

**IN THE COURT OF APPEALS OF IOWA**

No. 2-1147 / 12-2071  
Filed January 9, 2013

**IN THE INTEREST OF J.B. AND W.B. JR.,  
Minor Children,**

**S.B., Mother.  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Constance Cohen,  
Associate Juvenile Judge.

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

**AFFIRMED.**

Daniel M. Northfield, Clive, for appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant  
Attorney General, John Sarcone, County Attorney, and Stephanie Brown,  
Assistant County Attorney, for appellee State.

Laura Lockwood of Pargulski, Hauser & Clarke, P.L.C., Des Moines, for  
appellee father.

John P. Jellineck of the Juvenile Public Defender's Office, Des Moines,  
attorney and guardian ad litem for minor children.

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

**VOGEL, J.**

A mother, Sarah, appeals the district court's order terminating her parental rights to her children, J.B., born 2010, and W.B. Jr, born 2009.<sup>1</sup> She argues the State failed to prove by clear and convincing evidence the statutory reasons for termination and two of the considerations found in Iowa Code section 232.116(3) (2011) should prevent termination. We review of parental rights cases de novo. *In re C.W.*, 554 N.W.2d 279, 281 (Iowa Ct. App. 1996).

Sarah's parental rights were terminated pursuant to Iowa Code section 232.116(1)(d) (adjudicated child in need of assistance (CINA) for neglect, circumstances continue despite services) and (h) (child three or younger, adjudicated CINA, removed from home for six of last twelve months, and child cannot be returned home). Prior to the children's third removal from the home in July 2012, Sarah had been offered and received services to prevent the removal for approximately seventeen months.

Sarah was not in the courtroom on the day of the termination hearing though she had proper notice of the proceeding.<sup>2</sup> Her attorney requested a continuance to allow Sarah to attend. The State, the father, and the children's guardian ad litem and attorney all opposed the continuance. It was denied and Sarah does not appeal the denial.

Sarah claims there was not clear and convincing evidence as to the statutory requirements for termination and the considerations in Iowa Code

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

<sup>2</sup> Sarah was arrested for a drug offense the night before the termination hearing but was released from jail yet that evening.

section 232.116(3)(a) and (c) should have been applied to prevent termination. Because she was not at the hearing, Sarah did not 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 Sarah did not present any evidence or lodge any objection alerting the juvenile court to her complaints, she has not preserved error for our review.

Our primary concern is the child's best interests. *In re J.W.*, 723 N.W.2d 793, 798 (Iowa 2006). The children have been shuttled in and out of foster care for a large portion of their lives: nine placement disruptions in twenty-months. The children have been residing with a family member and, she is willing and able to adopt them. The children have special medical needs, and the family member is meeting those needs; they feel safe and secure in her home. We agree with the district court's well reasoned opinion and that termination of Sarah's parental rights is in the children's best interests.

**AFFIRMED.**

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<sup>3</sup> Sarah was represented by counsel who objected to the admission of two exhibits: one relating to the mother's arrest the night before and one relating to jail phone calls. The objection was based on foundational concerns and hearsay, not relevance. Neither of these exhibits are wholly persuasive as to the issues at hand, nor does the lodged objection (lack of foundation and hearsay) further Sarah's argument. Sarah's attorney also called one witness, a Department of Human Services worker, who authored a report dated July 23, which led to the children's most recent removal. The attorney started questioning the worker to challenge the findings of the report. The findings of that report, however, had been accepted in the August 16 court order, which was not appealed. The juvenile court therefore properly found any questioning of the accuracy of the contents of the report was *res judicata* and impermissible.