

IN THE COURT OF APPEALS OF IOWA

No. 1-178 / 11-0179
Filed March 30, 2011

**IN THE INTEREST OF N.P.,
Minor Child,**

**M.M.P., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

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

AFFIRMED.

Judith Jennings Hoover of Hoover Law Office, P.C., Cedar Rapids, for
appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Jerry Vander Sanden, County Attorney, and Lance Heeren,
Assistant County Attorney, for appellee State.

Melody J. Butz of Butz Law Offices, P.C., Cedar Rapids, attorney and
guardian ad litem for minor child.

Considered by Vogel, P.J., and Doyle and Tabor, JJ.

VOGEL, P.J.

Melanie appeals from the termination of her parental rights to her child.¹ Melanie claims the State failed to prove by clear and convincing evidence that N.P. could not be returned to her care, and termination is not in the child's best interest. We review her claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

N.P. was born in September 2008 and was placed in foster care in February 2009, after concerns of medical neglect. Since that time, Melanie has made some progress in the areas the Department of Human Services (DHS) initially identified as parental deficiencies, but she has continued to struggle in other areas, including her inability to provide suitable housing. She moved into the Hinzman Center, a correctional facility, in August 2009, after being homeless, and lived there through June 2010. After being discharged, she lived in multiple residences, often with inappropriate people: an apartment, where she was evicted after failing to pay rent; with family; and with various friends, one of whom had drug paraphernalia in the home. Melanie acknowledged that DHS would not approve of this residence. At the time of trial, she was living in Illinois with her brother, but prior to moving had not informed DHS.

Melanie's parental rights were terminated pursuant to Iowa Code section 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home) (2009). DHS worker Tonya Stephan, testified that when Melanie is with N.P., it is clear she loves her,

¹ The parental rights of the biological father of N.P. were terminated in a prior order and his rights are not at issue in this appeal.

and is not a bad parent, but “she just isn’t able to provide the essential things to keep her daughter safe such as housing.” She went on to state that she was recommending termination of Melanie’s parental rights, not only because she did not have housing, but because of the poor life choices Melanie continued to make. The district court found,

This court [already] granted her additional time for reunification We have now come full circle. The issues of concern at the beginning of the case are continuing concerns at this time. Melanie cannot provide the stability and nurturing environment her child needs at this time.

We agree and conclude clear and convincing evidence supports termination under section 232.116(1)(h).

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, Melanie had not had a visit with N.P. since December 5, 2010. Although the district court granted Melanie additional time to achieve her goal of reunification (from the May 2010 initial termination hearing until January 6, 2011), she still was not able to show she can maintain a safe and stable environment for N.P. *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J., concurring specially) (stating children’s safety and their need for a permanent home are the defining elements in a child’s best interests). Since her removal in February 2009, N.P. has been living in a foster home, and is doing

very well. We conclude termination of Melanie's parental rights was in N.P.'s best interest as set forth under the factors in section 232.116(2).

AFFIRMED.