

IN THE COURT OF APPEALS OF IOWA

No. 8-293 / 08-0357
Filed May 29, 2008

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

K.G., Mother,
Appellant.

Appeal from the Iowa District Court for Linn County, Susan Flaherty,
Associate Juvenile Judge.

A mother appeals the juvenile court order that terminated her parental
rights. **AFFIRMED.**

David R. Fiester, Assistant Public Defender, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Robert A. Hruska,
Assistant County Attorney, for appellee State.

John D. Jacobsen of Hallberg, Jacobsen, Johnson & Viner, P.L.C., Cedar
Rapids, for father.

Lorraine Machacek, Cedar Rapids, guardian ad litem for minor child.

Considered by Miller, P.J., and Eisenhauer, J., and Beeghly, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

BEEGHLY, S.J.**I. Background Facts & Proceedings**

Kristy and Matthew are the parents of Nathaniel, who was born in December 2006.¹ Nathaniel came to the attention of the Department of Human Services on April 20, 2007, when Kristy failed to pick him up at daycare by the time that facility closed at 5:30 p.m. The daycare was unable to contact Kristy at the telephone numbers she provided. A man arrived to pick up the child at about 7:00 p.m., but he was not listed as someone approved to pick up the child.² Nathaniel was placed in foster care.

The Department discovered Kristy was on probation for forgery and had a history of substance abuse. She gave varying stories about why she had not picked up Nathaniel. Kristy tested positive for cocaine on April 23, 2007. The juvenile court determined Nathaniel should be removed from Kristy's care, finding her failure to pick up Nathaniel was "more than simply a communication issue."

Nathaniel was adjudicated to be a child in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(c)(2) (2007) (child is likely to suffer harm due to parent's failure to exercise care in supervising child) and (g) (parent fails to provide adequate food, clothing, or shelter). Kristy did not participate in services. She was inconsistent in attending visitation. Kristy decided to complete her prison sentence rather than go to jail for a period of time and then participate in supervised probation, where she would be able to continue to have contact with Nathaniel. She was in prison from July to December 2007.

¹ Matthew has not appealed the termination of his parental rights.

² The man was the grandfather of Kristy's oldest child.

In October 2007, the State filed a petition seeking termination of the parental rights of Kristy and Matthew. Kristy contacted the Department after she was released from prison on December 21, 2007. Kristy participated in services during the seven weeks between the time she got out of prison and the termination hearing, which was held on February 8, 2008. The Department case worker testified Kristy was not financially or emotionally stable, and because she had just recently been released from prison she needed to establish herself.

The juvenile court terminated Kristy's parental rights under sections 232.116(1)(e) (child CINA, removed for six months, parent has not maintained significant and meaningful contact) and (h) (child is three or younger, CINA, removed for at least six months, and cannot be returned home). The court found Kristy made decisions which kept her from providing Nathaniel with the care he needs. The court concluded termination of Kristy's parental rights was in the child's best interests. Kristy appeals the termination order.

II. Standard of Review

The scope of review in termination cases is *de novo*. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interests of the child. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

III. Sufficiency of the Evidence

Kristy claims the State did not prove the grounds for termination by clear and convincing evidence. We determine there is sufficient evidence in the record

to show Nathaniel could not be safely returned to Kristy's care at the time of the termination hearing. Kristy had a history of substance abuse, and given the short time she was out of prison, it was not clear she could maintain sobriety. Furthermore, she made the decision to complete her prison sentence, knowing it would separate her from her child. Kristy had no contact with Nathaniel from July to December 2007. Kristy's decisions gave her a very limited amount of time to participate in services to remedy the problems which led to the removal of Nathaniel from her care.

We conclude Kristy's parental rights were properly terminated under sections 232.116(1)(e) and (h).

IV. Reasonable Efforts

Kristy contends the State did not engage in reasonable efforts to reunite her with her child. Reasonable efforts to reunite a parent and child are required prior to the termination of parental rights. *In re M.B.*, 595 N.W.2d 815, 818 (Iowa Ct. App. 1999). On the other hand, a parent has the responsibility to request additional 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).

Kristy did not request additional services during the CINA proceedings. In addition, on appeal she does not state what additional services she believes should have been offered to her. We conclude this issue has not preserved for our review.

V. Best Interests

Kristy asserts termination of her parental rights is not in Nathaniel's best interests. In termination proceedings, our paramount concern is the best interests of the child. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Kristy's decisions and actions placed her in a position where she was unable to meet Nathaniel's needs. We conclude termination of Kristy's parental rights is in Nathaniel's best interests.

We affirm the decision of the juvenile court terminating Kristy's parental rights to Nathaniel.

AFFIRMED.