

**IN THE COURT OF APPEALS OF IOWA**

No. 9-207 / 09-0214  
Filed April 8, 2009

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

**W.C.S., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother appeals from the juvenile court's order terminating her parental rights to her daughter. **AFFIRMED.**

Nancy Pietz, Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin Brownell, Assistant County Attorney, for appellee State.

Kayla Stratton, Des Moines, for minor child.

Considered by Sackett, C.J., and Potterfield and Mansfield, JJ.

**MANSFIELD, J.**

Whitney appeals from the juvenile court's order terminating her parental rights to M.S. (born June 2008) pursuant to Iowa Code sections 232.116(1)(d), (e), and (h) (2007).<sup>1</sup> Whitney challenges the sufficiency of the evidence and asserts that termination is not in M.S.'s best interests. We affirm.<sup>2</sup>

We review termination of parental rights cases de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). "When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm." *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Whitney's rights to M.S. were terminated pursuant to section 232.116(1)(h), among other provisions. This requires that the child is three years or younger, has been adjudicated in need of assistance, has been removed from the home for the last six consecutive months, and cannot be returned home. The only dispute regarding termination under this subsection is whether there is clear and convincing evidence that M.S. could not have been returned to Whitney's care at the time of the termination hearing.

Whitney is nineteen years old. In July 2008, twenty-nine days after M.S. was born, Whitney consented to the removal of M.S. from her care. Whitney was homeless and, to her credit, recognized that she could not manage to care for M.S. Subsequently, M.S. was adjudicated to be in need of assistance pursuant

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<sup>1</sup> The juvenile court discussed the correct code sections in the narrative portions of its order, but later inadvertently mentioned sections 232.116(1)(d), (e), (f), and (k). In any event, it is clear that parental rights were terminated pursuant to sections 232.116(1)(d), (e), and (h).

<sup>2</sup> The juvenile court also terminated the parental rights of M.S.'s putative fathers, which are not at issue in this appeal.

to Iowa Code sections 232.2(6)(c)(2) and (n). Although the Iowa Department of Human Services (DHS) offered services to Whitney, including mental health services and supervised visitation, Whitney generally did not take advantage of those services such that she could safely parent M.S.

At the time of the January 29, 2009 termination hearing, Whitney had not addressed her mental health issues and had not exercised regular visitation with M.S. Whitney attended mental health therapy on July 29, 2008, but did not attend another session until December 4, 2008. She has not consistently taken her mental health medication. Whitney missed twenty-eight visits with M.S. from August 26, 2008, to January 29, 2009. From January 7, 2009, to January 29, 2009, Whitney attended only one of nine visits. Additionally, Whitney was offered dyadic therapy with M.S. so that she could improve her bond with M.S. and work on her parenting skills, but never attended.

At the time of the termination hearing, Whitney had been unable to maintain stable employment or housing. Whitney had been homeless for the past two years, reportedly living under a bridge or on the street. On July 31, 2008, Whitney moved into a residential treatment facility, but left the facility two days later. She remained homeless until the end of November 2008, when she moved into an apartment with her mother and her current boyfriend, who was previously on the sex offender registry and required to comply with the 1000-foot rule. Whitney had previously reported that she did not want to live with her mother because it would not be a suitable environment for M.S. and her mother had a history of alcohol abuse and relationships with men with substance abuse problems.

At the termination hearing, Whitney testified that since moving in with her mother, her mother had locked her out of the apartment and threatened to kick her out. When the January rent was due, they were unable to pay and believed they would be evicted. Whitney was unemployed and did not have any income to pay rent. This is not a stable living arrangement, and Whitney acknowledged that she wanted to find another place to live and would need another place if M.S. were placed in her care.

Although no one at the hearing disputed Whitney's affection for M.S., given M.S.'s age and the limited visitation that Whitney has had with her, it would be difficult to conclude that M.S. has a strong bond with Whitney. M.S. is in need of a safe and permanent home, which she has found with her foster family who is willing to adopt her. See *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (stating a child's safety and need for a permanent home are the defining elements in determining a child's best interests). At the time of the termination hearing, Whitney did not have a stable living situation, had been recently living "out on the streets," was unemployed, and had not addressed her mental health issues. As the juvenile court found, it is clear Whitney loves M.S., but she still struggles with meeting her own needs and cannot care for M.S. either now, six months from now, or in the reasonably foreseeable future.

Thus, we conclude that the grounds for termination pursuant to Iowa Code section 232.116(1)(h) were proved by clear and convincing evidence and termination is in M.S.'s best interests. We affirm the juvenile court.

**AFFIRMED.**