

IN THE COURT OF APPEALS OF IOWA

No. 1-725 / 11-1121
Filed October 5, 2011

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

**K.A., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Yvonne C. Naanep, Des Moines, for appellant mother.

Jamie Deremiah, Des Moines, for father.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin Brownell, Assistant County Attorney, for appellee State.

Charles Fuson of the Youth Law Center, Des Moines, for minor child.

Considered by Eisenhauer, P.J., and Doyle and Mullins, JJ.

EISENHAUER, P.J.

A mother appeals the termination of her parental rights to her child. She contends the State failed to prove the grounds for termination by clear and convincing evidence. She also contends she should be granted additional time for reunification. Finally, she contends her parental rights should not be terminated because the child is in the care of a relative. We review these claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The child was born in April 2010 and tested positive for exposure to marijuana. He was removed from the mother's care in August 2010. The child was adjudicated a child in need of assistance in October 2010. He has been placed in the custody of his paternal grandmother since his removal.

The incident leading to the removal and adjudication occurred when the mother became angry when the child's paternal great-grandmother was unable to provide childcare as the mother requested. The mother drove to her home, broke the lock on the door, entered the home without permission, and struck the great-grandmother, injuring her shoulder. The mother, who had numerous criminal convictions and was on probation at the time of her arrest, was charged with second-degree burglary as a result of this incident. She pled guilty to assault and trespass with injury and was jailed from August 27, 2010, until October 5, 2010.

The incident with the great-grandmother is part of a pattern of violence and criminal behavior by the mother. She was again arrested and pled guilty to second-degree harassment after threatening to assault two workers assigned to this case. The mother and her own mother, the child's maternal grandmother,

have a history of becoming involved in arguments that escalate to physical confrontation and police involvement.

The mother also has a history of substance abuse beginning when she was thirteen years old. In October 2010, the mother provided two urine samples following her release from jail. She failed to provide a urine sample on four other occasions it was requested of her and tested positive for marijuana and oxycodone on January 20, 2011. At the termination hearing, the mother admitted, "I have a baby who I, obviously, can't take care of now because I have a drug problem."

The juvenile court terminated the mother's parental rights pursuant to Iowa Code sections 232.116(1)(d) and (h) (2011). 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)(h) where there is clear and convincing evidence the child is three years of age or under, has been adjudicated in need of assistance, has been removed from the parents for at least six of the past twelve months, and cannot be returned to the parents' custody at the present time. There is no dispute the first three of these elements were proved. The mother argues the State failed to show the child cannot be returned to her care at the present time.

We conclude clear and convincing evidence supports a finding the child cannot be safely returned to the mother's custody. The mother has failed to adequately address the issues that led to the child's removal. She continued to use controlled substances and threatened to assault the social workers tasked with helping her. The mother failed to regularly attend visits with the child and

had not even progressed to the point of receiving unsupervised visits. To return the child to the mother's care would put the child at risk of neglect.

We do not conclude an additional six months to allow the mother to demonstrate she can effectively parent the child is warranted here. 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). The mother was given six months to show she could be an effective parent. She not only failed to do so, she failed to make any progress. As noted by the trial court she has been through many treatment programs and had services to break the pattern of substance abuse and assaultive behavior but continues to use drugs and engage in criminal conduct. Nothing suggests an additional six months will result in changes necessary to safely raise her child. The crucial days of childhood cannot be suspended while the mother experiments with ways to face up to her own problems. See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). 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).

Finally, the mother contends her parental rights should not be terminated because the child is in a relative placement. Under section 232.116(3)(a), the court need not terminate parental rights where a relative has legal custody of the child. This section is permissive, not mandatory. *Id.* The court must consider a child's long-range and immediate best interests based upon the unique circumstances before it when determining whether to apply this section. *Id.* Given the mother's lack of progress during this case, the child's young age, and

the child's need for permanency, we conclude it is in the child's best interests to terminate the mother's parental rights. Accordingly, we affirm.

AFFIRMED.