

IN THE COURT OF APPEALS OF IOWA

No. 6-997 / 06-1769
Filed December 28, 2006

**IN THE INTEREST OF J.G. and C.G.,
Minor Children,**

**J.J.G., Father,
Appellant,**

**K.A.K., Mother,
Appellant.**

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

A mother and father appeal the termination of their parental rights to their
children. **AFFIRMED.**

Patricia J. Lipski, Fairfield, for appellant-father.

Katie E. McConnell of Lloyd, McConnell, & Davis. L.L.P., Washington, for
appellant-mother.

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

Joel Yates, Oskaloosa, guardian ad litem for minor children.

Heard by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

EISENHAUER, J.

A mother and father appeal the termination of their parental rights to their children. They contend the State failed to make reasonable efforts to reunite them with their children. They also contend the juvenile court erred in denying their motion to continue. The mother contends termination is not in the children's best interests. Our review is de novo. *In re M.T.*, 613 N.W.2d 690, 691 (Iowa Ct. App. 2000).

The children were brought to the attention of the Department of Human Services (DHS) in 2004 following a report of domestic abuse. Following an investigation, the children tested positive for marijuana exposure. They were adjudicated in need of assistance in August 2004. The father was ordered to maintain a separate residence and the children continued in the care of their mother. In February 2005, the father left the State for approximately eight months without notifying the DHS.

The children were removed from their mother's care in July 2005 after the mother left C.G., then two years old, alone in his crib for approximately thirty to forty-five minutes while she left the house. They were placed in foster care approximately two hours away. The mother did not consistently visit with the children. She claimed to have difficulty obtaining transportation for visitation. Both parents requested the DHS provide transportation assistance.

Things did not go well for the mother in the first half of 2006. She twice was expelled from residential treatment facilities for failure to comply with recommendations; she was arrested for public intoxication (twice), disorderly

conduct, and shoplifting; and she was arrested on a probation violation and incarcerated until July 17, 2006.

At the time of termination, the mother had made improvements, having participated in numerous services to address her substance abuse and improve her parenting skills. Meanwhile, the father had not completed substance abuse treatment or a batterer's education program.

We first address the parents' claim regarding reasonable efforts. Iowa Code section 232.102(7) (2005) requires the DHS to make reasonable efforts to return a child to their parent. Services are to be offered to improve parenting skills. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). The reasonable efforts requirement is not a strict substantive requirement for termination. *Id.* Instead, the services provided by DHS to reunify parent and child after removal impacts the State's burden of proving the child cannot be safely returned to the care of a parent. *Id.*

The parents argue the State failed to make reasonable efforts in failing to provide transportation assistance, in failing to move the children to a foster home nearer to them, and in failing to drug test them. Even had these services been offered to the parents, termination would still have been appropriate as both parents admit they could not be reunited with their children at the time of the termination hearing. Transportation assistance to visitations and additional drug testing would not have resolved the underlying reasons for termination.

We further conclude the juvenile court did not abuse its discretion in denying the parents' motion for a continuance. See *In re C.W.*, 554 N.W.2d 279, 281 (Iowa Ct. App. 1996) ("We review a motion for continuance under an abuse

of discretion standard and will only reverse if injustice will result to the party desiring the continuance.”). At the termination hearing, the parents made a motion for a three-month continuance so that a home study could be conducted on a maternal uncle in Alabama for possible placement. In denying the motion, the district court noted that the time guidelines for termination set forth in Iowa Code sections 232.116(1)(f) and (h) had passed and that nearly sixty days had passed since the filing of the termination petition. Because the maternal uncle could still be considered as a placement for the children following termination, the court did not abuse its discretion.

The mother contends termination is not in the children’s best interests. We disagree. Although the mother made improvement in the three months leading up to termination, she was still not able to resume care of her children. The mother has twice had her children removed from her care and did not attempt to improve her situation for over one year. She left her two-year old child unattended and exposed her children to marijuana and methamphetamine. As the juvenile court noted:

[The mother] squandered nearly two years of case time leading a chaotic lifestyle marked by substance abuse, inappropriate paramours, and criminal violations. [The mother] has seemed to do better only in the last several months when faced with the immediate prospect of losing custody of her children forever. At least partially as a result of a serious car accident, [the mother] has some cognitive disabilities which render it unlikely that she will ever be able to appropriately care for her children. While these issues are not [the mother’s] “fault,” they certainly impact on planning for permanency and the children’s best interest in this case.

The mother’s past neglect is an indication of the quality of her future care.

See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). Moreover “[a] child’s safety

and the need for a permanent home are now the primary concerns when determining a child's best interests." *In re J.E.*, ___ N.W.2d ___, ___ (Iowa 2006) (Cady, J. concurring specially) (citing *In re K.M.*, 653 N.W.2d 602, 608 (2002) (noting "the child's safety and need for a permanent home" are "the concerns that clearly impact a child's best interests"))).

We affirm the order terminating the mother and father's parental rights.

AFFIRMED.