

IN THE COURT OF APPEALS OF IOWA

No. 9-954 / 09-1399
Filed December 17, 2009

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

**S.M.F., Mother,
Appellant.**

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

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

AFFIRMED.

David Fiester, Cedar Rapids, for appellant.

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

Angela Railsback, Cedar Rapids, for intervenors.

Deborah Skelton, Walford, attorney and guardian ad litem for minor child.

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

EISENHAUER, J.

A mother appeals the termination of her parental rights to her child. She contends the State failed to prove the grounds for termination by clear and convincing evidence. She also contends termination is not in the child's best interest. She seeks additional time for reunification. We review her claims de novo. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008).

The child, born in September 2006, came to the attention of the Department of Human Services in November 2006 after the mother left her in the care of a friend who was suicidal and using drugs, resulting in a founded child abuse assessment for denial of critical care and failure to provide adequate care. The mother signed a safety plan stating she would participate in services provided by the DHS and not leave the child with unapproved caretakers, but less than two months later, a second child abuse assessment was initiated when the mother left the child in the care of her mother, who was suicidal. The child was removed from the mother's care three weeks later due to concerns about the child's safety.

In the three years since the initial child abuse assessment, the mother has not made significant progress. Although she demonstrated appropriate caretaking for short periods while under supervision, concerns exist regarding the child's safety during longer periods when the mother has the child without supervision. In May 2007, the child's arm was fractured in two places during a time period when she was in the mother's care. Although it could not be confirmed the fracture occurred under the mother's supervision, overnight

visitations were suspended for eighteen months. The mother was granted overnight visitation again in November 2008, and red welts were discovered on the child's buttocks the next day.

The mother's parental rights were terminated pursuant to Iowa Code sections 232.116(d) and (h) (2009). We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Termination is appropriate under section 232.116(1)(h) where the State proves by clear and convincing evidence:

- (1) The child is three years of age or younger.
- (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 six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

There is no dispute the first three elements have been met. The only question on appeal is whether the child can be safely returned to the mother's care. We find she cannot.

Despite the services the mother received during the course of the proceedings, she has been unable to demonstrate stability in regard to a residence or job. She has demonstrated a pattern of leaving the child alone with questionable caretakers, an inability to comfort the child, and questionable judgment regarding the child's safety. There are ongoing concerns about the mother's mental health issues and how they impact her ability to care for the child. Additionally, she admitted to recently altering a prescription for Percocet in

an attempt to obtain more of the painkiller. We agree with the following finding by the trial court judge: “Despite [the mother’s] progress in some areas, when her visits are expanded and supervision is decreased, [the child] gets hurt.” Given the concerns about the mother’s stability and judgment, we conclude the child cannot be safely returned to her care.

For the foregoing reasons, we likewise conclude termination is in the child’s best interest. Although the mother seeks an additional six months to pursue reunification, we note she has had three years to demonstrate she can appropriately care for her child. 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). Children should not be forced to endlessly await the maturity of a natural parent. *Id.* At some point, the rights and needs of the child rise above the rights and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The child needs and deserves permanency. *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (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). Termination is in the child’s best interest.

AFFIRMED.