

**IN THE COURT OF APPEALS OF IOWA**

No. 2-1138 / 12-2067  
Filed January 9, 2013

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

**N.W., Mother.  
Appellant.**

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Appeal from the Iowa District Court for Dallas County, Virginia A. Cobb,  
District Associate Judge.

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

**AFFIRMED.**

Christine Sand of Wild, Baxter & Sand, P.C., Guthrie Center, for appellant  
mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant  
Attorney General, Wayne Reisetter, County Attorney, and Sean P. Wieser,  
Assistant County Attorney, for appellee State.

Jason Hauser of Pargulski, Hauser & Clark, Des Moines, for appellee  
father.

Michelle Saveraid of the Youth Law Center, Des Moines, attorney and  
guardian ad litem for minor child.

Considered by Eisenhauer, C.J., and Vogel and Vaitheswaran, JJ.

**VOGEL, J.**

A mother, Nicole, appeals the district court's order terminating her parental rights to her son, M.C., born 2011.<sup>1</sup> She contends the district court abused its discretion in not granting the continuance her attorney requested, and the State failed to prove by clear and convincing evidence three of the four statutory grounds for termination. She also argues two of the considerations found in Iowa Code section 232.116(3) (2011) should prevent termination.

Generally we review termination of parental rights cases *de novo*. *In re C.W.*, 554 N.W.2d 279, 281 (Iowa Ct. App. 1996). We, however, review a motion for continuance under an abuse of discretion standard and will only reverse if injustice will result to the party desiring the continuance; denial of a motion to continue must be unreasonable under the circumstances before we will reverse. *Id.*

Nicole's parental rights were terminated pursuant to Iowa Code section 232.116(1)(b) (clear and convincing evidence the child has been abandoned or deserted); (d) (adjudicated child in need of assistance (CINA) for physical abuse/neglect, circumstances continue despite services); (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child); (h) (child three or younger, adjudicated CINA, removed from home for six of last twelve months, and child cannot be returned home).

Nicole argues the district court erred in denying her motion for a continuance of the termination hearing. Nicole was in the courtroom on the day

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<sup>1</sup> M.C.'s biological father consented to the termination of his parental rights and does not appeal.

of the termination hearing and chose to leave before the proceeding started.<sup>2</sup> Her attorney then requested to withdraw as counsel, and in the event the withdrawal was allowed, she requested a continuance to allow Nicole to obtain other counsel. The State and M.C.'s guardian ad litem and attorney all opposed the continuance. The motion to withdraw was denied, and the hearing was held as scheduled. We believe that denying the motion to continue was wholly reasonable, especially considering the facts—Nicole's voluntary and sudden decision to leave the courtroom proceedings—surrounding why the request was made. The district court did not abuse its discretion.

Regarding the merits of her appeal, Nicole claims there was not clear and convincing evidence as to the statutory requirements for termination and the considerations in Iowa Code section 232.116(3)(a) and (c) should have been applied to prevent termination. Because she was not at the hearing, Nicole did not object to the evidence presented, offer her own evidence, or raise any issue before the district court.<sup>3</sup> 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). Because Nicole did not present any

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<sup>2</sup> During the court hearing, M.C. was at his maternal grandparents' home with his grandfather watching him, and there were concerns that Nicole would go to the home and take M.C. M.C.'s custodial guardian went to the grandparents' home to retrieve M.C. and the grandfather would not allow the custodian to leave with M.C., so the court issued and sent a certified court order for the placement of M.C. with law enforcement to the grandparents' home.

<sup>3</sup> Nicole was represented by counsel who briefly cross-examined the Department of Humans Services (DHS) worker involved with the case. However, the questioning was largely centered on why M.C. was placed out of the home in the first place.

evidence or lodge any objection alerting the juvenile court to her complaints, she has not preserved error for our review.<sup>4</sup>

Our primary concern is the child's best interests. *In re J.W.*, 723 N.W.2d 793, 798 (Iowa 2006). M.C. has been residing with his paternal great-aunt and great-uncle since he was removed from his parents' care when he was just shy of five months old. They are willing and able to adopt him. The district court made a record about its belief that the custodians are appropriate caregivers and we agree. Termination of Nicole's parental rights is in M.C.'s best interests.

**AFFIRMED.**

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<sup>4</sup> Even if Nicole has preserved error for review, we need to only affirm on one ground proved by the State and Nicole does not appeal the termination pursuant to Iowa Code section 232.116(1)(e). See *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010).