

IN THE COURT OF APPEALS OF IOWA

No. 1-181 / 11-0224
Filed March 30, 2011

**IN THE INTEREST OF C.B.W.,
Minor Child,**

**M.A.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Colin J. Witt, District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Andrea M. Flanagan of Sporer & Flanagan, P.L.L.C., Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellee State.

Michelle Saveraid of the Youth Law Center, Des Moines, for appellee minor child.

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

EISENHAUER, J.

A mother appeals the termination of her parental rights to her child. She contends the guardian ad litem failed to prove the grounds for termination and termination is not in the child's best interest. We review her claims de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The child at issue, now fourteen years of age, came to the attention of the Department of Human Services in June 2008 after the mother struck her. The mother was arrested and pleaded guilty to child endangerment. The child was removed from her care and placed in the care of a maternal uncle, where she remains. On July 24, 2008, the child was adjudicated to be in need of assistance.

The mother has a long history of substance abuse, particularly with regard to alcohol. She participated in treatment twice before the events that led to the CINA adjudication, and in 2008 entered the House of Mercy program. By late 2009, it appeared the mother was making progress in her quest to maintain sobriety. After a permanency review hearing in December 2009, the court indicated it anticipated closing the case after a guardianship was established with the uncle. However, by June 2010 the mother had relapsed and was drinking alcohol in front of the child when the child was in her care. The mother asked the child to help her conceal her drinking from the uncle, the DHS, and the court.

In the summer of 2010, the court changed the permanency goal to adoption by the uncle and directed a termination of parental rights petition be filed. The mother continued to abuse alcohol and was arrested for operating while intoxicated in September 2010. Although the mother did not consent to

termination, she presented no evidence at the termination hearing. She recognized “overwhelming evidence” supported some of the elements of termination and chose to take a neutral position in hopes of continuing a relationship with the child after she is adopted by the uncle.

The district court terminated the mother’s parental rights pursuant to Iowa Code sections 232.16(1)(d) and (f) (2009). We need only find termination proper under one ground to affirm. See *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). In order to terminate under section 232.116(1)(d), the guardian ad litem was required to prove by clear and convincing evidence the following:

- (1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.
- (2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

The mother does not dispute the first element was proved. Instead, she contends there is not clear and convincing evidence the circumstance that led to the adjudication continues to exist.

We conclude the grounds for termination pursuant to section 232.116.1(d) have been proved. Although the mother did maintain a period of sobriety, she was abusing alcohol again in the summer of 2010 and was arrested for OWI in September 2010. She was using alcohol in front of the child and enlisted the child’s help to conceal her relapse. The mother has failed to effectively address her alcohol abuse and is unable to maintain sobriety.

The mother argues there is insufficient evidence the abusive behaviors that resulted from her alcohol use continue to exist. The mother struck the child in June 2008 while intoxicated. She had previously been arrested for child endangerment after driving while intoxicated during a high-speed chase with the child in the car. There were also two prior child abuse assessments against the mother for failing to properly supervise the child; one in 2006 and one in 2004. The mother's past abuse and neglect of the child while intoxicated is evidence of the future quality of her care. See *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

The mother next contends termination is not in the child's best interest. In considering the best interest of a child, we look to (1) the child's safety, (2) the best placement for furthering the long-term nurturing and growth of the child, and (3) the physical, mental, and emotional condition and needs of the child. Iowa Code § 232.116(2); *P.L.*, 778 N.W.2d at 41. In considering these factors, we agree with the juvenile court's conclusion termination is in the child's best interest. The child has been out of the mother's care for over two-and-a-half years. The mother has not progressed to the point the child has been returned to her care for even a trial placement. The mother is still not able to safely parent the child. Moreover, the child has the stability and permanency she needs in her placement with her uncle. Because the mother cannot meet the child's physical, mental, or emotional needs, we affirm the termination of the mother's parental rights.

AFFIRMED.