

**IN THE COURT OF APPEALS OF IOWA**

No. 3-001 / 12-1475  
Filed February 13, 2013

**IN THE INTEREST OF L.S.,  
Minor Child,**

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

**R.G.N., Father,  
Appellant.**

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

A mother appeals the termination of her parental rights to her child.

**AFFIRMED.**

J. David Zimmerman, Clinton, for appellant-mother

Lucy Valainis, Davenport, for appellant-father.

Thomas J. Miller, Attorney General, Teresa Baustian, Assistant Attorney  
General, Mike Wolf, County Attorney, and Cheryl Newport, Assistant County  
Attorney, for appellee.

Thomas Longergan of Mayer, Lonergan & Rolfes, Clinton, attorney and  
guardian ad litem for minor child.

Considered by Eisenhauer, C.J., and Danilson and Bower, JJ. Tabor, J.,  
takes no part.

**BOWER, J.**

A mother appeals the termination of her parental rights to her child.<sup>1</sup> She contends termination was not required because the child is in the care of a relative. In the alternative, the mother requests additional time to prove herself as a fit parent.

Because the child's best interests require termination, we affirm the juvenile court order terminating the mother's parental rights.

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

The child, born in October 2011, came to the attention of the Department of Human Services (DHS) at two months of age. The mother had been living with the child's maternal grandmother, but moved from her home in December 2011. The mother was suicidal and left a suicide note the week before leaving the maternal grandmother's home, but did not attempt suicide. The child was removed from the mother's care and placed with the maternal grandmother. On January 3, 2012, the child was adjudicated to be in need of assistance (CINA).

There are concerns about the mother's mental health. She has been diagnosed with bipolar disorder and borderline personality disorder. She has a history of attention deficit disorder and oppositional defiance disorder as well. Throughout the case, the mother has not been consistent in taking her prescribed medications. She attempted suicide as recently as May of 2012. Two

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<sup>1</sup> The father's parental rights were also terminated. His appeal was dismissed by our supreme court pursuant to Iowa Rule of Appellate Procedure 6.201(2) for failure to file a petition on appeal.

weeks before the July 2012 termination hearing, the mother had gotten drunk and cut herself with broken glass.

The evidence shows a mother who acts impulsively and to the detriment of her child. For instance, the mother cancelled a family team meeting and psychological testing one day before both were scheduled to occur because she had walked to Dixon, Illinois in order to visit a man she had met online. The mother got a job in March 2012, but quit less than two weeks later because she was not earning as much money as she would have liked and because the job required her to stand on her feet. The mother also cancelled several scheduled visitations with the child or ended them early.

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

We review termination of parental rights proceedings de novo. *In re A.B.*, 815 N.W.2d 764, 773 (Iowa 2012). While we are not bound by the juvenile court's fact-findings, we do give them weight, especially when assessing witness credibility. *Id.*

## ***III. Analysis.***

Termination of parental rights under Iowa Code chapter 232 (2011) follows a three-step analysis. See *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). The first step is to determine whether a ground for termination under section 232.116(1) is established. *Id.* If so, the court then applies the best-interest framework set out in section 232.116(2) to determine if the grounds for termination should result in a termination of parental rights. *Id.* If the statutory best-interest framework supports termination of parental rights, the court must finally consider if any of

the factors set out in section 232.116(3) weigh against termination of parental rights. *Id.*

The juvenile court terminated the mother's parental rights pursuant to Iowa Code sections 232.116(1)(d), (e), (h), (i), and (j). The mother does not contest the State proved the grounds for termination by clear and convincing evidence. Instead, she argues the provision of section 232.116(3)(a) should be applied to avoid termination. This section states that the court need not terminate the parent-child relationship if a relative has legal custody of the child. Iowa Code § 232.116(3)(a). The factors weighing against termination in section 232.116(3) are permissive, not mandatory. See *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 39-40. The court has discretion, based on the unique circumstances of each case and the best interests of the child, whether to apply the factors in this section to save the parent-child relationship. *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa Ct. App. 1993), overruled on other grounds by *P.L.*, 778 N.W.2d at 39-40.

Given the young age of the child and the very short time the child was in the mother's care, we find it is in the child's best interests that the mother's parental rights be terminated so the child can be adopted, rather than establish a long-term guardianship. See *In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989). This child requires and deserves the permanency of a loving family. As the juvenile court found, the mother's performance in this case has given no indication that she will ever be able to provide a stable home for the child now or after a guardianship is established.

The mother also requests termination be delayed to allow her additional time to prove herself as a parent. While the law requires a “full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” this patience is built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). This is because patience on behalf of a parent can quickly translate into intolerable hardship for the child. *In re R.J.*, 436 N.W.2d 630, 636 (Iowa 1989). “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.

The mother’s past performance is indicative of the quality of care she is capable of providing in the future. See *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Given the importance of establishing child custody quickly so the children are not suffering indefinitely in parentless limbo, *id.*, we find the children’s best interests are not served by delaying termination.

Because the child’s best interests require termination, we affirm the juvenile court.

**AFFIRMED.**