

**IN THE COURT OF APPEALS OF IOWA**

No. 6-180 / 06-0128  
Filed May 24, 2006

**IN THE INTEREST OF M.J.C., III**  
**Minor Child,**

**T.M., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Linn County, Patrick R. Grady,  
Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Dawn Wilson, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Harold L. Denton, County Attorney, and Rebecca A. Belcher,  
Assistant County Attorney, for appellee-State

Phillip Seidl, Cedar Rapids, attorney for child.

Considered by Zimmer, P.J., and Miller and Hecht, JJ.

**HECHT, J.**

Tamera, the mother of M.J.C., III, appeals from the juvenile court order terminating her parental rights.<sup>1</sup> She contends the juvenile court erred in finding M.J.C. could not be returned to her. Tamera also claims on appeal that reasonable services in furtherance of reunification were not provided to her. We affirm.

Three children were born of the relationship between Tamera and Mark, who were never married.<sup>2</sup> Jessica, born in 2000, and Jennifer, born in 2003, both tested positive for cocaine at birth. Tamera and Mark, who had a history of unremitting drug addictions, consented to the termination of their parental rights to Jessica and Jennifer on April 28, 2005. When M.J.C., the third child of Tamera and Mark, was born in 2005, he, too, tested positive for cocaine. He was removed from his parents' custody before he was discharged from the hospital and has never lived with Tamera or Mark. A petition was filed on September 20, 2005 requesting termination of both parents' rights to M.J.C. under Iowa Code section 232.116(1)(g) (2005) (child in need of assistance, prior termination of parents' other children, parents lack ability or willingness to respond to services, additional period of rehabilitation would not correct problem), (h) (child three years or younger, in need of assistance, removed from parents' custody for six consecutive months, cannot be returned to parent's custody at present time), and (l) (child in need of assistance, parents have severe substance problem,

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<sup>1</sup> The rights of the father, Mark, were also terminated, but his rights are not the subject of this appeal.

<sup>2</sup> Tamera is also the mother of a fourth child who was born when Tamera was sixteen years old.

reunification not possible within reasonable time). After a hearing on the merits, the district court entered an order terminating the parental rights of both parents under sections 232.116(1)(g), (h), and (k).<sup>3</sup>

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern in termination proceedings is the best interest of the child. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

We affirm the order terminating Tamera's parental rights under section 232.116(1)(h). Although we commend Tamera's recent efforts to abstain from using illegal drugs, find employment, and obtain a residence to live independently, we agree with and adopt as our own the juvenile court's finding that M.J.C. could not be returned to Tamera's custody at the present time without being at risk of being in need of assistance as defined by sections 232.2(6)(c)(2) (failure to supervise) and 232.2(6)(n) (drug or alcohol abuse results in inadequate care). With a long history of drug addiction, serial unsuccessful drug treatments, and repeated relapses into drug use even during pregnancy and during the pendency of the termination proceedings for two of her other children, Tamera

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<sup>3</sup> Although the juvenile court's termination order referred to section 232.116(1)(k) (authorizing termination if parent's chronic mental illness precludes reunification) as a ground for termination, that reference was clearly unintended as section 232.116(1)(k) was not alleged as a ground for termination in the petition nor proved by clear and convincing evidence in the record. It is clear that the court intended to order termination of both parents' rights under section 232.116(1)(l), the elements of which were pled and proved, notwithstanding the errant reference to section 232.116(1)(k). In any event, no reversible error resulted from this error because we do not affirm the termination order under either 232.116(l) or (k).

was clearly unable to provide safe and suitable care for an infant at the time of the termination hearing. Tamera's request for additional time to prove her ability to serve as a responsible and safe parent for M.J.C. is rejected. As the juvenile court aptly observed, "given [M.J.C.'s] age and the fact he has never lived with [Tamera], [a] further period of delay is potentially detrimental to his emotional development and contravenes the priority for permanence that underscores the timelines of Iowa Code section 232.116(1)(h)." Moreover, our primary concern in this termination case must be the best interest of M.J.C. Insight as to the child's best interest "can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing." *Dameron*, 306 N.W.2d at 745.

Tamera further asserts the State failed to make reasonable efforts to reunify her with M.J.C. She fails, however, to specify what additional services should have been provided by the State. Finding no evidence that Tamera requested additional services in a timely manner, we must conclude this issue has not been preserved for our review. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

**AFFIRMED.**