

IN THE COURT OF APPEALS OF IOWA

No. 6-936 / 06-1561
Filed November 30, 2006

**IN THE INTEREST OF J.S., Jr.,
Minor Child,**

**C.H., Mother,
Appellant.**

Appeal from the Iowa District Court for Wapello County, William S. Owens,
Associate Juvenile Judge.

C.H. appeals from the order terminating her parental rights. **AFFIRMED.**

Michael O. Carpenter of Webber, Gaumer & Emanuel, P.C., Ottumwa, for
appellant mother.

Cynthia D. Hucks, Ottumwa, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Mark Tremmel, County Attorney, and Seth Harrington,
Assistant County Attorney, for appellee State.

Mary Krafka of Krafka Law Office, Ottumwa, for minor child.

Considered by Huitink, P.J., and Vogel and Mahan, JJ.

HUITINK, P.J.

C.H. appeals from the termination of her parental rights to J.S. Jr., born in August 2004. She contends the State failed to prove the grounds for termination by clear and convincing evidence and that termination is not in the child's best interests. We review her claims de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).¹

C.H.'s parental rights were terminated pursuant to Iowa Code sections 232.116(1)(g) and (h) (2005). When the juvenile court terminates parental rights on more than one statutory ground, we need only find termination proper under one ground to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

Termination under section 232.116(1)(h) is appropriate where:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance.
- (3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents at the present time.

C.H. does not dispute the first three elements of this section have been met, but contends the State has failed to prove by clear and convincing evidence that J.S. could not be returned to live with his mother.

Clear and convincing evidence shows termination under this section was appropriate. C.H. has not been able to maintain stable housing or employment. She and J.S.'s father have a history of domestic violence; they separated and later reconciled several times during the pendency of the case. At the time of the termination hearing, C.H. admitted she was living with a new boyfriend who has a

¹ The father has not appealed the termination of his parental rights.

history of substance abuse. She had recently advised DHS that she had a new address and would start a new job the following week.

C.H. has a history of substance abuse and mental health concerns. She has been unsuccessfully discharged from two residential substance abuse programs and an outpatient substance abuse program. She tested positive for methamphetamine as recently as June 2006. She has not followed through consistently with mental health counseling or medications.

In addition, C.H. served time in jail within months of the termination hearing. She was arrested and jailed in July 2006 for shoplifting (fifth-degree theft) and possession of drug paraphernalia.²

Under the facts of this case, termination is warranted. We agree with the juvenile court's finding that C.H. "[has] demonstrated time [and] again that [she] cannot take care of [herself] in a legal and healthy way for any significant time period." We also conclude termination is in the child's best interest. J.S. has been in the care of foster parents for more than a year. He should not be forced to wait any longer for the permanency he deserves.

AFFIRMED.

² The drug paraphernalia charge was dismissed, but C.H. pled guilty to the theft charge.