

IN THE COURT OF APPEALS OF IOWA

No. 7-347 / 07-0482

Filed May 23, 2007

**IN THE INTEREST OF L.H., L.H. and L.H.,
Minor Children,**

**L.E.H., Mother,
Appellant,**

**L.R.B., Father,
Appellant.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
Judge.

A mother and father appeal the termination of their parental rights to their
children. **AFFIRMED.**

Deborah Skelton, Walford, for appellant-mother.

John Bishop, Cedar Rapids, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Troy Powell, Assistant
County Attorney, for appellee.

Carrie Bryner, Cedar Rapids, guardian ad litem for minor child.

Considered by Mahan, P.J., and Eisenhauer and Baker, JJ.

EISENHAUER, J.

A mother and father appeal the termination of their parental rights to their children. They contend the State failed to prove the grounds for termination by clear and convincing evidence. The mother also contends termination is not in the children's best interest. We review their 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)(h) and (l) (2007). The father's parental rights were terminated pursuant to sections 232.116(1)(b), (e), and (h). 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.

Iowa Code § 232.116(1)(h). There is no dispute the first three elements have been proven by clear and convincing evidence. Upon de novo review, we conclude the State has also proved the children cannot be returned to their parents' care.

The mother has a long history of alcohol and drug abuse. She used alcohol and crack cocaine while pregnant with her children and while she was the sole provider of their care. The children were last removed from the mother's

care in January 2006 after she again used cocaine in the children's presence. Two of the three children tested positive to exposure to cocaine after this incident. During the two and a half years in which this case was pending, the mother relapsed at least eight times, most recently in December 2006. Her longest period of sobriety has been nine months. Although the mother graduated from a residential treatment program in February 2007, her past relapses, even after completing a treatment program, are evidence of her ability to remain sober and the future quality of her care of the children. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). In addition to her sobriety, the mother continues to have problems with her co-dependent relationships with abusive men, her mental health, and her ability to provide for her children. The children cannot be safely returned to their mother's care.

The children also cannot be safely returned to their father's care. The father was incarcerated during most of the pendency of this case, and his current discharge date is not until March 16, 2009. He, too, has a history of drug abuse, as well as a lengthy criminal history with numerous convictions on drug charges and domestic abuse charges.

We also conclude termination is in the children's best interest. Although the children are bonded with their mother, she failed to consistently participate in visitation with the children from August through December of 2006. The children need and deserve permanency. They should not be forced to endlessly await their mother's maturity. See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). 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.