

**IN THE COURT OF APPEALS OF IOWA**

No. 1-693 / 11-1200  
Filed October 19, 2011

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

**J.A., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Dallas County, Virginia Cobb,  
District Associate Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Mary K. Spellman of Spellman Law, P.C., West Des Moines, for appellant  
mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, Wayne Reisetter, County Attorney, and Sean Wieser,  
Assistant County Attorney, for appellee State.

Anjela A. Shutts and Diana L. Miller of Whitfield & Eddy, P.L.C., Des  
Moines, for intervenor grandparents.

Jennie L. Wilson, Perry, for father.

Kayla Stratton, Juvenile Public Defender, Des Moines, for minor child.

Considered by Potterfield, P.J., Danilson, J., and Huitink, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

**HUITINK, S.J.****I. Background Facts & Proceedings.**

Jessica and Scott are the parents of a child born in June 2010. The child was removed from the parents' care on October 27, 2010, due to their use of methamphetamine. Both parents have a history of substance abuse and mental health problems. Their relationship has also involved incidents of domestic violence.

Prior to the adjudication hearing, the paternal grandparents filed a motion to intervene, which was granted by the juvenile court. The child was placed in the care of the paternal grandparents under the supervision of the Iowa Department of Human Services. On December 15, 2010, the child was adjudicated to be in need of assistance (CINA) under Iowa Code section 232.2(6)(c)(2) (2009). In the dispositional order the court continued the placement of the child with the paternal grandparents.

Jessica had a substance abuse evaluation and began out-patient treatment. She relapsed in March 2011, and again used methamphetamine. On April 29, 2011, the State filed a petition seeking termination of the parents' rights. Jessica began a residential program in June 2011, but left after one day. Later that month, Jessica was charged with criminal mischief; she had kicked in the door of an acquaintance. During one visit with the child, Jessica had alcohol in a water bottle. Jessica only attended four or five parenting classes. She had four individual therapy sessions.

The termination hearing was held on June 21, 2011. Shortly before the termination hearing, Jessica began an intensive outpatient substance abuse

treatment program. The juvenile court terminated Jessica's parental rights pursuant to Iowa Code section 232.116(1)(d) (2011) (child CINA for physical or sexual abuse or neglect, circumstances continue despite the receipt of services) and (h) (child is three or younger, CINA, removed a least six months, and cannot be safely returned home).<sup>1</sup> The court found the parents had made no progress in any of their treatment programs and they lacked insight into their situation or its impact on the child. Jessica appeals the termination of her parental rights.

## **II. Standard of Review.**

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). Clear and convincing evidence is needed to establish the grounds for termination. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008). Our primary concern in termination cases is the best interests of the child. *In re A.S.*, 743 N.W.2d 865, 867 (Iowa Ct. App. 2007).

## **III. Sufficiency of the Evidence.**

Jessica contends there is insufficient evidence in the record to support termination of her parental rights under either section 232.116(1)(d) or (h). She asserts that she was attempting to address her substance abuse problems throughout the duration of the case. She also stated she had learned a great deal from services and believe she was prepared to care for the child on a full-time basis. She claims the child could have been returned to her care at the time of the termination hearing.

We find there is clear and convincing evidence in the record to support termination of Jessica's parental rights under sections 232.116(1)(d) and (h).

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<sup>1</sup> Scott's parental rights were also terminated. He has not appealed.

The mother had not successfully dealt with her substance abuse problems and, in fact, had entered a new treatment program just before the termination hearing. The mother was not consistent in providing drug tests and showed a lack of commitment in addressing her substance abuse problems. Furthermore, she had not completed a parenting class. She had only attended a few sessions of individual counseling. The record clearly shows the child could not be returned to Jessica's care at the time of the termination hearing.

#### **IV. Best Interests.**

Jessica claims termination of her parental rights is not in the child's best interests. She states she has made progress with substance abuse treatment, her depression, and removing herself from an abusive relationship. She asserts that she has a strong bond with the child.

In considering best interests under section 232.116(2) we "give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child." *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). The mother is still struggling to deal with her own problems, and the evidence does not show that she has the ability to meet the child's needs. We conclude termination of Jessica's parental rights is in the child's best interests.

#### **V. Continuance.**

Prior to the termination hearing Jessica requested a continuance for six months. The juvenile court rejected this request, and Jessica claims the court abused its discretion. We review a ruling on a motion for continuance for an abuse of discretion standard and will only reverse if injustice will result to the

party requesting the continuance. *In re C.W.*, 554 N.W.2d 279, 281 (Iowa Ct. App. 1996). We find no abuse of discretion in the juvenile court's decision. Jessica was not addressing her problems, and it would not be beneficial to the child to delay these proceedings any longer.

We affirm the decision of the juvenile court terminating Jessica's parental rights.

**AFFIRMED.**