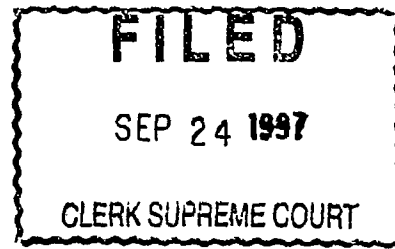


IN THE COURT OF APPEALS OF IOWA

000081

No. 7-493 / 97-0521

IN THE INTEREST OF K.F., Minor Child,
K.F., Mother,
Appellant.



Appeal from the Iowa District Court for Clinton County, Nancy S. Tabor,
Associate Juvenile Judge.

Mother appeals the termination of her parental rights to her minor child.

AFFIRMED.

Mathew J. Fullerton, Clinton, for appellant.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant
Attorney General, for appellee.

Thomas Lonergan, guardian ad litem for minor child.

Considered by Sackett, P.J., and Streit and Vogel, JJ.

SACKETT, P.J.

A mother appeals the juvenile court order terminating her parental rights to her minor child. She claims there is not clear and convincing evidence to support a finding the child cannot be returned to her care. We affirm.

Katie is the mother of Kristen, who was born in December 1994. The father of Kristen is unknown. In September 1995, Katie, who was then seventeen years old and living on her own, sought assistance with parenting skills from the Department of Human Services (DHS).

In October 1995, Kristen was placed on an apnea monitor due to two incidents in which she had stopped breathing. In November 1995, Katie admitted she had only used the monitor three times in twenty-three days. Even after a doctor warned failure to use the monitor created an imminent risk to the child's life or health, Katie refused to use the monitor. In December 1995, Katie voluntarily agreed to place Kristen in foster care.

In January 1996, Katie and Kristen were placed together in a foster home. After twelve days Katie left because she did not like the foster parents' rules. Katie agreed to go to a different foster home, and Kristen stayed in the original home. Katie subsequently left the second foster home and went to live with a friend, even though she knew it would reduce her visitation time with Kristen.

On March 20, 1996, Kristen was adjudicated a child in need of assistance under Iowa Code section 232.2(6)(c)(2) as a result of Katie's failure to exercise a reasonable degree in care in supervising the child. The court also found Kristen was a child in need of assistance under section 232.2(6)(e) because Katie failed to provide the necessary medical treatment for the child.

The case permanency plan required Katie to pursue her high school diploma, participate in individual counseling, and obtain stable housing. Katie had minimal progress in meeting these expectations. She attended school sporadically and then dropped out. She completed a psycho-social evaluation but did not attend individual counseling. She had frequent changes in housing. Katie did participate in supervised visitation with Kristen.

In November 1996, Katie attempted to commit suicide. She was then placed on medication to help her deal with depression. Katie has been diagnosed with a major depressive disorder and a personality disorder. In December 1996, Katie began to consistently attend individual counseling sessions and began to make progress in dealing with personal issues.

On January 23, 1997, the State filed a petition to terminate Katie's parental rights to Kristen. The guardian ad litem joined in the recommendation to terminate Katie's parental rights.¹ At the termination hearing, Katie testified she would be

¹ The guardian ad litem has filed a joinder in the State's brief and argument which we received late, but we still give it consideration

ready to care for Kristen in six months. Katie felt she needed this time to progress in counseling. The juvenile court determined Katie's parental rights should be terminated under section 232.116(1)(g).

Katie's mother, Kathleen, filed an application to intervene in the case. Kathleen sought to obtain custody of Kristen. She completed a child development course and participated in visitation. DHS has recognized Kathleen as a potential placement for Kristen. DHS considers Kristen to be adoptable.

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 R.R.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

On appeal, Katie contends there is insufficient evidence to support termination of her parental rights under section 232.116(1)(g). In particular, she believes the State failed to produce clear and convincing evidence Kristen could not be returned to her care. Katie admits Kristen could not be returned to her care immediately, but asserts this is because DHS did not assist her to address her problems. Katie alleges the attitude of workers at DHS impeded her progress.

Reasonable efforts 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). Generally, DHS must make reasonable efforts to provide services to eliminate the need for removal. *In re T.C.*, 522 N.W.2d 106, 108 (Iowa App. 1994). In proceedings to terminate parental rights, the reasonableness of services offered by the State to keep families whole is to be closely scrutinized. *In re C.D.*, 508 N.W.2d 97, 100 (Iowa App. 1993).

We first question whether Katie has preserved error on this issue. Katie did not challenge the case permanency plan, or seek additional or other services, prior to this appeal. Parents have an obligation to demand services prior to the termination hearing. *See In re B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993).

If we proceed to address the merits of the case, however, we find Katie received reasonable services. The evidence showed DHS offered Katie joint foster care, separate foster care, a young mom's program, individual counseling, and a community support program. At the time of the terminating hearing, Katie was only participating in individual counseling, and she had only been doing this for a few months. Katie had made the choice not to cooperate with the other services offered.

Katie herself admitted at the termination hearing that she was not ready to parent Kristen at the present time. We conclude the juvenile court properly terminated her parental rights under section 232.116(1)(g). We find this termination is in Kristen's best interests. We affirm the decision of the juvenile court.

AFFIRMED.