

**IN THE COURT OF APPEALS OF IOWA**

No. 8-136 / 08-0040  
Filed February 27, 2008

**IN THE INTEREST OF W.T.S.,  
Minor Child,**

**W.K.S., Jr., Father,  
Appellant.**

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

A father appeals the termination of his parental rights to his son.

**AFFIRMED.**

Sarah Wenke, Ottumwa, for appellant father.

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

Jeffrey Logan, Ottumwa, for appellee mother.

Cynthia Hucks, Ottumwa, for minor child.

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

**VAITHESWARAN, J.**

The district court terminated Wayne's parental rights to his son Trey, born in 2003. The court cited three grounds for termination: Iowa Code sections 232.116(1)(b) (requiring proof that "the child has been abandoned or deserted"), (1)(e) (requiring proof of several elements including proof that "the parents have not maintained significant and meaningful contact with the child during the previous six months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so"), and (1)(h) (requiring proof of several elements including proof that "the child cannot be returned to the custody of the child's parents"). On appeal, Wayne contends "the grounds with respect to 232.116(1)(b) were not proved by clear and convincing evidence under the record where father was never provided court-ordered services."

Preliminarily, we note that Wayne does not explicitly challenge the two alternate grounds on which the district court relied in terminating his parental rights. See Iowa Code §§ 232.116(1)(e), (h). However, the State accurately points out that Wayne does challenge the Department of Human Services's provision of reunification services, which implicates substantive elements of those alternate grounds. See *In re C.B.*, 611 N.W.2d 489, 492-93 (Iowa 2000) (stating parent "adequately raised the issue on appeal without targeting the reasonable efforts argument to each specific [ground for termination]" and stating "[t]he State must show reasonable efforts as part of its ultimate proof the child cannot be safely returned to the care of a parent"). Therefore, we will proceed to the merits.

***I. Abandonment-Iowa Code section 232.116(1)(b)***

Our de novo review of the record reveals the following facts. Trey was born in Iowa and lived with his mother. Wayne moved to Georgia before Trey's birth. He initially stayed with his parents in Georgia but soon moved out, leaving no forwarding address. After Trey's birth, Wayne said he visited his son "approximately five times."

Trey was removed from his mother's care in November 2005, based on concerns that she was abusing substances. Wayne had no contact with Trey after the child's placement in foster care. He conceded that, for much of the time following the child's removal, his "mind wasn't ready" to take care of the child and he "didn't have the means . . . to really take care of a child." He did not ask the department to place Trey with him until June 2007.

Based on this record, we agree there is clear and convincing evidence to establish that Wayne abandoned Trey.

***II. Reasonable Efforts—Iowa Code sections 232.116(1)(e), (h)***

The department is obligated to make reasonable efforts toward reunification of parent with child. *In re C.B.*, 611 N.W.2d at 493. Wayne contends the department did not satisfy this obligation. We disagree.

As early as February 2006, a department case manager told Wayne that Iowa had an interstate compact with Georgia which allowed the state to assist the department in investigating out-of-state placements. The case manager also apprised Wayne that his parents were interested in having Trey placed with them and were participating in a home study to facilitate that placement. At that time, Wayne did not ask to be included in the home study or to be independently

investigated as a placement option. He did not keep the department apprised of his whereabouts and conceded he only twice spoke to the department case manager. Approximately sixteen months elapsed before Wayne advised an adoption specialist that he would like to have Trey placed with him. By this time, Trey was three-and-a-half years old.

We conclude the department made reasonable reunification efforts but was stymied by Wayne's failure to cooperate. We affirm the district court's termination of Wayne's parental rights to Trey under Iowa Code sections 232.116(1)(e) and (h).

**AFFIRMED.**