

**IN THE COURT OF APPEALS OF IOWA**

No. 2-754 / 12-1234  
Filed August 22, 2012

**IN THE INTEREST OF J.P.,  
Minor Child,**

**R.A., Mother,**  
Appellant.

**J.P., Father**  
Appellant.

---

Appeal from the Iowa District Court for Clinton County, Phillip J. Tabor,  
District Associate Judge.

A mother and father separately appeal the order terminating their parental  
rights. **AFFIRMED.**

Neill A. Kroeger, LeClaire, for appellant mother.

J. David Zimmerman, Clinton, for appellant father

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant  
Attorney General, Mike Wolf, County Attorney, and Cheryl J. Newport, Trial  
Counsel, Assistant County Attorney, for appellee State.

Patricia Rolfstad, Davenport, attorney and guardian at litem for minor  
child.

Considered by Vogel, P.J., and Danilson and Mullins, JJ. Tabor, J. takes  
no part.

**VOGEL, P.J.**

Joseph and Rosalin appeal the termination of their parental rights to their son, J.P., born in June 2010. Rosaline asserts there was not clear and convincing evidence to support the juvenile court findings. Joseph asserts he should have been allowed an additional three months time to work towards reunification. We affirm.

We review termination of parental rights cases de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

Joseph and Rosalin's rights were terminated under Iowa Code sections 232.116(1)(d) (child CINA for abuse or neglect, circumstances continue despite services), (e) (child CINA and removed for six consecutive months, clear and convincing evidence that parents have not maintained contact, and have made no reasonable efforts to resume care), (h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home), and (i) (child CINA for abuse or neglect causing significant risk to the child, clear and convincing evidence that services would not correct the condition) (2011). Rosalin's rights were also terminated under Iowa Code section 232.116(1)(j) (child CINA, parent has substance abuse problem, child cannot be returned home within a reasonable time).

This family began receiving services in November 2010 due to substance abuse by the parents. J.P. was adjudged to be in need of assistance pursuant to sections 232.2(6)(b), (c)(2), and (n) on May 3, 2011. The child has been in and

out of Rosalin's care largely depending on which type of treatment she was attempting for her substance abuse and her lack of success with the services offered. He was first removed from her care in March 2011 and was returned in May 2011 to live with Rosalin and her mother under a Department of Human Services (DHS) safety plan until Rosalin could be admitted into another treatment program. Rosalin was discharged from Hightower Place treatment program for the second time on December 18, 2011; she was observed stumbling, disoriented, and slurring her speech while caring for her son. J.P. was subsequently placed in foster care, where he has remained.

Rosalin is an admitted drug user and has been unwilling to address her substance abuse or mental health issues seriously. The juvenile court found her testimony regarding any progress she has made not credible in part because of her positive drug screen during the pendency of this termination action as well as her unwillingness to re-enter treatment. She has clearly not addressed her substance abuse issues so as to allow J.P. to be safely returned to her care. See *In re J.K.*, 495 N.W.2d 108, 113 (Iowa 1993) (stating that when a parent has a severe chronic substance abuse problem, although they claim the problems are in the past, there is a high danger of reoccurrence). As Rosalin has made little or no progress in addressing her personal struggles, and the record supports that reasonable services were provided, we affirm the district court's finding under 232.116(1)(I) (2011). *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996) ("When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm.").

Joseph does not contest the specific grounds for termination but rather requests additional time to work towards reunification. Joseph has been incarcerated for almost the entirety of J.P.'s life as well as during this proceeding. On May 26, 2011, Joseph pled guilty to domestic abuse assault causing injury, second offense, and to child endangerment. He was released from custody, but his probation was revoked when he visited his probation officer extremely intoxicated. At the time of the termination hearing his anticipated release from prison was August 2012, however, none of his housing options upon release would be appropriate environments in which to raise a child.

Joseph claims the district court should have deferred termination for an additional three months, based on his status as a "model inmate." While we commend all efforts to move towards a more productive life, we find his efforts to be too little, too late. Joseph has been incarcerated for the majority for J.P.'s life and he showed little interest in J.P.'s life before his incarceration. Our legislature has established time periods for parents to demonstrate they can safely parent. Iowa Code § 232.116(1)(h); see *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) (quoting *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987) ("It is unnecessary to take from the child's future any more than is demanded by statute."). This time period has elapsed, and Joseph cannot show the consistent ability to provide adequately for J.P.'s needs. We agree with the district court that clear and convincing evidence established J.P. could not have been placed in Joseph's care at the time of the termination hearing or in a reasonable time thereafter.

Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section

232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider “the child’s safety,” “the best placement for furthering the long-term nurturing and growth of the child,” and “the physical, mental, and emotional condition and needs of the child.” *Id.* At the time of the hearing, DHS had been involved with J.P. for over seventy-five percent of his life, and he has been placed out of home for over six months. J.P. deserves the stability and nurturing that under the circumstances, only termination and adoption can provide. We conclude termination of Joseph and Rosalin’s parental rights was in J.P.’s best interests as set forth under the factors in section 232.116(2).

We affirm the district court’s termination of Joseph and Rosalin’s parental rights.

**AFFIRMED.**