

**IN THE COURT OF APPEALS OF IOWA**

No. 2-212 / 12-0074  
Filed March 28, 2012

**IN THE INTEREST OF N.B.,  
Minor Child,**

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

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

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Brandy Lundy of Lundy Law Office, Cedar Rapids, for appellant mother.

Edward Crowell, Cedar Rapids, for father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, Jerry Vander Sanden, County Attorney, and Rebecca Belcher,  
Assistant County Attorney, for appellee State.

Julie Trachta, Linn County Advocate, Cedar Rapids, for minor child.

Considered by Eisenhauer, C.J., and Danilson and Bower, JJ.

**EISENHAUER, C.J.**

A mother appeals from the order terminating her parental rights to her child. She contends the statutory ground for termination is not supported by clear and convincing evidence and termination is not in the child's best interests. We review her claims de novo, *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010), and affirm.

The child was born three weeks premature in September 2010. Based on concerns the mother, then age eighteen, could not care for the child because of the mother's mental health issues, the department of human services provided voluntary services to the family from September through December. On January 4, 2011, the mother called a local hospital emergency room to say the child had fallen off the bed and was unresponsive. When the mother did not take the child to the hospital, a child abuse assessment was made, which was founded for denial of critical care and lack of supervision. The child was removed from the parents' care on January 6 and adjudicated in need of assistance in March. The child tested positive for exposure to cocaine. The father, who is twenty-three years older than the mother, has a chronic, substance abuse problem, and his relationship with the mother includes domestic violence. The mother has a history of depression, conduct disorder, reactive attachment disorder, and currently is diagnosed with adjustment disorder with depressive and anxious features. Neurological testing of the mother indicates borderline intellectual functioning such that she could learn to do routine childcare tasks such as feeding, dressing, and bathing, but would struggle with more complex tasks such as scheduling doctor appointments or dealing with any non-routine situations.

The mother received multiple services, including parenting skill development, home monitoring, aftercare, and fully-supervised visitation. Both parents were homeless and unemployed when this case began. They later lived together for a time, then separated. The child's father lives with his own father.

In August the State petitioned to terminate the parental rights of both parents. By the time of the termination hearing in December the mother had rented an apartment with financial assistance, but was not yet employed. She admitted lying to case workers, service providers, and the court over the course of this case concerning her housing and her troubled and violent relationship with the father. The father consented to termination of his parental rights and has not appealed.

The court found the mother could not parent the child alone, she is unstable emotionally and mentally, and she "lacks insight into how her violent relationship with [the father] is a barrier to her reunification with [the child]." The court found the parents' relationship "rises to a continued risk of imminent harm if [the child] were in [the mother's] care." The court terminated the father's parental rights under Iowa Code section 232.116(1)(a), (h), and (j) (2011), and the mother's parental rights under section 232.116(1)(h). The court concluded termination was in the child's best interest as set forth in section 232.116(2) and no exceptions contained in section 232.116(3) applied. The mother appeals.

The mother contends the State failed to prove by clear and convincing evidence the child could not be returned to her care at the time of the termination. See Iowa Code § 232.116(1)(h)(4). She argues she had suitable

housing and no concerns about her parenting abilities were raised based on observations in visitation.

The mother had rented an apartment with financial assistance. She had access to some “aging out” funds, but those were not sufficient to maintain the apartment. She testified inconsistently about the job she either had obtained or expected to obtain a couple of weeks after the termination hearing. She could not say for certain if or when the job would begin or whether it was full- or part-time. The apartment had only an inflatable bed at the time of the hearing. The case worker had not been able to inspect the apartment because the mother had cancelled at least two prior inspection times. Although the mother testified she no longer was in a relationship with the father, her testimony was not credible. The father’s substance abuse and propensity toward domestic violence is as much a safety concern for us as it was for the court and service providers because the mother is not able to protect herself, and the child would be at risk. The mother is not able to care for the child without assistance. We conclude the child could not safely be returned to her care at the time of the termination and affirm the statutory ground for termination.

The mother’s best-interest claim combines the analysis we make under section 232.116(2) and (3). She argues termination is not in the child’s best interest because the mother “has a very close bond” with the child. In considering whether to terminate parental rights once a statutory ground exists, we give primary consideration to “the child’s safety, to the best placement for furthering the long term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child.” Iowa Code

§ 232.116(2); *P.L.*, 778 N.W.2d at 40. The mother's relationship with the father and her borderline intellectual functioning convince us termination best promotes the child's safety. The mother's limited abilities, mental health issues, and troubled past provide clear and convincing evidence termination and availability for adoption is "the best placement for furthering the long term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child." Iowa Code § 232.116(2).

We acknowledge the mother loves the child and there is some parent-child bond. The mother testified the child "does know who I am now" and "I do love my [child] a lot." However, the discretionary exception in section 232.116(3) requires more than a parent-child bond. It requires "clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship." *Id.* § 232.116(3)(c). This child, who was fifteen months old at the time of the termination hearing, had been out of her parents' care for eleven of those months. At the time of the termination the mother had one, three-hour visit with the child each week. Although it is clear the mother loves her child, "our consideration must center on whether the child will be disadvantaged by termination." *In re D.W.*, 791 N.W.2d 703, 709 (Iowa 2010). We do not find termination would be detrimental to the child based solely on the parent-child relationship with the mother.

**AFFIRMED.**