

IN THE COURT OF APPEALS OF IOWA

No. 9-243 / 09-0098
Filed April 8, 2009

**IN THE INTEREST OF C.F.,
Minor Child,**

**F.E.T.Y., Mother,
Appellant.**

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

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

Sara L. Smith, Cedar Rapids, for appellant mother.

Delmer Werner, Cedar Rapids, for appellee J.Y.

Brian Johnson, Cedar Rapids, for appellee M.F.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Kelly Kaufman, Assistant
County Attorney for appellee State.

Carrie Bryner, Cedar Rapids, for minor child.

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

VOGEL, P.J.

Florence appeals the termination of her parental rights to her son, C.F., born in January 2002.¹ She asserts there was not clear and convincing evidence to support the district court findings, reasonable efforts were not offered to her to achieve reunification, and termination was not in C.F.'s best interests. We affirm.²

The district court terminated Florence's rights under Iowa Code sections 232.116(1)(f) (child four or older, adjudicated CINA, removed from home for twelve of last eighteen months, and child cannot be returned home); and (g) (child CINA, parent's rights to another child were terminated, parent does not respond to services). When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

We agree with the district court that termination was proper under Iowa Code section 232.116(1)(f). The termination order included this finding: "Based upon the record made, the Court cannot conclude that Florence is in any better position to maintain care of [C.F.] now than when he was placed in foster family care." Although this case involves only C.F., Florence has had her parental rights terminated to three older children and has had periodic involvement with the Iowa Department of Human Services (DHS) since at least 1999. These facts,

¹ The parental rights of C.F.'s legal and biological fathers were also terminated. They do not appeal.

² Following the termination hearing, conducted on April 14 and April 25, the Linn County Courthouse was inundated with flood waters, which destroyed this and other files. A reconstructed record was created and a written ruling was able to be entered.

while not directly related to the termination of Florence's parental rights to C.F., shed light on the ongoing problems and inability of Florence to learn acceptable standards of parenting such that C.F. could be returned to her care. Case history records are entitled to much probative force when a parent's record is being examined. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). As stated in *State ex rel. Leas, in re of O'Neal*, 303 N.W.2d 414, 422-23 (Iowa 1981):

In referring to the past history of [the parents] and to the rehabilitation efforts, the juvenile court indicated that it would not endanger [the child's] future with such a "track record." It was proper for the court to consider the past performance of the parents to gain insight into the probable quality of their future parenting.

Such is the case here. From before the removal of her older children through the time of this termination hearing, Florence has consistently struggled with substance abuse and anger issues.

C.F. was adjudicated a Child in Need of Assistance (CINA) pursuant to 232.2(6)(c)(2) on March 2, 2007. Shortly thereafter, on March 15, 2007, he was removed from Florence's home. Initially, C.F. was placed in family foster care, then resided for a few months in his paternal grandmother's home, and later returned to foster family care, where he has remained. In spite of the continued effort DHS has made to offer and provide services to Florence, she has made little progress and remains unable to safely parent C.F. See *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in a child's best interests).

Although Florence asserts that the State has not made reasonable efforts to achieve family reunification, we find this issue not preserved for our appeal.

As late as the January 16, 2008 review order, the court listed the services which had been offered to Florence, including: hands-on parenting skills instruction, individual parenting skills instruction, supervised visitation, substance abuse evaluation, substance abuse treatment, mental health evaluation, and individual mental health counseling. Florence did not request any additional services. While the State has the obligation to make reasonable efforts, the parent has a responsibility to demand services prior to the termination hearing. *In re C.D.*, 508 N.W.2d 97, 101 (Iowa Ct. App. 1993).

We agree with the district court that C.F.'s best interests are for the termination of Florence's parental rights. He is benefiting greatly from being in a stable environment, free of the many problems that have plagued his mother and her inability to safely parent C.F. *In re of J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) ("At some point, the rights and needs of the child rise above the rights and needs of the parent."). We affirm the termination of Florence's parental rights.

AFFIRMED.