

**IN THE COURT OF APPEALS OF IOWA**

No. 0-157 / 10-0198  
Filed March 24, 2010

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

**B.A., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Cherokee County, Mary L. Timko,  
Associate Juvenile Judge.

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

Lisa Mazurek, Cherokee, for appellant mother.

Jeffrey Kuchel, Remsen, for intervenor putative paternal grandfather.

Ted Brown, Storm Lake, for intervenors maternal grandparents.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Ryan Kolpin, County Attorney, and Kristal Phillips, Assistant  
County Attorney, for appellee State.

Lesley Rynell of Juvenile Law Center, Sioux City, for minor child.

Considered by Vogel, P.J., Eisenhauer, J., and Miller, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

**VOGEL, P.J.**

Brandi appeals the termination of her parental rights to her daughter, K.K., born in July 2006.<sup>1</sup> She asserts there was not clear and convincing evidence to support the district court findings, reasonable efforts were not made to achieve reunification, and termination was not in K.K.'s best interests. She also claims she should have been afforded additional time to work towards reunification. We affirm.

We review termination of parental rights cases de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Brandi's rights were terminated under Iowa Code sections 232.116(1)(d) (child CINA for abuse or neglect, circumstances continue despite services), (h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home), and (l) (child CINA, parent has substance abuse problem, child cannot be returned home within a reasonable time) (2009).

The Iowa Department of Human Services (DHS) has been involved with K.K.'s family since December 2007, after Brandi was reportedly using marijuana and methamphetamine daily. Her drug use and uncooperative behavior with DHS continued, and in August 2008, K.K. was removed and placed in foster care, remaining out of Brandi's care since that time. In October 2008, K.K. was adjudicated to be a child in need of assistance (CINA).

Brandi asserts DHS did not use reasonable efforts to provide services to promote reunification. While Brandi claims her request for drug treatment was denied during a December 9, 2008 dispositional hearing, the court recognized

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<sup>1</sup> The parental rights of K.K.'s father were also terminated. He does not appeal.

her “need to address issues of substance abuse” and discussed in-patient treatment following a substance abuse evaluation. Shortly thereafter, Brandi was incarcerated for manufacturing methamphetamine. After her release, she successfully completed DHS recommended in-patient treatment from January 14, 2009, to February 11, 2009. DHS then helped Brandi enroll in substance abuse counseling, but Brandi was inconsistent in her attendance.<sup>2</sup> In March 2009, a search warrant was executed on the home where Brandi was living, resulting in the seizure of drug paraphernalia and various weapons. Although Brandi asserts the items seized were not hers, DHS viewed this as an unfit residence for K.K.<sup>3</sup> In May 2009, Brandi suffered a significant drug relapse, and when tested, evidence of high levels of methamphetamine was found in her system. While we are sympathetic to Brandi’s struggle to maintain sobriety, and recognize the difficulty in breaking the tenacious grip of addiction, her relapses and behavioral inconsistencies have impeded her ability to safely parent her child. See *In re J.K.*, 495 N.W.2d 108, 113 (Iowa 1993) (stating that when a parent has a severe chronic substance abuse problem, although they present the problems to be in the past, there is a high danger of reoccurrence).

Not until after the petition for termination was filed in September 2009, did Brandi take drug treatment seriously and commit to recovery. She began to attend substance abuse treatment consistently and maintain a stable job and home. We agree with the district court that “Brandi should be commended for

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<sup>2</sup> From February—October 2009, Brandi only attended just over half of her scheduled substance abuse treatment appointments.

<sup>3</sup> Her housing situation was unstable during most of the pendency of this case.

the steps she has taken, but this is not enough to translate into the court believing that she will be able to maintain her sobriety and be an appropriate parent for K.K. at this time.” “When the issue is a parent’s drug addiction, we must consider the treatment history of the parent to gauge the likelihood that the parent will be in a position to parent the child in the foreseeable future.” *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). The record supports that reasonable services were provided, and we affirm the district court’s finding under 232.116(1)(j). *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996) (“When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm.”).

Brandi claims the district court should have deferred termination for an additional six months, based on her significant improvement prior to the termination hearing. Our legislature has established time periods for parents to demonstrate they can safely parent. Iowa Code § 232.116(1)(h); see *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) (quoting *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987) (“It is unnecessary to take from the child’s future any more than is demanded by statute.”)). This time period has elapsed, and Brandi has not shown a consistent ability to adequately provide for K.K.’s needs. We agree with the district court that clear and convincing evidence established K.K. could not have been returned to Brandi’s care at the time of the termination hearing or in a reasonable time thereafter.

Brandi also argues the district court did not properly address whether termination of her parental rights was in K.K.'s best interests.<sup>4</sup> Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider “the child’s safety,” “the best placement for furthering the long-term nurturing and growth of the child,” and “the physical, mental, and emotional condition and needs of the child.” *Id.* At the time of the hearing, K.K. had been removed from Brandi’s care for fifteen months, and only once did Brandi’s visits progress beyond supervised. K.K. is well-adjusted and in a stable, pre-adoptive foster home, and while Brandi is still struggling to put her life back together, K.K. is in need of permanency. *In re J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (stating children’s safety and their need for a permanent home are the defining elements in determining a child’s best interests). We conclude termination of Brandi’s parental rights was in K.K.’s best interests as set forth under the factors in section 232.116(2).

Brandi also claims an exception existed to termination of her parental rights, due to the closeness of her relationship with K.K. Iowa Code § 232.116(3)(c) (“The court need not terminate the relationship between the parent and child if . . . termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.”). Due to the extensive time K.K. has been out of Brandi’s care, and the close bond she has formed with the foster family, Brandi has failed to establish a relationship where termination of

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<sup>4</sup> The termination order was filed on January 13, 2010, and *In re P.L.* was not filed until January 29, 2010.

her parental rights would be detrimental to K.K. Accordingly, this statutory exception will not prevent the termination.

We affirm the district court's termination of Brandi's parental rights.

**AFFIRMED.**