

**IN THE COURT OF APPEALS OF IOWA**

No. 7-885 / 07-1715  
Filed November 29, 2007

**IN THE INTEREST OF D.K.,  
Minor Child,**

**S.H., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Clarke County, David L. Christensen, Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Diana L. Rolands of Booth Law Firm, Osceola, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Ronald L. Wheeler, County Attorney, for appellee State.

Patrick Greenwood, Lamoni, for minor child.

Considered by Huitink, P.J., and Miller and Eisenhauer, JJ.

**HUITINK, P.J.**

A mother appeals from the order terminating her parental rights to her son, D.K. We affirm.

**I. Background Facts and Prior Proceedings**

D.K. was born in 1991. Little is known about his father, and he is not a party to this appeal.<sup>1</sup> D.K. stopped living with his mother, Stella, in 2001 and was raised by his grandparents. Stella lives in Hawaii, and he lives in Iowa.

D.K. came to the attention of the Iowa Department of Human Services in November 2005 because he was abusing drugs and not attending school. The State filed a petition alleging that fourteen-year-old D.K. was a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(a) (abandonment) and 232.2(6)(c)(2) (child is likely to suffer harm due to parent's failure to exercise care in supervising child) (2005). His parents' addresses were listed as "unknown" on the petition.

On November 17, 2005, the juvenile court entered an order adjudicating D.K. a child in need of assistance and removing him from his grandparents' care. D.K. was placed in a temporary shelter. When he entered the shelter, his grandparents moved to Arizona. D.K. was placed in the care of his aunt in January 2006. Because of D.K.'s behavioral problems, this placement lasted less than a month. D.K. was removed and placed in foster care.

D.K. quickly bonded with his foster parents. His behavior improved, he got a job, and he stopped abusing drugs. He also became involved in

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<sup>1</sup> D.K.'s father did not participate in either the underlying child in need of assistance proceedings or the termination proceedings.

extracurricular activities at school. DHS discontinued in-home services because of his success in the foster home.

In the summer of 2006, DHS learned that Stella wanted D.K. to come live with her in Hawaii. However, DHS did not have any way to contact Stella, and she did not contact DHS. Instead, Stella's brother contacted DHS and asked to have D.K. placed with him. DHS determined it would not be appropriate to place D.K. with his uncle at that time because the uncle was in the midst of legal actions involving domestic violence. In November 2006 Stella made her first attempt to personally contact any person associated with this case when she left a phone message with the guardian ad litem.

In February 2007 Stella contacted DHS for the first time. The DHS caseworker sent her a form so that she could apply for court-appointed counsel. Stella and her court-appointed counsel appeared at the April 2007 permanency hearing. She informed the court that grandparents often help raise children in her culture. She asked that D.K. be returned to her care in Hawaii. The court denied her request and entered an order directing the State to file a petition to terminate the parental rights of both parents.

The court held a termination hearing on September 18, 2006. Stella did not attend the hearing, but her attorney told the court that Stella loved D.K. and wanted him returned to her care. D.K.'s foster mother testified that she and her husband were willing to adopt D.K. The district court entered an order terminating both parents' parental rights pursuant to Iowa Code section 232.116(1)(f) and the father's rights pursuant to section 232.116(1)(b) (abandonment).

Stella now appeals, claiming the State failed to prove she abandoned her child. She also claims the State did not provide appropriate services due to a lack of communication.

## **II. Standard of Review**

We review termination of parental rights de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Grounds for termination must be proven by clear and convincing evidence, and our primary concern is the child's best interests. *Id.*

## **III. Merits**

***Statutory Basis for Termination.*** Stella contends the court erred in terminating her parental rights because she did not abandon D.K. As noted above, Stella's parental rights were not terminated for abandonment. Her parental rights were terminated pursuant to section 232.116(1)(f) (child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home). Consequently, she does not contend there was insufficient evidence to support the court's statutory basis for termination. Therefore, we find she waives any claims of error concerning the statutory basis for termination by failing to raise them on appeal. See Iowa R. App. P. 6.14(1)(c).

Stella also makes the following statement in the midst of her abandonment argument:

In this case, while the mother did not appear for earlier proceedings, there was no proof that DHS or the County Attorney had properly served notification on them [sic] and therefore the mothers [sic] inability to come forward could be viewed as abandonment and due process would not have been followed in this matter.

Because Stella did not raise this issue before the district court, we find it was not properly preserved for our review. See *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003) (“Even issues implicating constitutional rights must be presented to and ruled upon by the district court in order to preserve error for appeal.”). Also, because she did not cite to any authority in support of this issue, we deem it waived. See Iowa R. App. P. 6.14(1)(c) (“Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue.”).

**Reasonable Efforts.** Stella correctly argues the State is required to make reasonable efforts to reunite the parent and child prior to initiating termination proceedings. *In re C.L.H.*, 500 N.W.2d 449, 453 (Iowa Ct. App. 1993). While the State has an obligation to make reasonable efforts, a parent has the responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997). When the parent does not demand additional services, the issue of whether services provided were adequate is not preserved for appellate review. *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999). There is nothing in the record to indicate Stella ever demanded additional services. On the contrary, the court’s order pertaining to the one hearing she attended specifically notes that she did not request any additional services. She has therefore failed to preserve error on her claim that the State failed to make reasonable efforts to reunite her with D.K.

**Best Interests.** Even where there is a statutory basis to terminate parental rights, the termination must still be in the child’s best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). D.K.’s life has turned around since he was placed in foster care. Now he attends school, has a job, and no longer

abuses illegal substances. He also informed the court that he wants to become a permanent member of his foster family.

As has been stated many times, “patience with parents can soon translate into intolerable hardship for their children.” *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). D.K. was removed from the care of his grandparents more than twenty months ago, and he has had little contact with his mother since 2001. There is no reason to deny him permanency while he waits for his mother to show signs of maturity. *See id.* (“The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems.”); *see also In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990) (“Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable.”). D.K. is healthy and adoptable. He needs permanency now. *See J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (“A child’s safety and the need for a permanent home are now the primary concerns when determining a child’s best interests.”). Therefore, we conclude termination of Stella’s parental rights is in D.K.’s best interests and affirm the juvenile court’s order in its entirety.

**AFFIRMED.**