated Art's parental rights under section 232.116(1)(h). It is readily apparent that Jasmine cannot be returned to

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<sup>1</sup> Jasmine has been diagnosed with major depressive disorder and continues to take medication and engage in individual therapy.

Art's custody as contemplated in this statute. As he admitted, Art began using methamphetamine when he was fifteen-years old, and apparently continued using through at least November and December of 2005, when he tested positive for the use of cocaine and methamphetamine.<sup>2</sup> Art's drug relapses were significant because they followed on the heels of an intensive substance abuse treatment program, and occurred while he was receiving services at a transitional housing program. He has been in and out of jail for much of his life, mostly on drug-related charges. There is no reasonable likelihood Art will be able to resume and maintain sobriety such that he could resume the role of Jasmine's custodial parent in the near future. We therefore affirm the termination of his parental rights to Jasmine.

**AFFIRMED.**

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<sup>2</sup> Art's drug tests were "at the highest testable category," which indicated his use was more than just an isolated incident.