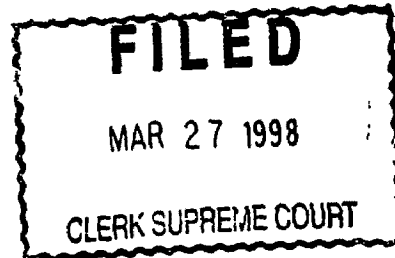


IN THE COURT OF APPEALS OF IOWA

000271

No. 8-053 / 97-1396

IN THE INTEREST OF A.O., Minor Child,
K.O., Mother,
Appellant.



Appeal from the Iowa District Court for Scott County, John G. Mullen, District
Associate Judge.

The mother of minor child appeals a district court order terminating her
parental rights. **AFFIRMED.**

Patrick J. Kelly, Bettendorf, for appellant.

Thomas J. Miller, Attorney General, Chris C. Odell, Gerda C. Lane, Assistant
County Attorney, for appellee State.

Considered by Cady, C.J., and Sackett, and Vogel, JJ.

CADY, C.J.

A mother appeals the decision of the juvenile court terminating her parental rights to her minor child. We affirm on appeal.

Kelley is the mother of April, born in April 1996. The father of April is unknown.

In May 1996, Kelley was arrested for prostitution and placed in jail. She arranged to have a licensed foster parent care for April while she was incarcerated. The foster parent contacted the Department of Human Services (DHS). Kelley then signed a voluntary foster care placement.

After she completed her sentence on the prostitution charge, Kelley was required to serve time in jail for failure to pay fines on prior charges of driving while intoxicated and forgery. She was released from jail in July 1996. Kelley began to participate in services and supervised visitation.

April was adjudicated a child in need of assistance due to Kelley's history of substance abuse and criminal involvement. The juvenile court ordered Kelley to comply with the terms of the case permanency plan, which required her to refrain from future illegal activity, complete a substance abuse evaluation and any recommended treatment, obtain suitable housing, keep appointments with social workers, complete a parenting class, maintain employment, and complete a psychological evaluation. The court also ordered her to attend three Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings each week.

Initially, Kelley was cooperative with services. She obtained employment and moved into a low-income apartment. She had a substance abuse evaluation, which recommended she participate in an aftercare program. Kelley began to attend a weekly aftercare program.

By October 1996, however, Kelley had a relapse and used cocaine. She quit her job. She missed some appointments with her social worker and aftercare meetings. She became hostile during individual counseling sessions. Kelley also used illegal substances in January 1997 and April 1997. Kelley's social worker discussed residential treatment with her, but Kelley stated she did not need long-term care. Kelley infrequently attended AA meetings.

Kelley had no contact with April from November 26, 1996, to January 21, 1997. She missed two out of four possible visits in February 1997, and three out of four visits in March 1997. Kelley refused to obtain a psychological evaluation. She was dismissed from parenting class due to inconsistent attendance.

April has some development delays in the area of gross motor skills, but is not considered a special needs child. Kelley used illegal drugs while pregnant with April. April will need continued monitoring to determine if she meets developmental milestones.

On March 31, 1997, the State filed a petition to terminate Kelley's parental rights to April. The juvenile court terminated Kelley's parental rights pursuant to

Iowa Code sections 232.116(1)(g) and (k). The court found Kelley had been resistant to services, and tended to focus on her own needs instead of the needs of her child.

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 children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Kelley contends there is insufficient evidence to show April could not be returned to her care at the present time, which is an element of section 232.116(1)(g). She asserts she completed many of the requirements of the case permanency plan. Kelley had no additional criminal charges after the case was initiated. She completed a substance abuse evaluation. She obtained a stable residence. Kelley testified she was committed to staying away from illegal substances.

We recognize Kelley has made some progress. "Some progress," however, by a parent is not sufficient. *In re D.A.*, 506 N.W.2d 478, 479 (Iowa App. 1993). A parent must show an adequate overall ability to care in all custodial areas. *Id.* at 480.

We determine there was clear and convincing evidence April could not be returned to Kelley's care at the time of the termination hearing. Kelley had continuing problems with substance abuse, as exemplified by her frequent relapses. She was inconsistent in attending recommended aftercare treatment for substance

abuse and she only attended a few AA meetings. Kelley only kept about fifty percent of her appointments with social workers. She did not complete a parenting class. She refused to complete a psychological evaluation. We conclude Kelley's parental rights were properly terminated under section 232.116(1)(g).

III. 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 A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). We have already found Kelley's parental rights were properly terminated under section 232.116(1)(g) and, therefore, need not address her claims regarding section 232.116(1)(k).

IV. Kelley claims termination of her parental rights was not in April's best interests. She asserts she should have had a greater amount of visitation with April in order to demonstrate her parenting abilities. She asks to have April returned to her care, with supervision by DHS.

Although this is framed as an argument regarding the best interests of the child, Kelley is actually arguing she did not receive adequate services. Parents have an obligation to demand services prior to the termination hearing. *In re B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993). Services should be challenged when the case plan is entered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). There is no evidence Kelley demanded additional visitation prior to the termination hearing. In addition, Kelley did not attend all visitation which was offered to her.

We affirm the decision of the juvenile court terminating Kelley's parental rights to April.

AFFIRMED.

Vogel, J., concurs; Sackett, J., concurs specially without opinion.