IN THE COURT OF APPEALS OF IOWA

No. 8-586 / 08-0977
Filed July 16, 2008

IN THE INTEREST OF K.S., Minor Child,

H.C.S., Mother,
    Appellant,

G.E.S., Father,
    Appellant.

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Appeal from the Iowa District Court for Des Moines County, Mark Kruse,

District Associate Judge.

A mother and father appeal from the termination of their parental rights to

their child. **AFFIRMED.**

Alan N. Waples of Wittkamp & Waples, Burlington, for appellants.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant

Attorney General, Patrick C. Jackson, County Attorney, and Pamela K.

Dettmann, Assistant County Attorney, for appellee.

Peggy Ell, Burlington, guardian ad litem for minor child.

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

EISENHAUER, J.

A mother and father appeal from the district court order terminating their parental rights to their child. They contend they should have been granted an additional six months to achieve the reunification permanency goal before the goal was changed to termination. They also claim the court erred in waiving reasonable efforts and the State failed to prove the grounds for termination by clear and convincing evidence. Our review is de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

Parental rights were terminated pursuant to Iowa Code section 232.116(1)(g) (2007). In order to terminate under this section, the State must prove:

> (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family.
> (3) There is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation.
> (4) There is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.

The parents do not dispute the first three elements have been proved. However, they argue there is not clear and convincing evidence to prove the fourth element. We disagree.

The child was removed from the parents' care shortly after her birth because the parents were homeless, the child was born with cocaine in her system, and the mother admitted to using cocaine on the day of the child's birth to manage pain from her labor. The parents used cocaine as recently as January 22, 2008, despite the fact the mother was still providing breast milk to

the child. Domestic violence has been an issue in the parents' relationship and has resulted in a no contact order prohibiting the parents from cohabiting. The mother has not been able to manage her mental health issues and it is unclear as to where she is residing. The father did not appear at the termination hearing.

The district court found:

> Neither parent is in a position at this time or within a reasonable period of time to regain custody of the child. Basic concerns about the safety of this child abound if left in the care of either parent. These exist in the form of domestic violence, substance abuse, mental health issues, and basic stability. If the issue is the parents' willingness and ability to respond to service to correct the problems, that is wholly lacking in this case. If the issue is whether more time in an effort to rehabilitate the family is called for, the court can only find that wholly unsupported by any evidence presented.

Upon our de novo review, we concur with the court's assessment and adopt these findings as our own. An additional six months to achieve reunification is not warranted and the grounds for termination have been proved.

The parents also contend the court erred in waiving reasonable efforts. Reasonable efforts were not waived during the course of the proceedings, although requested by the State. In fact, the court deferred ruling on the issue and continued services until the termination hearing. The waiver of reasonable efforts in the termination order is of no consequence and creates no issue beyond review of the termination. Accordingly, we affirm.

AFFIRMED.