

**IN THE COURT OF APPEALS OF IOWA**

No. 2-418 / 12-0711  
Filed June 13, 2012

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

**A.C., Father,**  
Appellant,

**R.T., Mother,**  
Appellant.

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

A mother and a father appeal the termination of their parental rights.

**AFFIRMED ON BOTH APPEALS.**

William A. Eddy of Eddy Law Firm, Indianola, for appellant father.

Charles S. Lavorato, Polk City, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Jon E. Anderson, Assistant County Attorney, for appellee State.

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

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ.

**POTTERFIELD, J.**

A mother and a father appeal the termination of their parental rights to their daughter, N.C. The father argues only that his rights should not be terminated because the mother could care for the child. Because grounds for termination exist under Iowa Code section 232.166(1)(h) (2011), any bond between the mother and child is insufficient to militate against termination, and termination of the rights of both parents is in the best interests of the child, we affirm.

**I. Background Facts and Proceedings.**

The child was born in March 2011 testing positive for THC, the active ingredient in marijuana. The child was removed from the mother's custody in May 2011, and on June 2 was adjudicated a child in need of assistance (CINA).

The mother has refused to follow through with substance abuse services and mental health treatment. Since the beginning of these proceedings, the mother provided one urine sample that was negative for illegal substances—in October 2011; she has otherwise tested positive or refused to provide samples for analysis. The mother did not consistently attend visits with her child. At the time of the termination hearing, the mother was homeless, jobless, and without insight as to the effects of her lifestyle choices on her ability to parent.

The father had no permanent residence or job. He has a pending criminal charge for failure to register as a sex offender and, at the time of the termination hearing, was in jail awaiting trial on charges of possession of crack cocaine and intent to deliver.

The district court terminated the mother's and father's parental rights pursuant to Iowa Code section 232.116(1)(b), (d), (e), (h), and (l) (2011).<sup>1</sup> Both parents now appeal.

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<sup>1</sup> Section 232.116(1) in relevant part provides:

Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

....

b. The court finds that there is clear and convincing evidence that the child has been abandoned or deserted.

....

d. The court finds that both of the following have occurred:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

e. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "significant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

....

h. The court finds that all of the following have occurred:

(1) The child is three years of age or younger.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the

## II. Scope and Standard of Review.

Our review is de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). We give weight to the juvenile court's findings of fact even though we are not bound by them. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010).

We will uphold an order terminating parental rights where there is clear and convincing evidence the grounds for termination under section 232.116 have been proved. *Id.* Evidence is clear and convincing where there are no serious doubts as to the correctness or conclusions of law drawn from the evidence. *Id.* We need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

## III. Discussion.

### A. Mother's Parental Rights.

1. *Grounds for termination exist.* There is clear and convincing evidence to support termination of the mother's parental rights pursuant to Iowa Code section 232.116(1)(h). The child is under three years of age, has been adjudicated CINA, has been out of the mother's custody for at least six months,

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last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

*I.* The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

and cannot presently be returned to the mother's care due to the mother's ongoing and unresolved substance abuse issues, and lack of home and visible means of support.

The mother contends there is no evidence her drug use negatively impacts her parenting. The record belies the mother's claim—her substance abuse and nomadic lifestyle are the antitheses of a safe, stable home for the child. Further detail is unnecessary.

This child was born with drugs in her system in March 2011, and has been out of the mother's custody since May 2011. The Iowa Department of Human Services performed its role of providing services. The mother chose not to participate in those services or address her substance abuse problem. Our law mandates that termination proceedings be viewed "with a sense of urgency," once the statutory time limits have elapsed. See Iowa Code § 232.116(1)(h)(3) (authorizing termination after child has been out of home for six of previous twelve months); *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000); *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) (after statutory time, the patience with parents must yield to needs of the child). There is clear and convincing evidence termination of parental rights was proper under section 232.116(1)(h).

2. *Section 232.116(2) considerations.* Iowa Code section 232.116(2) requires us to "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). In light of the mother's unresolved substance abuse issues and failure to engage in the services provided, we conclude the termination of

parental rights will best further the long-term nurturing and growth of the child. *Id.* § 232.116(2).

3. *Parent-child bond does not preclude termination.* The mother contends termination is precluded because a bond has developed between her and the child. The juvenile court, however, found the child “was never able to properly bond with her mother” as the mother “was under the influence of marijuana and after birth did not act to meet [the child’s] daily needs or need for regular nurture.” The mother did not engage in court-ordered attachment assessment and dyadic therapy if appropriate. Iowa Code section 232.116(3)(c) states the court “need not terminate” parental rights if it finds “[t]here is 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.” There is nothing in this record to support the existence of a bond sufficient to preclude termination. See Iowa Code § 232.116(3)(c).

*B. Father’s Parental Rights.*

The father’s appeal is based entirely upon his assertion that the child could be returned to *the mother* and thus his parental rights were improperly terminated. He has no standing to assert that argument. See *In re K.R.*, 737 N.W.2d 321, 323 (Iowa Ct. App. 2007) (stating the father did not have standing to assert an argument on the mother’s behalf “in an effort to ultimately gain a benefit for himself, that is, the reversal of the termination of *his* parental rights”); *In re D.G.*, 704 N.W.2d 454, 460 (Iowa Ct. App. 2005) (stating that one parent cannot assert facts or legal positions pertaining to the other parent).

The father makes no independent claim as to his own parenting abilities or relationship with the child. Having already concluded the mother's parental rights were properly terminated, we also affirm the termination of the father's parental rights.

**AFFIRMED ON BOTH APPEALS.**