

**IN THE COURT OF APPEALS OF IOWA**

No. 7-682 / 07-1288  
Filed October 12, 2007

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

**M.B., Mother,**  
Appellant,

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

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Appeal from the Iowa District Court for Monroe County, William S. Owens,  
Associate Juvenile Judge.

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

Michael S. Fisher of Fisher Law Office, Oskaloosa, for appellant-mother.

Richard F. Scott, Oskaloosa, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, and Steven Goodlow, County Attorney, for appellee.

Kevin Maughan, Albia, guardian ad litem for minor child.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

**EISENHAUER, J.**

A mother and father appeal the termination of their parental rights to their child. They contend the State failed to prove the grounds for termination by clear and convincing evidence. They also contend the State failed to make reasonable efforts to reunite them with their child. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

The juvenile court terminated parental rights pursuant to Iowa Code section 232.116(1)(f) (2005). Termination is appropriate under this section where:

- (1) The child is four years of age or older.
- (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 twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Iowa Code § 232.116(1)(f). The parents claim the State failed to prove the last element by clear and convincing evidence. We disagree.

The child, born in 1998, was first brought to the attention of the Department of Human Services in 2001 following allegations that the family home was not suitable for human habitation. These problems resurfaced and were again proven true in 2003 and 2004. On August 23, 2004, the child was adjudicated in need of assistance as a result of the denial of critical care resulting from the conditions in the home. The child has been in foster care since March 2005.

We note with approval the following finding by the juvenile court:

[C.B.] has been in foster care since March 30, 2005, nearly two years. While it's true that this case essentially began because parents were unable to maintain an adequate and clean home, the evidence shows that this problem was merely a symptom of larger problems in the home including domestic violence and [the mother's] mental health problems. In addition, the evidence shows that none of these problems improved consistently enough over the last two years to make it safe for [C.B.] to be returned.

The parents have a history of domestic violence with the father as the perpetrator. In 2006, the child was exposed to this domestic violence. The mother has mental health issues that have not been satisfactorily resolved and was living with her seventeen-year-old daughter in a one-bedroom apartment at the time of the termination hearing. The child cannot be returned to his mother's care. The father admitted at the termination hearing the child could not be returned to his care at that time.

The future can be gleaned by the parents' past performance. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). The child should not be forced to endlessly await his parent's maturity. *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). Accordingly, we affirm the district court's order terminating parental rights.

We also reject the parents' contention that the State failed to make reasonable efforts to reunify them with their child. A challenge to the sufficiency of services should be raised in the course of the child in need of assistance proceedings. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). Because the parents failed to do so, we find this issue has not been preserved for our review.

**AFFIRMED.**