

**IN THE COURT OF APPEALS OF IOWA**

No. 17-1363  
Filed November 22, 2017

**IN THE INTEREST OF J.W.,  
Minor Child,**

**H.H., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Warren County, Kevin A. Parker,  
District Associate Judge.

A mother appeals the termination of her parental rights pursuant to Iowa  
Code chapter 232 (2017). **AFFIRMED.**

Kimberly A. Graham, Indianola, for appellant mother.

Thomas J. Miller, Attorney General, and Ana Dixit, Assistant Attorney  
General, for appellee State.

Yvonne C. Naanep, Des Moines, guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Potterfield and McDonald, JJ.

**MCDONALD, Judge.**

Haley appeals the termination of her parental rights in her child J.W., born 2015, pursuant to Iowa Code section 232.116 (2017). She argues there was insufficient evidence to terminate her rights under section 232.116(1)(d), (h), and (i). She also contends termination was not in the best interests of the child.

This court reviews the termination of parental rights under a de novo standard of review. See *In re A.M.*, 843 N.W.2d 100, 110 (Iowa 2014). The legal framework for termination appeals is well established and does not need to be repeated herein. See *In re M.W.*, 876 N.W.2d 212, 219–20 (Iowa 2016) (stating review is de novo and setting forth the applicable “three-step inquiry”). “When the juvenile court terminates parental rights on more than one statutory ground, we may affirm the juvenile court’s order on any ground we find supported by the record.” *In re A.B.*, 815 N.W.2d 764, 774 (Iowa 2012).

There is clear and convincing evidence to terminate Haley’s parental rights pursuant to Iowa Code section 232.116(1)(h). At issue here is section 232.116(1)(h)(4), which requires the State to prove the “child cannot be returned to the custody of the child’s parents . . . at the present time.” “At the present time” means at the time of the termination hearing. See *In re E.H.*, No. 17-0615, 2017 WL 2684420, at \*1 (Iowa Ct. App. June 21, 2017). At the hearing, Haley testified she could not take care of the child on her own. Her admission was supported by the evidence. The evidence showed Haley lacked employment and housing security. When she was able to obtain housing, the home was unsanitary and unsafe for a young child. Haley continued to be involved with J.W.’s biological father, who has a criminal record for physically abusing his two other then-infant

children.<sup>1</sup> In one of the cases, the father broke the infant's arm. When asked at the termination hearing whether the father would be a danger to the child at issue, Haley responded, "especially." Nonetheless, Haley continues to be involved with the father. The risk of physical abuse to the child at issue posed by the father amounts to an appreciable risk of adjudicatory harm sufficient to conclude the child could not be returned to Haley's care at the time of the termination hearing. See *In re M.C.*, No. 17-1184, 2017 WL 4315079, at \*1 (Iowa Ct. App. Sept. 27, 2017) (stating we have interpreted section 232.116(1)(h)(4) to "require clear and convincing evidence the children would be exposed to an appreciable risk of adjudicatory harm if returned to the parent's custody at the time of the termination hearing").

Haley contends termination is not in the best interest of J.W. Her argument is identical to her sufficiency challenge addressed above. Iowa law clearly establishes that "[i]t is simply not in the best interests of children to continue to keep them in temporary foster homes while the natural parents get their lives together." *In re J.E.*, 723 N.W.2d 793, 800 (Iowa 2006). Haley has not been responsive to services. She cannot meet the most basic needs of the child, including food and shelter. She continues in a relationship with a man she testified posed a special danger of physical abuse to the child at issue. We find that termination is in the best interest of J.W. "Children simply cannot wait for responsible parenting." *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). "It must be constant, responsible, and reliable." *Id.*

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<sup>1</sup> Brandon, J.W.'s father, had his parental rights terminated in a separate proceeding.

Although not exactly clear, it appears the mother argues the strength of the parent-child bond militates in favor of preserving the parent-child relationship. See Iowa Code § 232.116(3)(c); *In re D.S.*, 806 N.W.2d 458, 474–75 (Iowa Ct. App. 2011) (stating that factors weighing against termination in section 232.116(3) are permissive and not mandatory). We decline to exercise discretion to preserve the parent-child relationship. Here, there is little evidence establishing a parent-child bond. The child has been removed from the mother’s care for almost all of the child’s life. Further, the opportunity to be placed in stable environment outweighs any detriment to the child caused by the termination of the mother’s parental rights

Of note, our court has also recently affirmed the termination of Haley’s rights in another child. See *In re K.W.*, No. 17-1438, 2017 WL 5185455, at \*2 (Iowa Ct. App. Nov. 8, 2017). For the reasons outlined above and in *K.W.*, we affirm the termination of Haley’s parental rights in J.W.

**AFFIRMED.**