

**IN THE COURT OF APPEALS OF IOWA**

No. 1-841 / 11-1503  
Filed November 23, 2011

**IN THE INTEREST OF E.T.,  
Minor Child,**

**L.T., Mother**  
Appellant.

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

A mother appeals the order terminating her parental rights to her child.

**AFFIRMED.**

John J. Bishop, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Jerry Vander Sanden, County Attorney, and Kelly J. Kaufman,  
Assistant County Attorney, for appellee.

Robin Licht, Cedar Rapids, attorney and guardian ad litem for minor child.

Considered by Danilson, P.J., and Tabor and Mullins, JJ.

**TABOR, J.**

A mother appeals the order terminating her parental rights to her two-year-old son.<sup>1</sup> She contends the State did not offer clear and convincing evidence on the three statutory grounds relied upon by the juvenile court for termination.<sup>2</sup> Because the mother did not appear at the termination hearing despite receiving notice, and did not contest the State's petition on any ground, we find she did not preserve error on her appellate claims. Accordingly, we affirm.

On November 30, 2010, the Department of Human Services (DHS) removed E.J.T. from the custody of his mother, Lisa, and placed him in foster care. The DHS found Lisa denied him critical care and failed to properly supervise him. The founded assessment resulted from an incident when—under the influence of marijuana—Lisa allowed a friend to point a loaded gun at her young son and found the dangerous gesture to be funny. The mother was on parole for a drug delivery charge in Illinois at the time of the incident.<sup>3</sup> The DHS also reported that Lisa lived with an abusive boyfriend and allowed him to supervise E.J.T. From the time of E.J.T.'s removal in November 2010 until April 2011, Lisa only attended six of the possible forty-seven visits with her son.

On May 11, 2011, the State filed a petition seeking to termination Lisa's parental rights. The social worker assigned to E.J.T.'s case submitted an

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<sup>1</sup> The identity of the child's father was unknown.

<sup>2</sup> The district court determined that termination was proper under Iowa Code sections 232.116(1)(b) (abandonment), (e) (failure to maintain significant and meaningful contact), and (h) (removal for six months and child cannot presently be returned home) (2011).

<sup>3</sup> Lisa gave birth to E.J.T. while she was serving her sentence in an Illinois prison.

affidavit describing Lisa's long history of substance abuse and unaddressed mental health issues. The worker attested that it was difficult to communicate with Lisa because she "is typically either screaming in anger or crying in sadness whenever she interacts with providers or DHS." On June 8, 2011, the child's guardian ad litem reported to the court that E.J.T. was a "very happy little boy" and was "very bonded to his foster mother and father."

The juvenile court set a hearing on the termination petition for July 12, 2011. The mother did not appear. Her attorney stated he was "not terribly surprised" his client did not appear at the termination hearing. He made no claim she lacked notice of the hearing date. Instead, he explained Lisa's position as follows:

It's just always been my understanding that she didn't really feel able to contest it and I think that's the reason she's not here this morning and she doesn't have any fight to put up and she doesn't have any other alternative to present. So with that being said, no evidence, no exhibits, no case to present.

As a general rule, an issue not presented in the juvenile court may not be raised for the first time on appeal. *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994). "Even issues implicating constitutional rights must be presented to and ruled upon by the district court in order to preserve error for appeal." *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003). Because Lisa waived her right to "put up" any fight in the juvenile court, we conclude that she cannot contest the termination for the first time on appeal.

**AFFIRMED.**