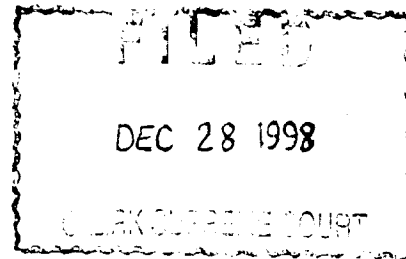


IN THE COURT OF APPEALS OF IOWA

No. 1998-7 (8-679) / 98-1329

IN THE INTEREST OF T.A.M., Minor Child,

**A.M., Mother,
Appellant.**



Appeal from the Iowa District Court for Muscatine County, James A. Weaver,
District Associate Judge.

Mother appeals the district court order terminating her parental rights.

AFFIRMED.

Roland M. Caldwell of Legal Services, Muscatine, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General,
and James Burger, Assistant County Attorney, for appellee-State.

Arlen Poock, Muscatine, guardian ad litem for minor child.

Considered by Sackett, C.J., and Huitink, Streit, Vogel, and Mahan, JJ.

MAHAN, J.

Anita and Paul are the parents of Tania, who was born in April 1997. Anita appeals the decision of the juvenile court which terminated her parental rights. We affirm on appeal.

Anita is also the mother of five children who are older than Tania. Anita began her involvement with the Department of Human Services (DHS) in 1988 due to reports of physical abuse and denial of critical care of these children. One child was diagnosed with failure to thrive because Anita did not feed him. Another child stated Anita and her paramour would hit the children with boards. There was also evidence Anita would lock the children in a room, leaving them alone and hungry all night.

Anita has two convictions for child endangerment arising from the physical abuse of the children. One of the children is in a psychiatric medical institution due to the physical and emotional abuse he suffered while in Anita's care. In March 1997, she voluntarily agreed to terminate her parental rights to the five oldest children.

Due to Anita's history, Tania was removed from Anita's care within a few days after her birth. She was placed in a foster home with her siblings. Tania was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2) and (n).

Anita was required to participate in services before she could begin visitation. She was to attend parenting classes, have a substance abuse evaluation, and attend a young mom's support group. Anita was living with her mother, who would not let

social workers into the home. Anita also refused to provide a telephone number, which made compliance with services difficult.

In September 1997, Anita did begin to attend parenting classes and a young mom's group. Anita has borderline intellectual functioning and materials were read to her. She moved in with a cousin, who provided a more stable environment. Anita was able to begin visitation in October 1997. The same month, Anita began out-patient treatment for alcohol dependency. Anita was unsuccessfully discharged from treatment. She quit attending services.

In November 1997, after only four visits with Tania, Anita advised social workers she had been arrested for criminal mischief in an incident involving Paul and would not be able to continue visitation. In January 1998, Anita was arrested for operating a motor vehicle while intoxicated.

In January 1998, the State filed a petition to terminate the parental rights of Anita and Paul. Anita again began to attend the young mom's group and re-entered out-patient treatment. She sporadically attended parenting skills class. In March 1998, Anita completed a psychological evaluation and was able to begin visitation.

Tania has no special problems. She is bonded with her foster parents and siblings. She is considered to be adoptable.

At the termination hearing, social workers testified Anita had not made any progress in learning parenting skills. They believed Anita would be unable to keep Tania safe from harm. The juvenile court terminated Anita's parental rights pursuant

to sections 232.116(1)(c), (g), and (l). Paul's parental rights were also terminated. Anita has appealed.

I. The scope of review in termination cases is *de novo*. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Anita contends the juvenile court improperly terminated her parental rights pursuant to section 232.116(1)(l), which requires a finding she had physically or sexually abused Tania, or neglected her. We agree termination on this ground was improper because the petition to terminate parental rights did not request termination under this section.

III. Anita asserts there was not clear and convincing evidence to show Tania could not be returned to her care, which is an element of section 232.116(1)(g). She points out she is now receiving treatment for her problems with alcohol and claims she is motivated to comply with services.

We find there is sufficient evidence to show Tania cannot be returned to Anita's care without a substantial risk of harm. Anita has not admitted her participation in the abuse of her other five children. Although she has received services since 1989, she has made little or no progress in learning skills necessary to keep her children safe. Anita's recent progress is too little, too late. We conclude Anita's parental rights were properly terminated under section 232.116(1)(g).

IV. Anita contends there was not sufficient evidence to terminate her parental rights under section 232.116(1)(c). This section requires the State to show, by clear and convincing evidence, the circumstances which led to the adjudication continue to exist despite the receipt of services. Iowa Code §232.116(1)(c).

We determine there was clear and convincing evidence Anita presented a significant risk of imminently abusing or neglecting Tania, or failing to properly supervise her. As noted above, Anita has been receiving services since 1989. She continues to deny abusing the children and has not made any progress in learning to meet their needs. We conclude Anita's parental rights were properly terminated under section 232.116(1)(c).

V. Anita claims DHS failed to provide reasonable efforts to reunite her with Tania. She believes DHS should have provided her with individual therapy. Reasonable services must be provided to attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa App. 1997). We could find no evidence Anita requested additional services prior to the termination hearing. Thus, we conclude she has not preserved this issue for our review.

We affirm the decision of the juvenile court terminating Anita's parental rights to Tania.

AFFIRMED.