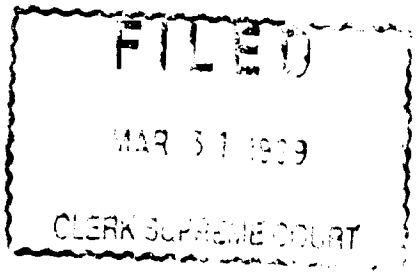
**IN THE COURT OF APPEALS OF IOWA**

No. 1999-12 (9-056) / 98-1486
Filed March 31, 1999




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

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

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

Mother appeals a juvenile court order terminating her parental rights. **AFFIRMED.**

William A. Price, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Cory McClure, Assistant County Attorney, for appellee.

Kimberly S. Ayotte, Des Moines, for minor child.

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

**SACKETT, C.J.**

Appellant Aimee, the mother of Trevor, born in October 1992, appeals from the decision of the juvenile court terminating her parental rights under Iowa Code sections 232.116(1)(c) and (k) (1997). She claims the State did not present sufficient evidence to show her parental rights should be terminated. We affirm.

Aimee came to the attention of the Department of Human Services in September 1994. Aimee allegedly struck eleven-month-old Jordan, her second son, not the subject of this proceeding, with her fists all over his body. Jordan suffered multiple bruises. Aimee then left Jordan in his crib unattended and without food or water for twenty-four hours. The next day, she asked her mother to get Jordan. Later in the day, police officers visited Aimee and asked to see Trevor. Trevor had a severe diaper rash.

The children were removed from Aimee's care and placed in foster care. The department found Aimee had physically abused Jordan and denied critical care to Trevor. Aimee was also charged with child endangerment. The record reveals little about the disposition of the charge other than Aimee was placed on probation. The children were found to be children in need of assistance under Iowa Code sections 232.2(6)(b), (c)(2), and (n).[1]

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[1] These sections provide, in pertinent part:

6. "Child in need of assistance" means an unmarried child:

. . . .

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.

Finding Aimee has a history of using illegal drugs, especially methamphetamine and marijuana, the juvenile court ordered her to be evaluated and follow all recommendations. Aimee completed a parenting class at the Parent-Infant Nurturing Center in April 1995. She made the decision then to voluntarily relinquish her parental rights to Jordan.

Aimee completed in-patient treatment for substance abuse in May 1995. She entered another treatment program in June 1995 but used methamphetamine while at this program and was discharged. The discharge summary stated, "Due to Aimee's level of denial, defensiveness and anger it does appear that she needs continued intervention related to her chemical dependency and other problem areas related to her use." After leaving the program, Aimee moved in with her boyfriend, Brian.

Aimee completed a second class at the Parent-Infant Nurturing Center in July 1995. She attended regularly. At times she was enthusiastic and at other times she was defensive and resistant to suggestions.

From August to October 1995, Aimee had supervised visitation with Trevor. During these visits, social workers taught Aimee about the care of children.

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> c. Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:
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> . . . .
>
> (2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.
>
> . . . .
>
> n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

Iowa Code § 6(b), (c)(2), and (n).

In November 1995, Trevor was returned to Aimee's care. In March and April 1996, Aimee tested positive for illegal drugs. She left Brian's home in April 1996. Aimee called her social worker and left a message saying, "Brian had beat her up real bad, that she had called the police, he was arrested, and she is pressing charges." In May 1996, Aimee and Trevor entered the House of Mercy, a treatment program that provides for mothers to attend with their children. Aimee had a relapse in October 1996 but continued with treatment.

Trevor was removed from Aimee's care in April 1997. She was discharged from the House of Mercy after she tested positive for methamphetamine use. Aimee moved in with her sponsors in Narcotics Anonymous, who were also foster parents. Trevor was also placed in this home.

In July 1997, Aimee was fired from her job for allegedly selling methamphetamine to other employees. Aimee was asked to leave her sponsors' home. Trevor was placed in a different foster home. Aimee has not visited with Trevor since that time.

