

**IN THE COURT OF APPEALS OF IOWA**

No. 8-194 / 08-0143  
Filed March 26, 2008

**IN THE INTEREST OF G.P.,  
Minor Child,**

**P.P., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Joe E. Smith, District Associate Judge.

P.P. appeals from the juvenile court's decision terminating her parental rights concerning her daughter, G.P. **AFFIRMED.**

Andrea M. Flanagan of Sporer & Flanagan, P.C., Des Moines, for appellant mother.

Jared Harmon, Des Moines, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellee State.

Steve Clarke, Des Moines, for minor child.

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

**HUITINK, P.J.**

P.P. appeals from the juvenile court's decision terminating her parental rights concerning her daughter, G.P. She contends the State failed to make reasonable efforts intended to reunify her with G.P., the evidence does not support termination of her parental rights, and termination of her parental rights is not in G.P.'s best interests. We review P.P.'s claims de novo. *In re C.B.*, 611 N.W.2d 489, 482 (Iowa 2000).

**I. Background Facts and Proceedings**

G.P. was born in May 2007. The record indicates G.P. was removed from P.P.'s custody on May 22, 2007, because G.P. tested positive for cocaine. Iowa Department of Human Services (Department) investigators subsequently determined P.P. and G.P.'s father had recently fled Colorado because of pending child abuse allegations related to the discovery of drug paraphernalia in their Colorado residence. As a result, the Department issued a founded child abuse report, naming P.P. as the person responsible for abusing G.P.

On June 19, 2007, G.P. was adjudicated a child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) (parent's failure to supervise), (n) (parent's drug abuse results in lack of adequate care), and (o) (presence of illegal drug in child's body) (2007). The juvenile court's July 13, 2007 dispositional order continued G.P.'s placement in foster care. That order also provided that reasonable efforts to reunify with his parents were made, including Interstate Compact on the Placement of Children (ICPC) services in two states, paternity testing, and in-home services. More intensive family preservation services were not provided because those services were not available. The

court also ordered paternity testing and a criminal history investigation for G.P.'s father.

On November 30, 2007, the State filed its amended and substituted termination petition under sections 232.116(1)(b) (father) and (e) (both parents). At the termination hearing, the court allowed the State to amend its petition to substitute section 232.116(1)(h) for (e). As noted earlier, the juvenile court terminated P.P.'s parental rights concerning G.P. under sections 232.116(1)(b) and (h) on January 14, 2008.

## **II. Reasonable Efforts**

P.P. argues the State failed to provide her with reasonable services intended to facilitate reunification with G.P., specifically visitation. The State argues this issue has not been preserved. "While the State has the obligation to provide reasonable reunification services, the [parent] ha[s] the obligation to demand other, different or additional services prior to the termination hearing." *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999). Because P.P. did not request services other than those provided, the issue of whether services were adequate has not been preserved for our review. *See id.*

## **III. Sufficiency of Evidence**

P.P. also argues insufficient evidence exists to support termination of her parental rights under sections 232.116(1)(b) and (h). When the juvenile court terminates a parent's rights on more than one statutory ground, we need find that termination was proper under only one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Under section 232.116(1)(h), the juvenile

court may terminate a parent's rights if all of the following elements are established by clear and convincing evidence:

- (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 292.96.
- (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.

On appeal P.P. only challenges the sufficiency of the evidence to establish the fourth element.

We have long recognized parents with chronic, unresolved substance abuse problems present a danger to their children. *In re J.K.*, 495 N.W.2d 108, 113 (Iowa 1993). When the issue is parental drug addiction, we "consider the treatment history of the parent to [determine] the likelihood the parent will be in a position to parent the child in the foreseeable future." *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). "Where the parent has been unable to rise above the addiction and experience sustained sobriety in a noncustodial setting, and establish the essential support system to maintain sobriety, there is little hope of success in parenting." *Id.*

The juvenile court found and we agree G.P. could not be returned to P.P.'s custody at the time of the termination hearing because of her legal and drug abuse issues, as well as her continued abusive relationship with G.P.'s father. P.P. has a long history of cocaine abuse. As earlier indicated, she and G.P.'s father fled Colorado authorities because of child abuse allegations related

to P.P.'s drug addiction and the father's parole status. The record also indicates G.P.'s father has an extensive criminal history, including assaults on P.P. and her brother. Although P.P. entered and successfully completed a drug treatment program in Pennsylvania, she was arrested for operating while intoxicated, testing three times over the legal limit, while she was participating in the drug treatment program. Moreover, P.P. failed to follow through with aftercare treatment recommendations. Therefore, we conclude sufficient evidence exists to terminate P.P.'s parental rights to G.P. under section 232.116(1)(h).

#### **IV. Best Interests**

Finally, P.P. argues termination of her parental rights is not in G.P.'s best interests. In addition to meeting the statutory requirements, termination must be in the best interests of the child. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). Therefore, termination is not mandatory upon finding the requisite statutory elements. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996).

Section 232.116(2) provides the juvenile court must "give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child." According to our supreme court,

[t]he best interests are to be determined by looking at the child's long range as well as immediate interests. The court is to consider what the future likely holds for the child if the child is returned to the parent[]. Insight for that determination is to be gained from evidence of the parent[']s past performance, for that performance may be indicative of the quality of future care the parent[] [is] capable of providing. Case history records are entitled to much probative force when a parent's record is being examined.

*In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993).

The juvenile court's findings include the following:

[G.P.] has never resided with either of her parents. She is not bonded to them. They contend they love her and would like to raise her but their actions demonstrate they are not willing to make the tough choices that would facilitate their desire. . . . The statute provides that [G.P.] is entitled to permanency at this time because of her age and the length of time she's been in placement. It would not be in her best interest to start her life over with parents she does not know when neither of those parents demonstrate an ability to provide a safe and stable environment.

The record includes abundant evidence supporting these findings of fact, and we adopt them as our own. Therefore, we conclude termination of P.P.'s parental rights is in G.P.'s best interests and accordingly affirm.

**AFFIRMED.**