

IN THE COURT OF APPEALS OF IOWA

No. 7-569 / 07-0968
Filed September 6, 2007

**IN THE INTEREST OF K.W.,
Minor Child,**

**A.W.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, James Kelley,
Judge.

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

AFFIRMED.

Robert J. Phelps, Bettendorf, for the appellant mother.

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

John Moeller, Davenport, for the appellee father.

Barbara Maness, Davenport, for the minor child.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

Autumn appeals the termination of her parental rights to Katrina, born in December 2004. She contends (1) the record lacks clear and convincing evidence to support termination under Iowa Code section 232.116(1)(h) (2007) (requiring proof of several elements including proof that child cannot be returned to parent's custody) and (2) termination is not in the child's best interests.¹ On our de novo review, we disagree.

I. When Katrina was approximately six months old, the Iowa Department of Human Services (Department) investigated an altercation between Autumn and the child's father. During the altercation, Autumn reportedly threw Katrina on the couch and threatened to commit suicide. Following the investigation, the Department issued a child abuse report against Autumn based on physical abuse and denial of critical care. Later in the year, Department employees found that Autumn was not providing Katrina with adequate nutrition and was not properly attending to her medical needs.

Katrina was placed in foster care. In the ensuing months, Autumn exercised supervised visitation with her daughter. According to the social worker who oversaw the visits, Autumn "expressed a willingness to care" for Katrina but had trouble learning how to attend to the child's basic needs. At the termination hearing, she testified Autumn lacked "good parental instinct" and exhibited "a lot

¹ Autumn also argues the record lacks clear and convincing evidence "upon which to terminate the parental rights of the father." Our court has held that one parent can not make arguments on behalf of the other. See *In re D.G.*, 704 N.W.2d 454, 460 (Iowa Ct. App. 2005) (stating that one parent cannot assert facts or legal positions pertaining to the other parent as the court makes a separate adjudication as to each parent).

of confusion over what to do.” She cited two choking incidents during the visits that Autumn “was not able to respond to.” She recommended termination of Autumn’s parental rights.

Similarly, the Department’s caseworker testified Autumn lacked “general parenting skills in regard to safety issues, nutrition and feeding issues, [and] understanding the child’s cues.” Based on these and other concerns, she also recommended termination of Autumn’s parental rights.

Notably, even the child’s father testified that Autumn would not be able to care for Katrina “for a while.”

We conclude the State established that Katrina could not be returned to Autumn’s custody.

II. The ultimate consideration in a termination of parental rights action is the child’s best interests. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

Autumn testified she shared a bond with Katrina. For example, she stated the child came to her and called her “mommy.” We do not question this testimony. However, it must be weighed against evidence that Katrina was at risk of serious harm while she was in her mother’s care. There was also evidence that Katrina was at risk of serious harm during visits, but for the intervention of supervisors. For these reasons, we agree with the district court that termination of Autumn’s parental rights to Katrina was in the child’s best interests.

AFFIRMED.