

IN THE COURT OF APPEALS OF IOWA

No. 1-249 / 10-1633
Filed April 27, 2011

**IN THE INTEREST OF M.L.T.,
Minor Child,**

**W.E.T., Father,
Appellant,**

**L.R.J., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
Associate Juvenile Judge.

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

AFFIRMED.

Jean Capdevila, Davenport, for appellant father.

Timothy J. Tupper, Davenport, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Michael Walton, County Attorney, and Julie A. Walton,
Assistant County Attorney, for appellee.

Barbara Maness, Davenport, attorney and guardian ad litem for minor
child.

Considered by Eisenhauer, P.J., and Potterfield and Tabor, JJ.

EISENHAUER, P.J.

A mother appeals from the termination of her parental rights to her child. She does not dispute the grounds for termination were proved, but instead contends termination is not in the child's best interest. We review her claim de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The child was removed from the parents' care at birth. Both parents have had their parental rights to other children terminated and have received numerous services over the years to address problems with substance abuse and their mental health, as well as deficiencies in their parenting skills and their inability to maintain a stable living environment. As the juvenile court noted, "In the past the mother failed or refused to participate in remedial, therapeutic or protective services and failed to assume any responsibility for adjudicatory harm."

From the date of removal of the child in January 2009 until the order terminating parental rights in September 2010, the mother was offered services to address her substance abuse and mental health issues, but has failed to sufficiently deal with these concerns. The mother missed sixty percent of her visits with this child. At the time of termination, the mother was still unable to safely parent the child.

The juvenile court concluded the mother could not offer the child a permanent home and held it was in the child's best interest to terminate parental rights. The mother disputes this, arguing she has made progress toward

reunification and the Department of Human Services does not have a clear plan for adoption of the child. We disagree.

At the time of termination, the DHS had two prospective adoptive placements for the child: her foster family and a relative who lives in Alaska. The juvenile court found either placement would be appropriate to meet the child's needs, unlike the parents. The juvenile court is not required to find a child is adoptable in order to terminate parental rights. We will not refuse to terminate the rights of parents who would otherwise be terminated because an adoptive home has not been secured. *In re T.C.*, 522 N.W.2d 106, 109 (Iowa Ct. App. 1994). Likewise, we cannot refuse to terminate if the DHS has not selected between two qualified adoptive families.

Nor do we agree the mother has made progress toward reuniting with the child. The mother had not progressed with her issues in the years prior to this child's birth and had not adequately addressed them during the months this child has been in foster care.

In considering whether to terminate, "the court shall 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." *P.L.*, 778 N.W.2d at 39 (quoting Iowa Code § 232.116(2)). With regard to best interests, our supreme court has held:

In seeking out those best interests, we look to the child's long-range as well as immediate interests. This requires considering what the future holds for the child if returned to the parents. When making this decision, we look to the parents' past performance because it may indicate the quality of care the parent is capable of providing in the future.

In re C.K., 558 N.W.2d 170, 172 (Iowa 1997).

Given the mother's failure to make any progress in addressing her issues, we conclude the child will continue to be exposed to harm if returned to the mother's care. Looking at the mother's past performance, we conclude additional time to work toward reunification will likewise not benefit the child. Because the child needs permanency, see *P.L.*, 778 N.W.2d at 39 ("We have also recognized the need to establish the child in a permanent stable home as soon as possible in an early case applying chapter 232's termination provisions."), termination is in the child's best interests.

AFFIRMED.