

**IN THE COURT OF APPEALS OF IOWA**

No. 7-300 / 07-0395

Filed May 9, 2007

**IN THE INTEREST OF I.M., Minor Child,**

**N.M., Mother,**  
Appellant.

---

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

A mother appeals from a juvenile court order terminating her parental rights to one child. **AFFIRMED.**

Sara Kersenbrock, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steve Halbach, Assistant County Attorney, for appellee.

Tammy Banning, Waterloo, guardian ad litem for minor child.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

**MILLER, J.**

Nicole is the mother of Isaiah, who was two and one-half years of age at the time of a termination of parental rights hearing. Nicole appeals from a February 2007 juvenile court order terminating her parental rights to Isaiah. The order also terminated the parental rights of Isaiah's father, and he has not appealed. We affirm.

Isaiah was born in June 2004. He was removed from Nicole two days later because he tested positive for methamphetamine at birth. He was adjudicated a child in need of assistance (CINA) in August 2004 pursuant to Iowa Code sections 232.2(6)(n) (2003) (parent's drug abuse results in child not receiving adequate care) and (o) (illegal drug present in body as direct and foreseeable consequence of acts or omissions of parent). Isaiah was returned to Nicole in April 2005, but was then removed again in August 2005 after he tested positive for methamphetamine and amphetamine. He has thereafter remained in the legal custody of the Iowa Department of Human Services (DHS) and in placement in family foster care.

The State filed a petition for termination of parental rights in August 2006. The juvenile court held a termination hearing on two days in late November 2006. It subsequently filed detailed findings of fact, conclusions of law, and an order terminating parental rights. The court terminated Nicole's parental rights to Isaiah pursuant to Iowa Code sections 232.116(1)(e) (2005) (child adjudicated CINA, child removed from parents' physical custody at least six consecutive months, parents have not maintained significant and meaningful contact with child during previous six months and have not made reasonable efforts to

resume care of child), (h) (child three or younger, adjudicated CINA, removed at least six of last twelve months, cannot be returned to parents at present), and (l) (child adjudicated CINA, parent has severe, chronic substance abuse problem and presents danger to self or others as evidenced by prior acts, parent's prognosis indicates child cannot be returned to parent within reasonable period of time). Nicole appeals.

We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence.

*In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

Nicole claims (1) the juvenile court erred in failing to recognize and give weight to substantial growth and progress she had made in her recovery from drug abuse, (2) the court erred in not granting her six more months before entering permanency and termination orders, and (3) termination is not in Isaiah's best interest as she has been able to overcome her addiction and experience substantial sobriety.

When the trial court terminates parental rights on more than one statutory ground, we need only to find grounds to terminate under one of the statutory provisions in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996). For the following reasons we find the State clearly and convincingly proved the grounds for termination pursuant to sections 232.116(1)(f) and (l).

Nicole is twenty-four years of age. She began using marijuana at age sixteen and methamphetamine at age twenty. Not only Isaiah, but also her other

two children, the first born when she was fifteen and the second when she was sixteen, have been affected by her use of and involvement with illegal drugs. Her older two children have been removed from her custody and placed in the care of their father (who is not Isaiah's father) because of her history of substance abuse and mental problems.

Services have been offered and available to Nicole since an October 2003 removal of her two older children from her because of her drug use. In the fall of 2003 Nicole tested positive for amphetamine and methamphetamine and her oldest child tested positive for methamphetamine. In early 2004 Nicole and both of her two older children tested positive for methamphetamine. In June 2004 Nicole and Isaiah both tested positive for methamphetamine at the time of Isaiah's birth. Nicole admitted using methamphetamine earlier on the very day she gave birth to Isaiah.

As previously noted, Isaiah was returned to Nicole in April 2005. However, in July and August 2005 Nicole tested positive for methamphetamine, Nicole's oldest child tested positive for exposure to methamphetamine, and Isaiah, then one year of age, tested positive for methamphetamine and amphetamine at levels indicating ingestion. He was again removed from Nicole. In September 2005 Nicole's second child tested positive for exposure to methamphetamine. The child had at that time been staying with the child's father and his girlfriend and visiting Nicole. The father and his girlfriend tested negative for drug use.

Each of the five incidents described above resulted in a “founded” report of child abuse, with Nicole as the person responsible for denial of critical care of a child or children.

After some three years of services the State filed its petition for termination of parental rights in mid-August 2006. On several occasions in September 2006 Nicole failed or refused to provide urine samples for drug testing. She admitted having used methamphetamine on at least two days in October 2006, about one month before the termination of parental rights hearing and at a time when the termination petition had been on file about two months.

In the period of time shortly preceding the filing of the petition for termination of parental rights and in the time between filing and the termination hearing Nicole had made some limited, belated progress in dealing with her substance abuse problem. However, she had previously twice participated in and completed substance abuse treatment, and nevertheless had thereafter relapsed on numerous occasions, as recently as May 2006 and October 2006. She has a severe, chronic, unresolved substance abuse problem, as evidenced by her use of drugs and repeated exposure of her children to them. Her addiction places not only herself at risk, but also places Isaiah at risk. Nicole has not followed through with individual therapy recommended for her depression. At or shortly before the termination hearing she was in a relationship with a male who physically abused her. Isaiah, two and one-years of age at the time of the termination hearing, could not be returned to Nicole then or within the reasonably foreseeable future without being at risk of abuse or neglect that would cause him to remain a CINA.

To continue the matter for an additional six months, as Nicole apparently contends for the first time on appeal that the juvenile court should have done, would require enumeration of the “specific factors, conditions, or expected behavioral changes which comprise the basis for the *determination that the need for removal of the child from the child’s home will no longer exist at the end of the additional six-month period.*” Iowa Code § 232.104(2)(b) (emphasis added). Given the history of this case the evidence presented at the termination hearing will not support such a determination.

We find the State has proved by clear and convincing evidence the statutory grounds for termination of Nicole’s parental rights to Isaiah under sections 232.116(1)(f) and (l). We also find termination to be in Isaiah’s best interest. At age two and one-half he has already twice been removed from Nicole, the most recent time for over fifteen months. He needs a permanent home, and Nicole was not able to provide a safe, stable, secure home for him either at the time of the termination hearing or within the reasonably foreseeable future thereafter.

**AFFIRMED.**