

IN THE COURT OF APPEALS OF IOWA

No. 7-306 / 07-0431
Filed May 23, 2007

IN THE INTEREST OF C.S., Minor Child,

H.C.S., Mother,
Appellant.

Appeal from the Iowa District Court for Des Moines County, Mark Kruse,
District Associate Judge.

A mother appeals the termination of her parental rights to her child.

AFFIRMED.

Alan N. Waples of Wittkamp & Waples, Burlington, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Patrick C. Jackson, County Attorney, and Pamela K.
Dettmann, Assistant County Attorney, for appellee.

Scott Schroeder, Burlington, for father.

Peter Hansen of Hansen Law Office, Burlington, guardian ad litem for
minor child.

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

EISENHAUER, J.

A mother appeals the termination of her parental rights to her child. She contends the State failed to prove the grounds for termination by clear and convincing evidence. We review her claim de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

The mother's parental rights were terminated pursuant to Iowa Code section 232.116(1)(h) (2005). Section 232.116(1)(h) provides for termination of parental rights if:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (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, or for the last six consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

The mother argues the last element of the section has not been met. We disagree.

The child was removed from the mother's care at birth because of the child's physical problems and the parent's inability to properly care for the child. The child still requires a feeding tube and the mother has made no progress in learning how to even feed the child. Over the thirteen-month course of this case, the child has never been returned to the mother's care. The mother has not participated in the services offered her or had any meaningful contact with the child. The failure to participate in services or maintain contact with the child are the result of the mother's drug use, homelessness, mental instability, and her refusal to take advantage of services and opportunities offered by the State. At

the time of termination, the mother was about to be evicted from her housing for non-payment of rent. There is substantial evidence that the mother is not willing or able to parent her child. The child clearly cannot be returned to the mother's care. Accordingly, we affirm.

AFFIRMED.