

IN THE COURT OF APPEALS OF IOWA

No. 2-1176 / 12-2083
Filed January 9, 2013

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

**C.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

A mother appeals from the juvenile court's order terminating her parental
rights. **AFFIRMED.**

Timothy Hill of Bradley & Riley, P.C., Cedar Rapids, for appellant mother.

Ryan Tang of Law Office of Ryan P. Tang, P.C., Cedar Rapids, for father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, Jerry Vander Sanden, County Attorney, and Rebecca Belcher,
Assistant County Attorney, for appellee State.

Julie Trachta of Linn County Advocate, Inc., Cedar Rapids, for minor child.

Considered by Potterfield, P.J., and Danilson and Tabor, JJ.

TABOR, J.

Eleven-year-old S.B. has seen his mother Crystal only a few times in his life. The Department of Human Services (DHS) asked the juvenile court to adjudicate S.B. as a child in need of assistance (CINA) in August 2011, when he was living with a legal guardian. Crystal, who resides in Las Vegas, Nevada, engaged in minimal contact with her son and the DHS since the CINA adjudication. And although Crystal failed to participate in the juvenile court hearing, she now appeals the termination of her parental rights.

Because Crystal does not challenge the juvenile court's finding of abandonment or lack of significant meaningful contact, we affirm the termination of her parental rights on those grounds. We also conclude Crystal failed to preserve error on her claim that the DHS did not make reasonable efforts to reunify her with S.B. Accordingly, we affirm.

I. Background Facts and Proceedings

Crystal gave birth to S.B. in October 2001. She was dating Margaret during her pregnancy and at the time of S.B.'s birth. In 2002 or 2003, when S.B. was one year old, Crystal named Margaret as S.B.'s temporary guardian due to Crystal's substance abuse and mental health issues. In 2005, Margaret became S.B.'s permanent guardian.

Margaret moved to Iowa with S.B. four or five years ago. In March 2011, S.B. came to the attention of the DHS after Margaret and her wife had a physical fight in S.B.'s presence. Believing she could no longer provide S.B. with a stable home in Iowa, Margaret placed him in the care of neighbors and took a bus to

Las Vegas to look for work. The neighbors were not able to provide a long-term residence for S.B. and contacted the DHS.

The DHS checked to see whether Crystal would be a placement option, but she was not able to care for her son because of her substance abuse and mental health issues. The DHS also ruled out S.B.'s father as a placement option. The father lived in California and had not seen S.B. in eight or nine years. The DHS offered Margaret services to allow her to continue as S.B.'s guardian, but she chose to remain in Nevada. In August 2011, the DHS placed S.B. with a foster family, where he remains.

The DHS offered Crystal telephone visits with S.B., but she only participated in about half of the possible calls. She sent S.B. a couple letters and a few photographs of herself from Las Vegas. Crystal had some contact with the DHS case worker during the CINA case. The juvenile court noted an interstate compact home study was returned because the mother failed to cooperate, though Crystal told Nevada authorities she did not meet the deadline for completing the forms because she was out of state due to an uncle's death.

The State filed a petition seeking to terminate the parental rights of S.B.'s mother and father and terminate Margaret's guardianship. Crystal failed to appear for the August 2012 termination hearing, despite being served notice. No attorney appeared on her behalf because counsel who represented her during the CINA case was allowed to withdraw at the close of those proceedings and new counsel was not appointed. On September 24, 2012, the juvenile court

entered its order terminating Crystal's parental rights, as well as the rights of the father and Margaret.¹

Within the time allowed to appeal the termination order, Crystal requested and received appointed counsel. The court granted her new attorney additional time to file a motion for new trial. In its October 30, 2012, order, the juvenile court enlarged its findings regarding Crystal's contact with the DHS, but denied Crystal's request to dismiss the termination proceeding or to grant a new trial. Crystal appeals.

II. Scope and Standard of Review

We review termination orders de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). We are not bound by the juvenile court's findings of fact, but accord them weight, especially on the issue of witness credibility. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). We will uphold a termination order if the State presented clear and convincing evidence in support of the grounds from Iowa Code section 232.116 (2011). *Id.* Evidence is "clear and convincing" when there are no "serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence." *Id.*

III. Analysis

Crystal advances two arguments on appeal. First she contends the State failed to prove the grounds for termination by clear and convincing evidence. Second she questions the State's efforts to reunify her with S.B.

The juvenile court terminated Crystal's parental rights pursuant to Iowa Code sections 232.116(1)(b) (abandonment), (e) (failure to maintain significant

¹ Neither the father nor Margaret appeal from the order.

and meaningful contact with the child and made no reasonable efforts to resume care of the child), and (f) (child cannot be safely returned to the parent's care). To affirm, we need to find grounds to terminate under only one of the sections cited by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Crystal's argument on appeal challenges only the proof that S.B. cannot be safely returned to her care as set forth in section 232.116(1)(f). Because she has waived any argument regarding abandonment or significant and meaningful contact under sections 232.116(1)(b) and (e), we affirm. See Iowa R. App. P. 6.903(2)(g)(3) ("Failure to cite authority in support of an issue may be deemed waiver of that issue.").

We also find Crystal has failed to preserve error on her claim the State failed to make reasonable efforts to reunify her with S.B. Although the DHS is required to make reasonable efforts to preserve the family unit, a parent has the responsibility to demand services before the time of the termination hearing. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App.1994). Here, the juvenile court found in its March 2012 permanency order and April 2012 permanency review order that the DHS had made reasonable efforts. Although Crystal requested (and received) telephone visitation with S.B., she sought no other services. The record does not show Crystal requested any additional services before termination. Nor does her petition on appeal state which services she should have been provided.

Because Crystal failed to challenge termination of her parental rights under sections 232.116(1)(b) and (e) and failed to preserve error on her reasonable-efforts claim, we affirm the juvenile court's order.

AFFIRMED.