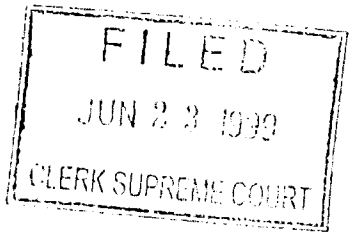
**IN THE COURT OF APPEALS OF IOWA**

No. 1999-161 (9-378) / 98-1685
Filed June 23, 1999




**IN THE INTEREST OF E.D. and J.D.,** Minor Children,

**D.B.,** Mother,
Appellant.

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Appeal from the Iowa District Court for Polk County, Karla J. Fultz, Juvenile Court Judge.

A mother appeals the termination of her parental rights to two of her children.

**AFFIRMED.**

Cynthia Tofflemire, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Chris Gonzalez, Assistant County Attorney, for appellee-State.

Mike Bandstra, Des Moines, guardian ad litem for minor children.

Considered by Huitink, P.J., and S

**VOGEL, J.**

Deborah, the mother of Eli and Joseph, appeals the termination of her parental rights. She claims there was no evidence she abandoned or deserted them, there was no evidence the children had been physically or sexually abused, she made reasonable efforts at the required services, and she maintained and desired significant and meaningful contact with them. Deborah's parental rights to her eldest son, Joshua, are not at issue in this appeal. The parental rights of the fathers of the children are not at issue. We affirm the juvenile court.

***Background:*** Deborah is the mother of Joshua, born in 1984, Eli, born in 1994, and Joseph, born in 1995. She had six founded child abuse claims against her in 1996. Joshua was removed from Deborah's custody by ex parte order in October 1996 when Deborah attempted to remove him from the hospital against medical advice. He was hospitalized for mental health reasons, having been physically abused by Deborah and having sexually abused Eli. Eli and Joseph were removed from Deborah's custody in early November. In December the court adjudicated Eli and Joseph in need of assistance under Iowa Code sections 232.2(6)(b) and (6)(c)(2) (1995). Eventually, Eli was placed with his father, Bob, in Arizona and Joseph was placed with a foster family.

The court entered a dispositional order in February 1997 continuing the children's placement out of Deborah's custody and ordering her to complete a psychiatric evaluation, attend parenting classes, attend individual therapy, have drug

screens, and continue in substance abuse aftercare treatment. Visitation was terminated in October 1997 when Deborah stopped participating in drug screens and was not following through with services. She only had one drug screen between December 1997 and the termination hearing in June 1998, testing positive in March 1998. Deborah did not attend any individual therapy between September 1997 and the termination hearing.

***Termination proceeding:*** At the termination hearing in June 1998, the court discussed in detail Deborah's failure to follow the case permanency plan or to cooperate with services. The court found she had provided no financial or emotional support for her children, she had "a history of substance abuse including alcohol and other drugs, mental health issues, of neglect and abuse of her children and has lacked stability in her life." The court expressed concern Deborah would try to sabotage Eli's custodial placement with his father. The court terminated Deborah's parental rights to Eli and Joseph under Iowa Code sections 232.116(1)(c) and (d).

***Appellate review:*** Our review is de novo. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). The juvenile court terminated Deborah's parental rights on two separate grounds, section 232.116(1)(c) and (d). We need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996); *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa App. 1995).

Deborah first claims there is not clear and convincing evidence she abandoned Eli and Joseph. The State did not seek to terminate nor did the juvenile court terminate Deborah's parental rights under Iowa Code section 232.116(1)(b). Although the trial court ruling did not enumerate the specific code sections under which each parent's rights were terminated, clear reference was made to the petition. The petition for termination cited abandonment as a ground to terminate only the father's parental rights. We do not address this claim.

Next Deborah claims Eli and Joseph had not been physically or sexually abused, which she claims is required in Iowa Code section 232.116(1)(c).[1] It is sufficient for the court to have adjudicated a child in the same family in need of assistance after such a finding as was done with Joshua in this case. We note, however, the original adjudication of Eli and Joseph was based in part on Iowa Code section 232.2(6)(b)[2] and was not appealed. That finding meets the requirements of section 232.116(1)(c)(1). Addressing subsection (c)(2), Deborah claims the circumstances which led to the CINA adjudication no longer exist because she now is able to provide food, clothing, and shelter for the children. We find she had not

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[1] This section provides, in part:
(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

[2] b. Whose parent, guardian, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

done so since at least October 1997 before the June 1998 termination hearing. Deborah still had a substance abuse problem, experienced mental health problems, exhibited inappropriate actions during visitation, and generally minimized and denied her problems. The record reveals the circumstances which led to the adjudication continue to exist despite the offer and receipt of services. Clear and convincing evidence supports termination under this section.

Finally, Deborah claims she maintained significant and meaningful contact with her children prior to the termination hearing. Deborah did not provide financially for her children during the CINA case. She had not visited them for about eight months prior to the termination hearing. We find Deborah did not maintain significant and meaningful contact with Eli and Joseph for more than six consecutive months prior to the termination hearing. She did not demonstrate a genuine effort to comply with the requirements of the case permanency plan. Clear and convincing evidence supports termination under Iowa Code section 232.116(1)(d).[3]

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[3] Section 232.116(1)(d)(3) provides:
(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "significant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

We affirm the juvenile court's termination of Deborah's parental rights to Eli and Joseph under Iowa Code sections 232.116(1)(c) and (d).

**AFFIRMED.**

**No. 98-1685. [1999-161 (9-378)] IN RE E.D.**

Appeal from the Iowa District Court for Polk County, Karla J. Fultz, Juvenile Court Judge. **AFFIRMED.** Considered by Huitink, P.J., and Streit and Vogel, JJ. Opinion by Vogel, J. (6 pages $2.40)

Deborah is the mother of Joshua, born in 1984, Eli, born in 1994, and Joseph, born in 1995. She had six founded child abuse claims against her in 1996. Eli and Joseph were removed from Deborah's custody in early November 1996. In December the court adjudicated Eli and Joseph in need of assistance under Iowa Code sections 232.2(6)(b) and (6)(c)(2) (1995). Eventually, Eli was placed with his father, Bob, in Arizona and Joseph was placed with a foster family. The court ordered Deborah to complete a psychiatric evaluation, attend parenting classes, attend individual therapy, have drug screens, and continue in substance abuse aftercare treatment. Visitation was terminated in October 1997 when Deborah stopped participating in drug screens and was not following through with services. At the termination hearing in June 1998, the court found she had provided no financial or emotional support for her children, she had "a history of substance abuse including alcohol and other drugs, mental health issues, of neglect and abuse of her children and has lacked stability in her life." The court terminated Deborah's parental rights to Eli and Joseph under Iowa Code sections 232.116(1)(c) and (d). Deborah claims Eli and Joseph had not been physically or sexually abused, which she claims is required in Iowa Code section 232.116(1)(c). **OPINION HOLDS:** The original adjudication of Eli and Joseph was based in part on Iowa Code section 232.2(6)(b) and was not appealed. That finding meets the requirements of section 232.116(1)(c)(1). The record reveals the circumstances which led to the adjudication continue to exist despite the offer and receipt of services. Deborah claims she maintained significant and meaningful contact with her children prior to the termination hearing. Deborah did not provide financially for her children during the CINA case. She had not visited them for about eight months prior to the termination hearing.