

**IN THE COURT OF APPEALS OF IOWA**

No. 9-081 / 09-0045  
Filed March 11, 2009

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

**S.M.S., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Woodbury County, Brian Michaelson, Associate Juvenile Judge.

A mother appeals the juvenile court order terminating her parental rights.

**AFFIRMED.**

Amanda Van Whye of Vriezelaar, Tigges, Edgington, Bottaro, Boden & Ross, L.L.P., Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Patrick Jennings, County Attorney, and Diane Richardson, Assistant County Attorney, for appellee State.

Brian Buckmeier, Sioux City, for father.

Mercedes Ivener, Sioux City, guardian ad litem for minor child.

Considered by Vogel, P.J., and Vaitheswaran and Eisenhauer, JJ.

**PER CURIAM**

Sarah and Nicholas are the parents of Kali, who was born in 2008. Both parents have a history of severe mental health problems, and a history of domestic violence. Kali was removed from the parents' care immediately after her birth. Sarah exhibited unusual behavior at the hospital, such as refusing to put on any clothing and refusing to be examined. Sarah was transferred to a psychiatric unit for a period of time. Kali was placed in foster care.

The juvenile court adjudicated Kali as a child in need of assistance (CINA) under Iowa Code sections 232.2(6)(b), (c)(2), and (n) (2007). Sarah was then living in the same home as her brother, who had sexually abused her as a child. Sarah continued her relationship with Nicholas, although that relationship was fraught with domestic violence. In June 2008 Nicholas broke Sarah's father's car door while Sarah was in the car. A no-contact order was entered, which Nicholas and Sarah violated several times.

A combined dispositional and aggravated circumstances hearing was held on September 9, 2008. The juvenile court found Kali could not be placed with either parent due to their mental health issues, their emotional/intellectual limitations, their lack of parenting skills, and their history of domestic violence. The court also determined there were aggravated circumstances that would permit the waiver of reasonable efforts under section 232.102(12)(b).<sup>1</sup>

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<sup>1</sup> Section 232.102(12)(b) permits the waiver of reasonable efforts if the juvenile court finds section 232.116(1)(i) is applicable to the child. Section 232.116(1)(i) permits termination of parental rights if (1) the child meets the definition of CINA based on abuse or neglect, (2) the abuse or neglect poses a significant risk to the life of the child or constitutes imminent danger to the child, and (3) the offer or receipt of services would not correct the conditions within a reasonable period of time.

On September 24, 2008, the State filed a petition seeking to terminate the parental rights of Sarah and Nicholas. A combined permanency/termination hearing was held on December 16, 2008. The juvenile court noted there had been several police contacts regarding domestic violence between the parents. The court terminated Sarah's parental rights under sections 232.116(1)(d), (h), and (i).<sup>2</sup> The court determined termination was in Kali's best interests because "a termination will provide the best opportunity for security and permanency which Kali so desperately needs." Sarah appeals the termination of her parental rights.

The scope of review in termination cases is *de novo*. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008). Our primary concern in termination cases is the best interests of the child. *In re A.S.*, 743 N.W.2d 865, 867 (Iowa Ct. App. 2007).

Sarah claims that it was not in Kali's best interests to terminate her parental rights. She asserts the juvenile court should have entered a permanency order continuing the current placement for an additional six months to give her additional time to reunite with the child. Sarah states she has worked hard at meeting the requirements of the Department of Human Services, and that she is bonded with her child. Sarah also states she has an appropriate and suitable home for the child.

The evidence clearly shows that termination of Sarah's parental rights is in Kali's best interests. Sarah struggles to meet her own needs, especially her

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<sup>2</sup> The juvenile court also terminated the parental rights of Nicholas. He has not appealed.

mental health problems. Sarah had been inconsistent in attending individual therapy to help her address her problems. Furthermore, Sarah was enmeshed in an abusive relationship with Nicholas. There was no evidence that currently, or six months into the future, Sarah would be able to adequately care for her child.

We affirm the decision of the juvenile court.

**AFFIRMED.**