

**IN THE COURT OF APPEALS OF IOWA**

No. 8-747 / 08-1272  
Filed October 1, 2008

**IN THE INTEREST OF N.L.S. and C.M.S.,  
Minor Children,**

**J.F.R., father of C.M.S.,  
Appellant,**

**K.S., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Woodbury County, Mary L. Timko,  
District Associate Judge.

A mother and father appeal the termination of their parental rights.

**AFFIRMED.**

Joseph W. Flannery, LeMars, for appellant-father of C.M.S.

Peter M. Monzel, Sioux City, for appellant-mother.

Thomas J. Miller, Attorney General, Charles Phillips, Assistant Attorney  
General, Patrick Jennings, County Attorney, and Charles Phillips, Assistant  
County Attorney, for appellee-State.

Maxine Buckmeier, Sioux City, for minor children.

Patrick Parry, Sioux City, guardian ad litem for minor children.

Molly Vakulskas Joly, Sioux City, for appellee-intervenor.

Allan Sturgeon, Sioux City, for appellee father of N.L.S.

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

**EISENHAUER, J.**

A mother appeals the termination of her parental rights to her two children. She contends the State failed to prove reasonable efforts were made to reunite her with her children. The father of one of the children, N.L.S., also appeals. He contends the State failed to prove the grounds by clear and convincing evidence. He also contends termination was not warranted because N.L.S. was in a relative placement. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

We conclude the State proved a ground for termination of the father's parental rights by clear and convincing evidence. His rights were terminated pursuant to Iowa Code section 232.116(1)(b), (e), (h), and (i) (2007). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(1)(b) where "there is clear and convincing evidence that the child has been abandoned or deserted." The father has never met the child and it took one year, until June 2007, before he could be located. He has never provided emotional or financial support. At the time of termination, he was incarcerated in Oklahoma and was not expected to be released until at least 2017 or 2018.

We also conclude termination is appropriate despite the fact the child is in a relative placement with her half-sister's paternal grandmother.<sup>1</sup> Iowa Code

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<sup>1</sup> The termination order placed custody and guardianship of the children with the Iowa Department of Human Services for adoptive placement. Reports indicate the children are placed with one child's paternal grandmother and she is currently a foster/adoptive parent who would be able to provide a permanent home for both children.

section 232.116(3)(a) provides that the court need not terminate parental rights where the child is in the legal custody of a relative. However, section 232.116(3)(a) is permissive, not mandatory. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The juvenile court has the discretion to apply this section and not terminate parental rights based on the circumstances before it and the best interests of the children. *Id.* Given the father's lack of involvement in the child's life, we conclude the juvenile court did not abuse its discretion in terminating the father's parental rights.

Finally, we conclude reasonable efforts were made to reunite the mother and the children. Iowa Code section 232.102(7) requires DHS to make reasonable efforts to return a child to the parent. Services are to be offered to improve parenting skills. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). A challenge to the sufficiency of such services should be raised when the services are offered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). The mother argues she should have been given additional time to complete substance abuse treatment. The mother was offered and received both inpatient and outpatient treatment during the two-year pendency of this case, with little success. At the time of termination, she was only early in the recovery process.

While the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills," this patience has been built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d at 494. Children should not be forced to endlessly await the maturity of a natural parent. *Id.* At some point, the rights and needs of the child rise above the rights and needs of

the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). That time is now. Accordingly, we affirm.

**AFFIRMED.**