

**IN THE COURT OF APPEALS OF IOWA**

No. 0-263 / 10-0400  
Filed May 12, 2010

**IN THE INTEREST OF D.D.T.,  
Minor Child,**

**D.M.T., Father,  
Appellant,**

**K.Y.L., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Louise M. Jacobs,  
District Associate Judge.

A father and mother both appeal the termination of their parental rights to  
their child. **AFFIRMED.**

Thomas P. Graves of Graves Law Firm, P.C., West Des Moines, for  
appellant mother.

Christopher A. Kragnes of Kragnes & Associates, P.C., Des Moines, for  
appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Annette Taylor,  
Assistant County Attorney, for appellee State.

Nicole Garbis Nolan of Youth Law Center, Des Moines, for minor child.

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

**POTTERFIELD, J.**

K.L. is the mother and D.T. is the father of a daughter born in July 2009. Both parents have extensive histories with the Department of Human Services and have previously lost their parental rights with respect to other children: K.L. has had her parental rights to three children terminated; D.T. has had his rights to one child terminated.

The mother's rights were terminated pursuant to Iowa Code sections 232.116(1)(b), (d), (g), and (i) (2009). The father's rights were terminated pursuant to sections 232.116(1)(b), (d), (g), (i), and (l). Neither disputes that the statutory grounds have been established by clear and convincing evidence.

However, the father contends the juvenile court did not consider whether termination of parental rights was in the best interests of the child as enumerated in Iowa Code section 232.116(2). The record belies his claim. Under section 232.116(2), the court is required to "give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child." The juvenile court specifically found:

It is in the best interests of [the child] that the parental rights of her parents, [K.L. and D.T.], be terminated. Neither parent is capable of meeting her needs or of keeping her safe. Given their negative, destructive, and criminal behaviors, neither parent is capable of providing long-term nurturing or of meeting the physical, mental, and emotional conditions and needs of the child. At this time those needs of the child can be best met in the home of a relative with whom the child is placed. The relative has previously adopted [another of K.L.'s children], and is committed to adopting [this child].

Upon our de novo review, see *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010), we agree. We determine that terminating the father's parental rights so the child can be permanently placed gives primary consideration to her safety, to the best placement for furthering her long-term nurturing and growth, and to her physical, mental, and emotional needs.

The father and the mother both argue that termination is not required because the child is in a relative's custody. See Iowa Code § 232.116(3)(a) ("The court need not terminate the relationship between the parent and child if . . . [a] relative has legal custody of the child."); see also *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa Ct. App. 1993) (noting "it is self-evident in the words '[t]he court need not terminate the relationship' that the legislature did not intend this to be a mandatory provision"), *overruled on other grounds by In re P.L.*, 778 N.W.2d at 39. While the statute allows courts to consider this factor as weighing against termination, we agree with the juvenile court here that the child's needs will be best met by permanency and the ability to maintain ties with her half-sibling in her pre-adoptive placement with their aunt.

We affirm the termination of the father's and mother's parental rights.

**AFFIRMED.**