

**IN THE COURT OF APPEALS OF IOWA**

No. 8-1064 / 08-1826  
Filed January 22, 2009

**IN RE J.H.-P.,  
Minor Child,**

**J.H., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Bremer County, Peter B. Newell,  
District Associate Judge.

A mother appeals from the district court's order terminating her parental  
rights to her daughter and requests additional time. **AFFIRMED.**

Kelly J. Smith of Kelly J. Smith, P.C., Waterloo, for appellant mother.

Lana Luhring of Laird & Luhring, Waverly, for appellee father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Kasey E. Wadding, County Attorney, and Jill Dashner,  
Assistant County Attorney, for appellee State.

Linnea Nicol, Juvenile Public Defender, Waterloo, for minor child.

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

**VOGEL, P.J.**

Jessica appeals from the district court's order terminating her parental rights to J.H.-P. (born July 2006).<sup>1</sup> Her rights were terminated under Iowa Code section 232.116(1)(h) (2007) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). She contests this finding by asserting that the court erred in declining her request to defer termination, requesting an additional period of time. We affirm.

We review termination of parental rights cases de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Grounds for termination must be proved by clear and convincing evidence and our primary concern is the child's best interests. *Id.* J.H.-P. came to the attention of the Iowa Department of Human Services (DHS) in July 2007 when Jessica was arrested for possession of illegal drugs, and admitted smoking marijuana while J.H.-P. was present. J.H.-P. was removed from Jessica's care on August 31, 2007 and adjudicated a child in need of assistance (CINA) pursuant to Iowa Code section 232.96.

Jessica and J.H.-P.'s father have had a relationship plagued with arguing, dysfunction, physical abuse, drug and alcohol abuse. At the time of the termination hearing, they were separated, but have a history of reuniting and creating a tumultuous home environment. At the CINA adjudication hearing, Jessica was ordered to participate in substance abuse treatment, mental health treatment, family therapy, domestic violence treatment, and random drug testing. She sporadically attended some services offered, but did not successfully complete any of the assigned treatment programs. In October 2008, the district

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<sup>1</sup> The parental rights of J.H.-P.'s father were also terminated. He does not appeal.

court terminated Jessica's parental rights to J.H.-P. pursuant to Iowa Code section 232.116(1)(h).

Jessica argues that the court erred in declining her request to defer termination, seeking an additional period of time to improve her ability to care for J.H.-P. She claims that she is working toward self-sufficiency, is close to obtaining permanent housing, and continues to address her mental health issues. Her claims are not supported by the record. Only one month prior to the termination hearing, the court removed Jessica's youngest child (born May 2008), due to her continued drug and alcohol use. Jessica is not consistent with her substance abuse treatments and does not have a stable residence for her children. She missed six visits with J.H.-P. in the month of October (the month of the termination hearing), and when given the opportunity for daily contact with J.H.-P., she did not take advantage of the offer. These factors clearly indicate that she is not diligently working to improve her situation enough to warrant additional time to work towards reunification.

Our legislature has established a six-month standard after removal for parents to demonstrate they can parent a very young child. Iowa Code § 232.116(1)(h); *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997) ("It is unnecessary to take from the child's future any more than is demanded by statute." (quoting *In re A.C.*, 415 N.W.2d 609, 614 (Iowa 1987))). This time period has elapsed, and Jessica still does not have the ability to safely and adequately provide for J.H.-P.'s needs. J.H.-P. has been removed from Jessica's care for sixteen months, and Jessica's visits have never progressed beyond supervised. J.H.-P.

is in need of a safe and permanent home, and Jessica is lacking in the basic skills to provide her that safety and stability. *In re J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in determining a child's best interests).

Upon our de novo review of the record, we agree with the district court that additional time will not remedy this situation and was appropriately denied. We affirm termination of Jessica's parental rights to J.H.-P. as proven by clear and convincing evidence by the State under Iowa Code section 232.116(1)(h).

**AFFIRMED.**