

**IN THE COURT OF APPEALS OF IOWA**

No. 2-475 / 12-0526  
Filed June 27, 2012

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

**S.G., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Black Hawk County, Steven C. Clarke, Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Nina Forcier of Nydle & Forcier, P.L.L.C., Waterloo, for appellant mother.

A.R., Waterloo, pro se father.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kathleen A. Hahn, Assistant County Attorney, for appellee State.

Mary McGee-Light of the Juvenile Public Defender's Office, Waterloo, for minor child.

Considered by Vaitheswaran, P.J., and Doyle and Danilson, JJ.

**DOYLE, J.**

A mother appeals from the order terminating her parental rights to her child, E.C. She claims (1) the State failed to prove the grounds for termination, (2) termination was not in the child's best interests, and (3) termination was not necessary due to the closeness of her relationship with the child. We affirm.

***I. Background Facts and Proceedings.***

E.C. was born in March 2010 and tested positive for marijuana. Shortly thereafter, the child came to the attention of the Iowa Department of Human Services (Department). The Department began offering the mother services, but the mother did not consistently follow through with the services. She then moved out of Iowa for a few months, and she returned in December 2010.

In January 2011, the mother entered a treatment facility after it was reported she was abusing substances, alcohol, and prescription medication. However, she only remained there a few weeks, leaving against the advice of her counselor. In February 2011, the child was removed from the mother's care and placed in the care of his aunt. The juvenile court later adjudicated the child a child in need of assistance (CINA).

The mother continued to struggle with drug use and mental health issues, entering several treatment programs during the pendency of this case, but she was either asked to leave the program or simply left during treatment against medical advice. The child was twice returned to the mother's care while she resided at treatment facilities, but those placements were short-lived, lasting no longer than about a month. In July 2011, the child was placed in foster care, where he has since remained.

The State filed a petition to terminate the mother's parental rights in January 2012. Following a hearing, the juvenile court entered an order terminating the mother's parental rights under Iowa Code sections 232.116(1)(h) and (j) (2011). The mother appeals.

## ***II. Scope and Standards of Review.***

We review the juvenile court's decision to terminate parental rights de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). The State must prove grounds for termination by clear and convincing evidence. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

## ***III. Discussion.***

### ***A. Grounds for Termination and Additional Time.***

We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). In this case, we choose to focus our attention on section 232.116(1)(h). Under that section, parental rights may be terminated if the court finds by clear and convincing evidence that the child is three years of age or younger, has been adjudicated a CINA, has been removed from the physical custody of his parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days, and there is clear and convincing evidence that the child cannot be returned to the custody of the child's parents at the present time. Iowa Code § 232.116(1)(h).

The mother does not dispute the elements of ground (h) were met. Rather, she asserts the child would be able to be returned to her care within a reasonable amount of time, an element of ground (j). While the law requires a

“full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” this patience has been built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). The legislature incorporated a six-month limitation for children adjudicated a CINA aged three and younger. Iowa Code § 232.116(1)(h)(3). Our supreme court has stated that “the legislature, in cases meeting the conditions of [the Iowa Code], has made a categorical determination that the needs of a child are promoted by termination of parental rights.” *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990) (discussing Iowa Code § 232.116(1)(e)). The public policy of the state having been legislatively set, we are obligated to heed the statutory time periods for reunification.

By the time of the termination hearing, the child had been out of the mother’s care for almost half of his young life. Although the mother was again in treatment, the statutory six-month period expired with little evidence that she could provide the necessary stability to safely parent the child. “A parent cannot wait until the eve of termination, after the statutory time periods for reunification have expired, to begin to express an interest in parenting.” *C.B.*, 611 N.W.2d at 494. “When the statutory time standards found in section 232.116 are approaching, and a parent has made only minimal progress, the child deserves to have the time standards followed by having termination of parental rights promptly pursued.” *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997), *overruled on other grounds by P.L.*, 778 N.W.2d at 39. Reviewing the record de novo, we agree with the juvenile court’s conclusion:

[The mother] has had services from the [Department] since the time this child was born. She’s had multiple opportunities to complete treatment and resume custody of her child. A parent who

cannot care for herself certainly cannot be left to care for a child. While [the mother] has expressed love for [the child] and has appropriately cared for him under supervision, those experiences were not sufficient motivation for her to make a meaningful change. An additional six months will not assist her in that effort. An additional six months would be an additional six months during which [the child] would be denied a permanent and loving home and a forever family.

We find the State has met its burden as to ground (h), and we find no error in the juvenile court's refusal to grant the mother additional time for reunification.

***B. Best Interests and Iowa Code Section 232.116(3) Considerations.***

If a statutory ground for termination is determined to exist, the court may terminate a parent's parental rights. *P.L.*, 788 N.W.2d at 37. In considering whether to terminate, the court must then apply the best-interest framework established in section 232.116(2). *Id.* The legislature highlighted as primary considerations: the children's safety, the best placement for furthering the long-term nurturing and growth of the children, and the physical, mental, and emotional condition and needs of the children. *Id.*; see also Iowa Code § 232.116(2). "A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests." *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially). Those best interests are to be determined by looking at the child's long-range as well as immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). We are to consider what the future likely holds for the child if the child is returned to their parents. *In re J.K.*, 495 N.W.2d 108, 110 (Iowa 1993). Insight for that determination is to be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing.

*In re L.L.*, 459 N.W.2d 489, 493-94 (Iowa 1990); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

Additionally, even if a court finds termination appropriate under section 232.116(2), a court need not terminate the relationship between the parent and children if any of the enumerated circumstances contained in section 232.116(3) exist. See *P.L.*, 778 N.W.2d at 37. However, the exceptions set forth in 232.116(3) have been interpreted as permissive, rather than mandatory. *J.L.W.*, 570 N.W.2d at 781. In determining whether to apply this section, we consider the child's long-term and immediate best interests. See *P.L.*, 778 N.W.2d at 37. A court has discretion, based on the unique circumstances of each case and the best interests of the child, whether to apply this section to save the parent-child relationship. *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa Ct. App. 1993).

Under the facts and circumstances in this case and considering the child's long-term and immediate best interests, we agree with the juvenile court that termination of the mother's parental rights is in the child's best interests, and we find no abuse of discretion in the court's declination to invoke section 232.116(3). We recognize and commend the efforts the mother has made in attempting to address her mental health and substance abuse issues; however, the mother has yet to complete any treatment program, let alone show a significant period of sobriety. The child has been out of the mother's care for almost half of his life. While we do not doubt her love for the child, "[i]t is well-settled law that we cannot deprive a child of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child." *P.L.*, 778 N.W.2d at

41. Children are not equipped with pause buttons. “The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems.” *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). “At some point, the rights and needs of the child rise above the rights and needs of the parents.” *J.L.W.*, 570 N.W.2d at 781; see also *P.L.*, 778 N.W.2d at 39-40. The children should not be forced to endlessly suffer the parentless limbo of foster care. *In re J.P.*, 499 N.W.2d 334, 339 (Iowa Ct. App. 1993). We note the child is doing well in foster care, and the foster parents are willing to adopt the child. We therefore affirm on these issues.

We accordingly affirm the juvenile court’s order terminating the mother’s parental rights.

**AFFIRMED.**