

IN THE COURT OF APPEALS OF IOWA

No. 9-670 / 09-1015
Filed September 2, 2009

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

**C.M.J., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Constance Cohen,
Associate Juvenile Judge.

A mother appeals the district court's order terminating her parental rights
to her daughter. **AFFIRMED.**

Kevin Blackman of Nelissen & Juckette, P.C., Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Andrea Vitzthum,
Assistant County Attorney, for appellee State.

Michael Bandstra, Des Moines, for minor child.

Considered by Vogel, P.J., and Potterfield and Mansfield, JJ.

VOGEL, P.J.

A mother, C.J., appeals the termination of her parental rights to her daughter, J.W., born in June 2005. Upon our de novo review, we affirm. See Iowa R. App. P. 6.907 (2009); *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006) (de novo review).

J.W. was removed from her mother's home in November 2008 due to a host of long-standing safety issues in the home. The removal followed many months of services prior to court intervention. On December 17, 2008, J.W. was adjudicated to be in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and (n) (2007). The Iowa Department of Human Services (DHS) continued to offer appropriate reunification services to the mother.

On June 10, 2009, the State's petition for termination of parental rights came on for hearing. The district court terminated the mother's parental rights under Iowa Code section 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home) (2009).

C.J. argues the State did not carry its burden of proof and faults the district court for focusing on her negative qualities while failing to credit her for any progress she has made. Our review of the district court's detailed ruling informs us as to both the positive and the negative. Some progress by C.J. in some areas is not enough to return J.W. to a yet questionable environment. *J.E.*, 723 N.W.2d at 802 (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in a child's best interests). C.J. faults her own troubled past for her slow progress in working with the many

service providers. However, as the district court noted, “[w]hile it is sad that [C.J.] had these unfortunate experiences, they are a poor rationale for her own failure to make the changes necessary in order to parent her daughter safely.” As visits have not even been able to progress past supervised, and D.H.S. detailed in the record its concerns of C.J.’s parenting ability, we conclude there is clear and convincing evidence J.W. cannot be returned to C.J.’s care.

C.J. also asserts termination of her parental rights is not in J.W.’s best interests. The record supports that J.W. has made very good progress in foster care, as her needs are finally being appropriately and consistently met. While C.J. loves her daughter, she has also subjected her to much chaos. J.W. deserves better. “At some point, the rights and needs of the child rise above the rights and needs of the parents.” *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). We affirm the district court’s termination of C.J.’s parental rights.

AFFIRMED.