

IN THE COURT OF APPEALS OF IOWA

No. 0-536 / 10-0983
Filed August 25, 2010

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

**A.C.S., Mother,
Appellant,**

**A.W., Father,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Daniel Block,
Associate Juvenile Judge.

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

Michael H. Bandy of Bandy Law Office, Waterloo, for mother.

Heather Feldkamp of Feldkamp Law Office, P.C., Waterloo, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Thomas J. Ferguson, County Attorney, and Steven Halbach
and Kathleen A. Hahn, Assistant County Attorneys, for appellee.

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

EISENHAUER, J.

A mother and father appeal from the termination of their parental rights to their child. The mother contends the State failed to prove the grounds by clear and convincing evidence. The father requests additional time. We review these claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The child was removed from the mother's home on March 30, 2009, when he was five years old. The removal followed allegations the mother kicked the child hard enough to cause bruising. It had previously been reported the mother hit the child with an extension cord, although the bruises did not last longer than twenty-four hours. She indicated the child needed physical discipline.

The child was hospitalized after removal and diagnosed with mood disorder, oppositional defiant disorder, reactive attachment disorder, and a learning disorder. Although the child had been very aggressive as well as physically and verbally abusive at school and with professionals, his behavior improved following hospitalization. The child was placed in a foster home where his behavior has been transformed to that of "an engaging, compliant child who is eager to please the adults in his life."

We first consider the mother's claim the State failed to prove the grounds for termination by clear and convincing evidence. The mother's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d), (e), (f), and (i) (2009). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate

under section 232.116(1)(f) where the State proves by clear and convincing evidence the following:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

There is no dispute concerning the first three elements. Instead, the mother argues there is not clear and convincing evidence to prove the child cannot be returned to her custody.

We conclude clear and convincing evidence supports termination pursuant to section 232.116(1)(f). Although the mother argues there is no proof she injured the child, the record shows the mother was physically, verbally, and emotionally abusive to the child. She was seen hitting the child with an extension cord. The child came to the attention of the Department of Human Services after the child reported a bruise on his leg was caused by the mother kicking him. At visitation, the mother would call the child names, take toys away from him, and ignore him. She was unable to calm her son and instead engaged in behavior that escalated his frustration. While the child has been in foster care, the mother has rejected assistance from the DHS to help her regain custody of her child. A psychological evaluation indicated mother has great difficulty controlling her anger. This has been observed during visits with her son and her interaction with service providers. Offered eight hours of contact with her child a week, she only

visited for two hours, considering eight hours to be “too much.” At the termination hearing, the mother still did not understand why the child was removed from her care, showing she has not gained any insight despite the receipt of a year’s worth of services. Her past behavior and refusal to recognize the need to change is evidence of the quality of her future care. *See In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). We affirm the termination of her parental rights.

We next turn to the father’s request for additional time. He argues he played an active role in caring for his son and has made progress in his parenting ability. However, the record shows the father was not actively involved in the child’s life prior to his CINA adjudication. Although this circumstance may have been created in part by the mother, clear and convincing evidence shows the father is unwilling to make the child a priority in his life. He has been unable to maintain steady employment and lives in his mother’s basement. Upon receiving a large sum of money in student loans, he opted to buy a computer and internet access rather than follow the providers’ direction to attempt to obtain a residence for himself and his son.

The district court found, and we agree:

The child is in dire need of permanency. Because of the child’s history of physical, verbal and emotional abuse, the child requires a secure and highly structured home. Neither parent is able to provide the minimal home environment which will support the child’s continued growth and well-being.

The child should not be forced to endlessly suffer in parentless limbo. *See In re E.K.*, 568 N.W.2d 829, 831 (Iowa Ct. App. 1997). While the law requires a “full

measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” this patience has been built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). Children should not be forced to endlessly await the maturity of a natural parent. *Id.* 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), *overruled on other grounds by P.L.*, 778 N.W.2d at 39-40. Because additional time is not warranted, we affirm the termination of the father’s parental rights.

AFFIRMED.