

IN THE COURT OF APPEALS OF IOWA

No. 9-176 / 09-0131
Filed April 8, 2009

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

L.P.J., Mother,
Appellant,

D.L.S., Father,
Appellant.

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

A mother and father appeal the termination of their parental rights to their
child. **AFFIRMED.**

Kenneth J. Weiland, Jr. of Andrew & Weiland, P.C., Knoxville, for
appellant-mother.

James R. Underwood of Underwood Law Office, Centerville, for appellant-
father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Steven Goodlow, County Attorney, for appellee.

Jonathan Willier, Centerville, attorney and guardian ad litem for minor
child.

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

EISENHAUER, J.

A mother and father appeal the termination of their parental rights to their child. They contend the State failed to prove the grounds for termination by clear and convincing evidence, termination was not in the child's best interest, and the State failed to make reasonable efforts to reunite them with the child. We review their claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002)

The child came to the attention of the Department of Human Service in November 2006, when she was ten months old. Law enforcement had responded to a domestic violence situation in the home, and found materials related to the manufacture of methamphetamine in and around the home. Guns were also discovered in the home. The father, a convicted felon, was on probation and prohibited from possessing firearms. The father tested positive for marijuana and methamphetamine, and the child tested positive for methamphetamine. The child was removed from the parents' home and placed in foster care. The child has remained in the same placement throughout the pendency of this action.

The father has been incarcerated throughout most of the proceedings in this case. At the time of the termination hearing, he was incarcerated in a federal prison outside of the state for possession of a firearm by a felon. He has a lengthy criminal record, as well as a history of substance abuse and domestic violence.

Despite substantial evidence to the contrary, the mother refused to acknowledge she was a victim of domestic violence. Prior to the termination

hearing, it was discovered that she continued to have contact with the father in prison, despite her denials. The evidence shows that at the time of the termination hearing, the mother was unable to demonstrate that she was able to safely parent the child.

Both parents' rights were terminated pursuant to Iowa Code section 232.116(1)(h) (2007). Termination is appropriate under this section where the State shows 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 232.96.
- (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.

Iowa Code § 232.116(1)(h). There is no dispute the first three elements have been proved. Upon de novo review, we conclude the child cannot be safely returned to the parents' custody. The father is currently incarcerated and despite years of services to improve her parenting, the mother was unable to demonstrate she could safely parent the child. She continued to minimize and deny the circumstances that brought the child to the department's attention. The mother's past neglect of her child is evidence of the quality of her future care. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

We also conclude termination is in the child's best interest. The child has been in foster care for the majority of her life. She is bonded to her foster parents and is adoptable. The crucial days of childhood cannot be suspended

while the parents experiment with ways to face up to their own problems. See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). The child simply cannot wait for responsible parenting. *Id.*

Finally, the parents contend the State failed to make reasonable efforts to reunite them with their child. We find they have failed to preserve error on this issue. A challenge to the sufficiency of services should be raised in the course of the child in need of assistance proceedings. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). Because the parents did not raise the lack of reasonable efforts claims at the appropriate times, we decline to address the issue.

AFFIRMED.