Aimee again connected with Ben, Trevor's father. She left Ben after he allegedly assaulted her and was charged with domestic abuse. She entered a substance abuse treatment program, but was discharged in October 1997.

Trevor has adjusted well to his current foster family. The family is interested in adopting him. An uncle and his wife have also indicated an interest in adopting Trevor.

The State filed a petition to terminate Aimee's parental rights in November 1997. At the termination hearing on January 30, March 18, and March 27, 1998, Aimee testified she had been sober since October 1997. The juvenile court terminated Aimee's parental rights.

We review 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).

Aimee contends the State failed to present clear and convincing evidence to support a finding her parental rights should be terminated. In particular, she claims the State failed to show she received services to correct the circumstances that led to Trevor being found a child in need of assistance. Aimee asserts the circumstances under which Trevor was found to be a child in need of assistance no longer exist. Aimee claims she no longer uses illegal substances and has a stable life.

Iowa Code sections 232.116(1)(c) and (k) provide:

> 1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:
>
> . . . .
>
> c. The court finds that both of the following have occurred:
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> (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) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.
>
> . . . .
>
> k. The court finds that all of the following have occurred:
>
> (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.
>
> (2) The parent has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts.
>
> (3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

Iowa Code § 232.116(1)(c) and (k).

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). Therefore, if Aimee's parental rights were properly terminated under either section, we need not address her claims regarding the other.

Aimee's problems stem from her use of illegal substances. The State has offered her treatment programs. She has made efforts to comply with the requirements of the programs for eliminating substance abuse from her life. Aimee says her failures are the result of the inadequacy of the programs and services offered.

The programs offered did not result in Aimee modifying her behavior. She was tested for drug usage in December 1997, January 1998, and February 1998, dates after which she claimed to remain sober. The tests were positive for marijuana. Issues concerning how to modify human behavior are complex. We cannot find on this record additional or other programs or treatment would have caused Aimee to make the personal commitment which she did not to alter her behaviors. She continues to have problems with substance abuse and it is not reasonable to assume Trevor can be returned to her care. The State has shown the necessary statutory requirements to terminate by clear and convincing evidence.

After finding evidence to terminate parental rights, we need not terminate if it is not in the child's interest to do so. Aimee and Trevor have a strong bond. A November 16, 1995 Case Permanency Plan recited:

> Aimee and Trevor have a strong bond between them and Trevor gets excited to see his mom and Aimee is eager and excited to see Trevor. Denise Mahlstadt of Generations, Inc., reports Trevor to be a different kid when he is with his mom and that he is very happy when with his mom.

A November 8, 1995 CASA Report said:

> [Trevor] appears to be a very happy child and enjoys being with his mother. He listens to her when she gives directions and they seem to have a good relationship and enjoy each other's company. His foster mom reported that after he has an extended stay with Aimee, he cries when it is time to go back to his foster home. . . . The foster mom reported that it was hard for Trevor to leave his mother and he cried when it was time to go back.

Also in the CASA Report, psychologist John Octer reported, "Aimee lives to see Trevor -- she lights up when she talks about him." Denise Mahlstadt, a Generations, Inc., worker, said: "[W]hen Trevor is with his mother, he brightens up and is quite interactive. He likes to be with Aimee and is unhappy to leave."

The strong bond between Trevor and his mother make the issue of terminating parental rights more difficult. Trevor knows and loves his mother and feels a responsibility to her. The legal severance of his parental rights will not sever his feelings and concerns for his mother, though it appears it will provide for him a safer and more structured place to grow up. Furthermore, the fact his foster parents are willing to adopt him does provide the hope that, while his birth mother's bond will be legally severed by a termination, he will probably continue in the custody and care of a family with whom he has a bond.

We must trust the State and guardian ad litem will make every effort to assure that an adoption is timely finalized. We have no way of determining the long-range effect this termination will have on Trevor, but we can only hope his care providers will be constantly vigilant to problems he may suffer because the bond with his birth mother has been severed.

**AFFIRMED.**