

**IN THE COURT OF APPEALS OF IOWA**

No. 7-012 / 06-2013  
Filed January 31, 2007

**IN THE INTEREST OF T.S.,  
Minor child,**

**L.A.S., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Linn County, Susan Flaherty,  
Associate Juvenile Judge.

A mother appeals the district court's order terminating her parental rights.

**AFFIRMED.**

Robert Kimm, Cedar Rapids, for appellant mother.

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

Melody Butz, Cedar Rapids, for the minor child.

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

**VOGEL, J.**

Leslie appeals from the district court's order that terminated her parental rights to her daughter, Taryn.<sup>1</sup> She argues that the district court abused its discretion by denying her request for additional time to comply with services and by terminating her rights instead of allowing for a guardianship placement with Leslie's relatives. Upon our de novo review, *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006), we affirm.

Leslie has a history of substance abuse and criminal activity. Her lifestyle brought Taryn to the attention of the Iowa Department of Human Services (DHS) in February 2004 when Taryn tested positive for exposure to methamphetamine. Leslie denied knowing how Taryn was exposed and agreed to participate in family centered services and substance abuse education. DHS discontinued involvement with the family that September following Leslie's completion of services. When Leslie was in a relationship with a woman named Lisa, she was arrested in January 2005, convicted of forgery for writing checks on the bank account of Lisa's mother, and subsequently placed on probation. Lisa's children were removed from her care in June 2005 after testing positive for cocaine exposure, but she refused to inform DHS of Leslie or Taryn's whereabouts. DHS soon located Leslie, who denied using drugs and indicated her intention to continue her relationship with Lisa despite the removal of Lisa's children, Lisa's drug abuse, and criminal activity. Two days later, Leslie tested positive for cocaine at her first scheduled meeting with her probation officer. She admitted to smoking crack cocaine with Lisa two days prior to the meeting and to recently

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<sup>1</sup> Termination of the legal father's or biological father's parental rights was not appealed.

using marijuana. Taryn also tested positive for cocaine, was removed by DHS, and adjudicated a child in need of assistance (CINA). Leslie's progress with services was minimal, and after fourteen months, the case proceeded to termination. The district court found Taryn's best interests and the evidence supported termination under Iowa Code section 232.116(1)(f) (2005) (child age four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home).

Leslie contends that she should have been given more time to comply with services and/or guardianship placement with a relative should have been ordered instead of termination. Leslie was incarcerated at the time of termination, due to a probation revocation. Although she had recently stopped using drugs and was receiving mental health treatment, these were due to her confinement in a controlled prison environment. Leslie failed to demonstrate a long-term commitment to maintaining a drug-free, crime-free lifestyle. See *J.E.*, 723 N.W.2d at 798 (stating that we look to the parent's past performance because it may indicate the quality of care the parent is capable of providing in the future). She blames her relationship with Lisa as the source of her difficulties, although many of her problems existed before and after this relationship. In addition, guardianship placement with Leslie's relatives is not conducive to establishing stability and permanency for Taryn, as the potential guardians hoped only to temporarily care for Taryn so that Leslie could again attempt to get her life in order. "At some point, the rights and needs of the child rise above the rights and needs of the parents. The legislature, through section 232.116 directs us to that point." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The district court

properly decided that granting additional time to Leslie or pursuing a guardianship placement would not have been in Taryn's best interests:

Taryn is an adoptable child. She is young and personable. Taryn is bonded to her mother and to her current caretakers, however, she knows that her mother is not available to her as a caretaker, that her current caretakers have not committed to her permanently, and that her father is "too busy" to visit her. Taryn has been described as "adrift" and is in need of a permanent, stable, loving home and it is clear that her parents are not able to provide that for her, now or in the foreseeable future.

In making a permanency determination, the child's need for security, stability, and permanence in her young life must come first. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). Based upon the evidence and considering Taryn's best interests, we conclude the district court properly terminated Leslie's parental rights.

**AFFIRMED.**