

IN THE COURT OF APPEALS OF IOWA

No. 9-256 / 09-0291
Filed April 22, 2009

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

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

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

A mother appeals the juvenile court order terminating her parental rights.

AFFIRMED.

Robin Miller, Cedar Rapids, for appellant.

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

David Nadler, Cedar Rapids, for the father.

Cynthia S. Finley, Cedar Rapids, guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

PER CURIAM

Samantha and Darrian are the parents of Kai, born in 2005.¹ Samantha has a history of substance abuse. In August 2007, Samantha allowed a family friend, Jamie, to care for Kai. Samantha was homeless and unemployed. In February 2008, the State formally removed Kai from Samantha's care and placed him in the physical care of Jamie. Kai was adjudicated to be a child in need of assistance (CINA) under Iowa Code section 232.2(6)(g) (2007).

Samantha was very inconsistent in participating in services. She did not avail herself of all visitation opportunities. She did not always comply with drug testing. A psychological evaluation recommended counseling, but Samantha never initiated counseling. Samantha often missed appointments with social workers. For services Samantha did attend, she was not always cooperative.

On November 10, 2008, the State filed a petition seeking termination of the parents' rights. Later that month Samantha had a drug test that was positive for cocaine. She had only one visit with Kai between November 20, 2008, and the date of the termination hearing, on February 3, 2009.

The juvenile court terminated Samantha's parental rights under sections 232.116(1)(e) and (h). The court found:

Kai's parents have been unable to provide for his basic needs. Neither parent has demonstrated the ability or the commitment to assuring that Kai has adequate food, clothing, shelter or that his physical and emotional needs are met. . . . Kai needs permanency and security and his parents cannot provide that for him, either now or in the foreseeable future. The Court finds, therefore, that termination of parental rights and placement in an adoptive home is in the best interests of this child.

¹ Darrian has had little contact with the child throughout his life, and is not a party to this appeal.

Samantha filed a motion for a new trial, and this request was denied by the juvenile court. She appeals the juvenile court order terminating her parental rights.

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2000). The grounds for termination must be proved by clear and convincing evidence. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008). Evidence is clear and convincing when it leaves no serious or substantial doubt about the correctness of the conclusion drawn from it. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). Our primary concern is the best interests of the children. *In re A.S.*, 743 N.W.2d 865, 867 (Iowa Ct. App. 2007).

Samantha contends the State did not present sufficient evidence to terminate her parental rights under either section 232.116(1)(e) or (h). “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).

On our de novo review of the record, we find there is clear and convincing evidence to terminate Samantha’s parental rights under section 232.116(1)(h). Kai was three years old. He had been adjudicated CINA because his parent failed to provide adequate food, clothing, or shelter. He had been removed from his home for almost a year at the time of the termination hearing. Furthermore, Kai could not be safely returned to Samantha’s care. She had a positive drug test just a few months before the termination hearing. She was again homeless and unemployed. Also, she did not consistently participate in available services.

We affirm the decision of the juvenile court terminating Samantha's parental rights.

AFFIRMED.