

**IN THE COURT OF APPEALS OF IOWA**

No. 1-237 / 11-0284  
Filed April 13, 2011

**IN THE INTEREST OF C.S.,  
Minor Child,**

**J.F., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Fayette County, Alan D. Allbee,  
Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

John J. Sullivan of Sullivan Law Office, P.C., Oelwein, for appellant  
mother.

John Hofmeyer III, Oelwein, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, W. Wayne Saur, County Attorney, and Nathan Lein, Assistant  
County Attorney, for appellee State.

Jeremiah H. White, West Union, for minor child.

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

**DANILSON, J.**

Following a February 11, 2011 trial, the juvenile court terminated the mother's parental rights to her son pursuant to Iowa Code sections 232.116(1)(e)<sup>1</sup> and (f)<sup>2</sup> (2011). The mother appeals the termination of her parental rights, contending there was not clear and convincing evidence to support termination and termination was unnecessary as the child was placed with a relative.

We review de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). When the juvenile court terminates parental rights on more than one statutory

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<sup>1</sup> Iowa Code section 232.116(1)(e) provides that the court may terminate parental rights if it finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "*significant and meaningful contact*" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

<sup>2</sup> Section 232.116(1)(f) provides that the court may terminate parental rights if it finds that all of the following have occurred:

(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.

ground, we need only find that evidence supports one of the grounds cited by the juvenile court to affirm. *In re R.K.*, 649 N.W.2d 18, 19 (Iowa Ct. App. 2000). Here, there is clear and convincing evidence supporting termination under section 232.116(1)(f).

*The child is older than four years of age*, Iowa Code § 232.116(1)(f)(1): C.S. was born in December 2005 and was five years old at the time of trial.

*The child has been adjudicated a child in need of assistance*, Iowa Code § 232.116(1)(f)(2): In May 2009, the Iowa Department of Human Services (DHS) became aware that C.S. was subjected to unsafe living conditions in the mother's home, as well as abuse by Shane M., the mother's male roommate. A founded child abuse report based on lack of proper supervision resulted, and the child was removed from the mother's custody. C.S. was adjudicated a child in need of assistance in July 2009. The child was returned to the mother in October 2009, conditioned upon protections against contact with Shane.

However, in a January 2010 review hearing, there were concerns expressed due to the mother allowing Shane unsupervised contact with the child and Shane not participating in substance abuse, mental health, and parent skills services. Just hours after the review hearing, DHS found Shane in the child's home with no approved supervisor, and on January 22, 2010, the child was removed from the mother's custody.

*The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months*, Iowa Code § 232.116(1)(f)(3): C.S. has been continuously in the custody of relatives since January 22, 2010, more than the past consecutive twelve months.

*There is clear and convincing evidence that at the present time the child cannot be returned to his mother's custody*, Iowa Code § 232.116(1)(f)(4): The mother no longer is involved with Shane, but is currently involved in a relationship and cohabiting with Dan M. He is reported to have a history of domestic violence and criminal acts including a recent conviction for possession of drug paraphernalia. He has prior convictions for intimidation with a dangerous weapon, burglary, threat of terrorism, operating while intoxicated, driving while license revoked, eluding, and theft. The mother believes he is not a danger to her child. The juvenile court found the mother demonstrated "a stubborn attachment to men who pose a risk of harm to her son. This has now been repeated twice during the pendency of this case and is likely to continue even if her current relationship should end." We agree.

Additionally, the mother has had only two visits<sup>3</sup> with the child since August 2010, a two-hour visit on November 12, 2010, and a one-hour visit on February 4, 2011, with only minimal interaction and affection demonstrated between mother and child. The child's February visit took place in the mother's home, and the court appointed special advocate reported numerous safety concerns about the condition of the house.

*Best interests of the child*, Iowa Code § 232.116(2): Like the juvenile court, we also find termination of the mother's parental rights is in the child's best interests. In determining best interests, we must consider the child's safety, the best placement for furthering their long-term nurturing and growth, and the child's

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<sup>3</sup> The mother refused the family service provider's offer of transportation to make visitations occur.

physical, mental, and emotional condition and needs. *P.L.*, 778 N.W.2d at 37. C.S. no longer refers to his mother as “mommy” but by her first name. The child has overcome “significant emotional and behavioral issues” demonstrated at the commencement of the case and is “thriving” in the care of his paternal grandmother and her husband. The grandmother and her husband wish to adopt the child C.S., and we agree with the juvenile court that adoption by grandmother and her husband will best further the child’s long-term safety, nurturing, and growth. See Iowa Code § 232.116(2).

*No pertinent exceptions*, Iowa Code § 232.116(3): Finally, while the court “need not terminate” where a relative has legal custody of the child, see *id.* § 232.116(3)(a), we agree with the trial court that a thirteen-year relative guardianship, which would leave the door open to future litigation over the child’s custody and placement, is not in the child’s best interests. Such a lengthy guardianship might be appropriate under different facts, but here the mother has had minimal interaction with the child and the relatives wish to adopt. Adoption by the paternal grandmother and her husband provides a permanent, safe, and nurturing placement, all of which this child needs and deserves.

Because the grounds for termination have been proved by clear and convincing evidence and termination is in the child’s best interest, we affirm.

**AFFIRMED.**