

**IN THE COURT OF APPEALS OF IOWA**

No. 0-774 / 10-1481  
Filed November 10, 2010

**IN THE INTEREST OF H.M.,  
Minor Child,**

**T.C., Mother,**  
Appellant.

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

A mother appeals the district court's order terminating her parental rights.

**AFFIRMED.**

Jeffrey T. Mains of Mains Law Office, P.L.C., Des Moines, for appellant  
mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Bryan Tingle, County Attorney, Karla J. Fultz, Assistant County  
Attorney, for appellee State.

Nancy L. Pietz, Des Moines, for appellee father.

Paul White of Juvenile Public Defender's Office, Des Moines, attorney and  
guardian ad litem for minor child.

Considered by Sackett, C.J., and Vogel and Vaitheswaran, JJ.

**VAITHESWARAN, J.**

A mother appeals the termination of her parental rights to her child, born in 2009. She challenges the grounds for termination cited by the district court.

We may affirm if we find clear and convincing evidence to support any of the cited grounds. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review, we find evidentiary support for Iowa Code section 232.116(1)(h) (2009) (requiring proof of several elements including proof that child cannot be returned to the parent's custody).

The child was removed from the parents' custody in June 2009 after medical professionals determined that he sustained severe, non-accidental injuries as a result of trauma inflicted on more than one occasion. Signs pointed to the father as the abuser. The mother acknowledged she failed to protect the child from the abuse.

The mother remained with the child's father for six months after the child's removal. In December 2009, the father physically assaulted the mother. At this point, the mother separated from him.

Following the separation, the mother began therapy but missed or canceled five appointments within a nine-week period. In light of the many cancellations, a service provider declined to schedule another appointment immediately.

The mother did not follow up with therapy for several months. In July 2010, she began seeing another therapist on a weekly basis. She had four appointments prior to the termination hearing but only began working on a treatment plan the week before the hearing.

At the termination hearing, the mother admitted to a new relationship with a man fifteen years her senior. She also admitted to drinking with him while under the legal age and driving him while both were intoxicated.

To her credit, the mother attended most scheduled visits with her child. Those visits, which were fully supervised, took place on alternating weekends in the home of her father and alternating Thursdays with a service provider. The provider testified she did not see anything during the visits that would lead her to believe the child was unsafe in the mother's care. She acknowledged, however, that visits would need to remain supervised.

On our de novo review, we conclude the mother did not make sufficient progress to allow a move from supervised to unsupervised visitation, let alone to have the child permanently in her care. She exercised poor judgment in failing to protect her child from physical abuse and continued to exercise poor judgment in her interpersonal relationships. Accordingly, despite the loving attention she afforded the child during her limited visitation time with him, we feel compelled to affirm the termination of the mother's parental rights to this child pursuant to Iowa Code section 232.116(1)(h).<sup>1</sup>

**AFFIRMED.**

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<sup>1</sup> The mother does not argue that the child's best interests were affected under Iowa Code section 232.116(2) or that the "exceptions" to termination set forth in Iowa Code section 232.116(3) applied to her situation. See *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). Accordingly, we find it unnecessary to address these issues.