

IN THE COURT OF APPEALS OF IOWA

No. 9-674 / 09-1039
Filed September 2, 2009

**IN THE INTEREST OF R.L.C.,
Minor Child,**

**C.A.B., Mother,
Appellant,**

**R.C., Father,
Appellant.**

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

A mother and father appeal from the termination of parental rights.

AFFIRMED.

Stephanie A. Legislador, Cedar Rapids, for appellant mother.

Kelly D. Steele, Cedar Rapids, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold Denton, County Attorney, and Rebecca A. Belcher,
Assistant County Attorney, for appellee.

Jessica Wiebrand, Cedar Rapids, attorney and guardian ad litem for minor
child.

Considered by Sackett, C.J., and Eisenhauer and Doyle, 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 termination is not in the child's best interest. We review their claims de novo. *In re N.V.*, 744 N.W.2d 634, 636 (Iowa 2008).

The child, now age six, first came to the attention of the Department of Human Services in October 2007 after witnessing domestic violence between her parents. She has been out of the parents' care since. The parents were previously involved with the department from April 2003 to September 2004 due to the mother's alcohol and substance abuse, and exposing the child to domestic violence.

The juvenile court terminated the mother and father's parental rights pursuant to Iowa Code section 232.116(1)(f) (2007). Under this section, termination is appropriate where the State has proved by clear and convincing evidence the following:

- (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.

The parents do not dispute the first three elements have been proved. Instead, they contend the State failed to prove the child cannot be returned to their

custody as provided in section 232.102. Under section 232.102(9), a child may be returned home if the court finds the child would not suffer the type of harm that would render the child in need of assistance.

We conclude the child cannot be returned to the mother's custody as provided in section 232.102. The record shows the mother has an extensive history of alcohol and substance abuse that has not been adequately treated. Three days before the March 2009 termination hearing, the mother had a visit with the child while under the influence of alcohol. Although the mother demonstrated appropriate care giving when sober, she has two founded child abuse reports based on her failure to supervise the child when using drugs or alcohol. Her failure to participate in drug testing or substance abuse treatment during the pendency of these proceedings, as well as evidence of her ongoing use of alcohol around the child during supervised visits, indicates the child would not be safe if returned to the mother's custody.

The mother claims she should be granted additional time to complete the case plan and have the child returned to her care. We disagree. The mother had over seventeen months from the time of the CINA adjudication until the termination hearing. She failed to obtain substance abuse treatment as expected and did not participate in drug testing. While the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills," this patience has been built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000).

We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can

soon translate into intolerable hardship for the children. A child should not be forced to endlessly suffer the parentless limbo of foster care. The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. Children simply cannot wait for responsible parenting.

In re E.K., 568 N.W.2d 829, 831 (Iowa Ct. App. 1997) (citations omitted). Under the facts before us, additional time is not warranted.

We also conclude the State has proved the child cannot be returned to the father's custody as provided in section 232.102. Domestic abuse is an ongoing concern in the parents' relationship. However, the father failed to complete a batterers' education program during the pendency of this case and was even incarcerated for this failure during August and September of 2008. Although the parents intend to stay together, they did not begin couples counseling until January 2009. Given the father's past problems with domestic abuse and his failure to properly address this concern, domestic abuse is a concern in the future. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) (holding a parent's future performance can be gleaned from the past). The State has proved the grounds for termination under section 232.116(1)(f).

We also conclude termination is in the child's best interest. Although there is no dispute the parents love the child and are bonded to her, they have not taken the necessary steps to be able to safely parent her. "[A] child's safety and his or her need for a permanent home [are] the defining elements in a child's best interests." *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J. concurring specially). It is not in the best interests of children to keep them in temporary foster care while the natural parents get their lives together. *In re C.K.*, 558

N.W.2d 170, 175 (Iowa 1997). Because termination is in the child's best interest, we affirm.

AFFIRMED.