

IN THE COURT OF APPEALS OF IOWA

No. 6-649 / 06-1073
Filed September 21, 2006

**IN THE INTEREST OF B.C.H.,
Minor Child,**

**S.R.B., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
District Associate Judge.

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

AFFIRMED.

G. David Binegar, Davenport, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, William E. Davis, County Attorney, and Gerda Lane, Assistant
County Attorney, for appellee-State.

Patricia Rolfstad of Zamora, Taylor, Clark, Alexander & Woods,
Davenport, for appellee-father.

Catherine Alexander of Zamora, Taylor, Clark, Alexander & Woods,
Davenport, guardian ad litem for minor child.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

EISENHAUER, J.

A mother appeals from the termination of her parental rights to her child. She contends the State failed to prove the grounds for termination by clear and convincing evidence. She also contends termination is not in the child's best interest. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

The mother's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(e) and (h) (2005). 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). Termination is proper under section 232.116(1)(h) where:

- (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 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.

There is no dispute the first three elements of this section have been proven. Upon de novo review, we conclude there is clear and convincing evidence the child cannot be returned to the mother's care.

The child was adjudicated in need of assistance (CINA) in March 2005 at thirteen months of age. He was placed in foster care where he remains. An older sister is in long-term foster care. This child was adjudicated CINA because both parents suffer from mental illness and are substance abusers.¹ The mother

¹ The father consented to termination of his parental rights to the child and is not involved in this appeal.

also has a limited ability to retain information and to apply learned parenting skills consistently.

The mother has been unable to adequately address the concerns that led to the CINA adjudication. She has failed to complete substance abuse treatment and has used crack cocaine as recently as January 31, 2006. She abused prescription drugs in a May 2006 suicide attempt. The mother also admits to using alcohol as recently as June 2006. The mother has been unable to successfully manage her mental health and substance abuse issues. She is unable to provide consistent and appropriate discipline to her child, provide proper supervision, or demonstrate appropriate parenting skills. Returning the child to her care would subject the child to the risk of harm which would justify the adjudication of the child as a child in need of assistance. Accordingly, termination is proper under section 232.116(1)(h).

We further conclude termination is in the child's best interest. The mother has demonstrated an inability to properly care for her child. The child is doing well in his current foster home. His foster parents are willing to adopt him. Children should not be forced to endlessly await the maturity of a natural parent. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). At some point, the rights and needs of the child rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). That time is now.

AFFIRMED.