

**IN THE COURT OF APPEALS OF IOWA**

No. 9-877 / 09-1352  
Filed November 12, 2009

**IN THE INTEREST OF N.G.,  
Minor Child,**

**N.B.N.G., Mother,  
Appellant.**

---

Appeal from the Iowa District Court for Audubon County, Susan Larson,  
District Associate Judge.

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

**AFFIRMED.**

Joel Baxter of Beverly Wild Law Office, P.C., Guthrie Center, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, and Francine O'Brien Andersen, County Attorney, for appellee.

Robert Nelson, Exira, for father.

Karen Mailander of Mailander Law Firm, Anita, attorney and guardian ad  
litem for minor child.

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

**EISENHAUER, J.**

A mother appeals the termination of her parental rights to her child. The sole issue is mother's claim the juvenile court abused its discretion in denying her motion to continue the termination hearing. We review a ruling on a motion for continuance under an abuse of discretion standard and will only reverse if injustice will result to the party desiring the continuance. *In re C.W.*, 554 N.W.2d 279, 281 (Iowa Ct. App. 1996). To warrant reversal, denial of a motion to continue must be unreasonable under the circumstances. *Id.*

The mother had received mental health treatment from a therapist, who was on maternity leave at the time of the termination hearing. The mother sought to continue the termination hearing until such time as her therapist could be deposed. The juvenile court found the motion to continue was untimely and would not be beneficial to the proceedings. Its ruling states:

It is reasonable to assume that [the mother] was aware of her therapist's pregnancy and it should come as no surprise that she is on maternity leave. There would have been ample opportunity to obtain testimony via deposition. In addition . . . [the therapist] cannot testify as to [the mother's] parenting and any testimony would be documented in her records. The court finds it to be in the child's best interest to proceed with hearing.

The State filed its petition to terminate on March 27, 2009. On April 8, 2009, an order set trial for June 2, 2009. The mother did not file her motion to continue until May 28, 2009, five days before trial. The motion was overruled on May 29, and again after it was renewed on the day of trial. On March 23, 2009, the mother was advised her therapist would be taking maternity leave beginning in May. In conjunction with the scheduled maternity leave, the mother was

scheduled for two appointments with a licensed psychologist. These appointments were made in April 2009, and the process of transitioning to the psychologist was discussed with the mother on April 20, 2009. The mother did not file her motion to continue until after she had met with the psychologist on May 14 and May 27, 2009. The denial of the motion to continue was not unreasonable under the circumstances.

We also find the denial of the motion to continue did not result in injustice to the mother because even if the motion had been granted, the result of the proceedings would not have changed. The child was initially removed from the mother's care in October 2007 because of her failure to supervise and adequately care for him. He was adjudicated in need of assistance and returned to the mother's care. In March 2008, the child was again removed from the mother's care after her paramour inflicted severe injuries to him; the child had suffered a serious head injury and it was determined that he had previously suffered a head injury, a broken clavicle, bruising to his arms, legs, and forehead, and a bite mark to his calf. The mother denied her paramour was the perpetrator of the injuries and continued to live with him. Even if the mother's therapist testified as alleged by the mother—stating the mother had changed “positively and substantially” since February 2009—the mother's relationship with the man who abused her child is not over. The mother's past conduct is indicative of her future behavior. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) (finding the future can be gleaned from a parent's past performance).

On the record before us, we find the juvenile court did not abuse its discretion in denying the motion to continue. Accordingly, we affirm.

**AFFIRMED.**