

**IN THE COURT OF APPEALS OF IOWA**

No. 0-477 / 10-0873  
Filed July 14, 2010

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

**A.R.L., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Webster County, James A. McGlynn, Associate Juvenile Judge.

A mother appeals the termination of her parental rights to her child.

**AFFIRMED.**

Kurt T. Pittner, Fort Dodge, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Ricki Osborn, County Attorney, and Jennifer Bonzer, Assistant County Attorney, for appellee.

Darren D. Driscoll, Fort Dodge, for father.

Marcy Lundberg, Fort Dodge, attorney and guardian ad litem for minor child.

Considered by Sackett, C.J., and Eisenhauer and Mansfield, JJ.

**EISENHAUER, J.**

A mother appeals the termination of her parental rights to her child. She contends the State failed to prove the grounds for termination by clear and convincing evidence. We review her claim de novo. *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998).

The child at issue was born prematurely in May 2008. At the time of birth, she weighed only one pound, five ounces. A child-in-need-of-assistance petition was filed in June 2008.<sup>1</sup> The child was removed from the parents' care on July 8, 2008, following concerns the parents were planning to abscond out of state with the child to avoid the CINA proceedings.

By the January 2009 dispositional review hearing, the mother was granted an additional six months to reunite with the child. She progressed with services until April 2009, when she was arrested for possession of a controlled substance and driving while barred. The parents' relationship is also marred by numerous incidents of domestic violence. The mother has been unwilling or unable to remove the father from her life.

The mother's parental rights were terminated pursuant to Iowa Code section 232.116(1)(h) (2009). Termination is appropriate under this section where the State proves by clear and convincing evidence the following:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

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<sup>1</sup> This was not the mother's first experience with the juvenile court. Concerns about drugs in the home had led the mother to consent to the removal of her two older children in January 2007.

(3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

There is no dispute the first three elements have been proved. The mother instead claims there lacks clear and convincing evidence the child cannot be safely returned to her custody.<sup>2</sup>

The mother argues she has done all she has been asked to do "except for her involvement with [the father]" and states the father "is clearly the problem." Although she admits the father is abusive to her, she claims there is no evidence that abuse has ever subjected the child to any danger. As the juvenile court noted, "The child would be at risk of actual physical harm if caught in the middle of an altercation between the parents and would be emotionally scarred by observing a parent being abused." We find the father's abuse toward the mother is a risk to the child.

The mother argues she should be allowed more time to show she can parent her child without the father's involvement. We disagree. The mother was granted an additional six months in January 2009 to reunite with her child. Although the termination petition was filed in July 2009, the termination hearing was held over three days in August 2009, October 2009, and April 2010. Throughout that time, the mother continued her relationship with the father and even lived with him in spite of a no-contact order. This mother's past behavior is

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<sup>2</sup> This is the mother's sole argument on appeal. She does not raise any issues under Iowa Code section 232.116(2) or (3).

evidence of the quality of her future care. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). Furthermore, a child should not be forced to endlessly await the maturity of a natural parent. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). At some point, the rights and needs of the child rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The child is in a pre-adoptive foster placement. Additional time for reunification is not warranted.

We find clear and convincing evidence the child cannot be returned to the mother's care without exposing her to some harm that would justify a CINA adjudication. Because the State proved the grounds for termination under section 232.116(1)(h) by clear and convincing evidence, we affirm.

**AFFIRMED.**