

IN THE COURT OF APPEALS OF IOWA

No. 7-350 / 07-0481

Filed May 23, 2007

**IN THE INTEREST OF S.I.B., IV,
Minor Child,**

S.B., III, Father,
Appellant,

S.K., Mother,
Appellant.

Appeal from the Iowa District Court for Hardin County, Kim M. Riley,
District Associate Judge.

A mother appeals from the order terminating her parental rights to her son.

AFFIRMED.

Randal Giannetto, Marshalltown, for appellant father.

Melissa Nine of Kaplan & Frese, L.L.P., Marshalltown, for appellant
mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Bradley Harris, Special Prosecutor for Hardin County, and
Randall J. Tilton, County Attorney, for appellee.

Andrea Miller, Hampton, guardian ad litem for the minor child.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

VOGEL, J.

S.K. is the mother of S.B., who was born in March of 2006. The family initially had contact with the Iowa Department of Human Services (DHS) shortly after S.B.'s birth when it was discovered by a visiting nurse that S.B. was losing weight, had been receiving inadequate feedings, and was residing in a home with unhygienic conditions. Three days after his birth S.B. was removed for denial of critical care.¹ In April, S.B. was adjudicated to be a child in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(g) (2005).

After the mother failed to attend subsequent dispositional and review hearings and largely failed to comply with her service plan, the State filed a petition seeking to terminate her parental rights to S.B. Following a hearing, the court granted the State's request and terminated the mother's parental rights under section 232.116(1)(e) (child CINA, removed for six months, parent has not maintained significant and meaningful contact with child). S.K. appeals from this order.²

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000).

The record evinces a history of indifference from the mother to her child. Following the child's adjudication hearing, the mother was ordered to cooperate with services pending the dispositional hearing. However, in May 2006, the

¹ S.B. is placed with his two older half-siblings, both of whom have been adopted by the same foster parents.

² The putative father's rights were also terminated, but his rights are not on appeal.

mother left the State to follow the child's putative father and his work with a carnival, moving from Mississippi to Louisiana. No mailing address was provided to DHS. The mother did not attend the dispositional hearing held on June 20, 2006.

The thrust of mother's argument on appeal is that DHS thwarted her ability to visit with her son. She claims that upon her return to Iowa in late summer or September 2006, she requested visitation with S.B., but was not given visitation until November. The State claimed she first contacted DHS in October, but due to her absence and repeated assertions that she wished to have her rights terminated, her services had been discontinued. Nonetheless, DHS arranged a visit for November 9, 2006 and a second visit on November 22, the mother's birthday. DHS reports indicate the mother requested no further visits at that time.

A review hearing was held on December 19, 2006. The mother did not attend. The mother did not seek any more visits until mid-January 2007; however, no such visit was held as the mother did not make timely return telephone calls to DHS to schedule a visitation. In February, the mother did have a visit with S.B. At that visit it was learned that the mother, who was again pregnant, planned to leave Iowa to prevent the State from removing that baby as well.

Upon our de novo review of the record, we concur in the judgment that the State proved by clear and convincing evidence S.K.'s parental rights should be terminated under section 232.116(1)(e). S.K. has only superficially attempted to comply with the provisions of her case plan, and in the many services and visitations offered, largely due to the lack of her presence in the state. Before

she left Iowa in May 2006, she had been amply counseled regarding the impact that leaving the State would have on her chances to reunify with S.B. In addition, on more than one occasion she told her service provider as well as her attorney that she intended to voluntarily give up her parental rights to S.B. Following her own stated goals, she left the State for an extensive period of time, turning her back on her child.

From the outset of this case, the mother failed to exhibit an appropriate level of interest in her child's life. Although the district court characterized her as "intelligent and articulate", S.K. has failed to understand the impact her absence would have on her child. She has not assumed parental responsibility in any sense. The district court noted there is little or no reported bond between mother and child and the mother's failures were not due to any effort on the part of DHS to thwart S.K.'s contact with her son. Rather, the mother's desires to pursue her own goals, and distancing herself from her child, demonstrated her lack of significant and meaningful contact with S.B. and are inconsistent with his best interests. We therefore affirm the termination of S.K.'s parental rights.

AFFIRMED.