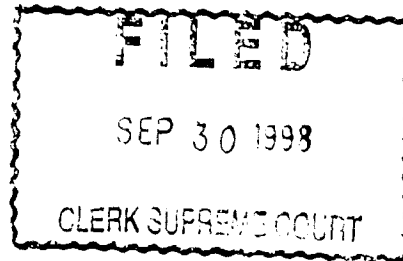


IN THE COURT OF APPEALS OF IOWA

No. 8-442 / 98-0461

IN THE INTEREST OF L.A.M., Minor Child,
L.A.C., Mother,
Appellant.



Appeal from the Iowa District Court for Johnson County, Stephen C. Gerard II,
District Associate Judge.

The mother of minor child L.A.M. appeals a district court order terminating
her parental rights. **AFFIRMED.**

Kirsten H. Frey of Barker, Cruise, Kennedy & Anderson, L.L.P., Iowa City,
for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney
General, and Deborah Farmer Minot, Assistant County Attorney, for appellee State.

Sally Weyer of Bergan & Weyer, L.L.P., Iowa City, guardian ad litem for
minor child.

Considered by Cady, C.J., and Streit and Mahan, JJ.

MAHAN, J.

Laura and David are the parents of Lacie, who was born in November 1992. Laura appeals the decision of the juvenile court terminating her parental rights. We affirm.

Laura and David's relationship was beset by domestic violence. David has a long history of criminal behavior. Laura has a history of alcoholism and dependent relationships with violent men. In November 1994, Laura was severely beaten by David and she left the home, leaving Lacie in David's care. Lacie was placed in foster care for a short period of time, then returned to David's care. Laura has had little contact with Lacie since November 1994.

In January 1996, the Department of Human Services (DHS) issued a founded report that David had physically abused Lacie by kicking her. In November 1996, DHS issued a second founded report of physical abuse of Lacie by David. Lacie was removed from David's care and placed in foster care with David's aunt and uncle. David eventually pled guilty to charges of child endangerment due to the second incident of physical abuse.

Lacie was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(b) and (c)(2). Laura was cooperative with services, including therapy and counseling. Her supervised visits with Lacie went very well. Soon after leaving her relationship with David, Laura began living with Rod. A home study of Laura and Rod's home expressed concerns with Laura's long history of alcohol use,

the fact Rod was actually married to another woman, the level of Rod's commitment to Lacie, and Laura's dependence on Rod.

In June 1997, Rod became hesitant about having Lacie live with them. Laura left Rod and went to a domestic violence shelter in July 1997. She stated Rod beat her and controlled all the money. She soon returned to Rod, however. About this same time, Laura began to contact David, even though there was a no-contact order between them.

In October 1997, Laura had a substance abuse evaluation. The evaluator smelled alcohol on her breath and asked for a breath test. The test revealed Laura was legally drunk. She was asked to remain until she sobered up, but she got in her car and drove away. In the same month, David was charged with sexually assaulting a woman. Laura called the victim and tried to pressure her to drop the charges.

In November 1997, Laura decided to voluntarily terminate her parental rights. She insisted on having a good-bye visit with Lacie on November 11, 1997. Laura signed a voluntary termination on November 13, 1997. The next day, she called DHS and revoked her consent to termination. DHS refused to allow Laura to have any more visits with Lacie because she had already said good-bye and further contact would be emotionally traumatic for Lacie. Shortly thereafter, Laura left Rod and moved to a new town. She obtained an apartment and employment.

Lacie has done very well in the care of David's aunt and uncle. They would like to adopt her. Lacie attends play therapy to help her deal with past issues of physical abuse.

In December 1997, the State filed a petition to terminate the parental rights of Laura and David. David consented to the termination of his parental rights. Laura resisted the termination, but did not attend the termination hearing. The juvenile court terminated Laura's parental rights pursuant to Iowa Code section 232.116(1)(e). Laura now appeals.

I. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. On the day of the termination hearing, Laura's attorney filed a motion for continuance. Laura had called her attorney the night before stating she had no means of transportation to the hearing and was unable to get off work. The juvenile court denied the motion for continuance. Laura claims the court abused its discretion by denying the motion. She contends the court prevented her from introducing evidence and from testifying at trial.

An appellate court reviews a motion for continuance under an abuse of discretion standard. *In re C.W.*, 554 N.W.2d 279, 281 (Iowa App. 1996). The court will reverse only if injustice will result to the party desiring the continuance. *Id.* In order to show an abuse of discretion, a party must show the juvenile court's action was unreasonable under the attendant circumstances. *In re J.L.L.*, 414 N.W.2d 133, 135 (Iowa 1987).

We determine the juvenile court did not abuse its discretion in denying Laura's motion for continuance. Laura had known of the hearing for several months and should have been able to arrange transportation and time off work prior to the hearing.

III. Laura claims the State failed to present clear and convincing evidence to show Lacie could not be returned to her care, which is an element of section 232.116(1)(e)(4). Laura states she is now living independently and has finally ended her dependence on violent men. Laura admits she did not have much contact with Lacie in the past, but states this is because she was afraid of David.

We note Laura attempts to discuss evidence which is not part of the record. We do not consider matters which are not part of the record on appeal. Iowa R. App. P. 10(a). We find there is clear and convincing evidence in the record to show Lacie could not be returned to Laura's care at the present time. The evidence does not show Laura is committed to sobriety. Also, Laura's history shows a continued dependence on men who present a risk of harm to her. If Lacie were returned to Laura's care, there would also be a risk of harm to Lacie. We conclude Laura's parental rights were properly terminated under section 232.116(1)(e).

IV. Laura claims termination of her parental rights is not in Lacie's best interests. She asserts she has been the victim of abuse, but she does not present any risk of abuse to Lacie. She states she has a bond with Lacie and Lacie looks forward to visits.

In determining the best interests of a child, a court looks to the child's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

The court must consider the physical, mental, and emotional condition and needs of the child in deciding whether to terminate parental rights. *C.W.*, 554 N.W.2d at 282.

We determine it is in Lacie's best interests to terminate Laura's parental rights. Laura has not shown a continued commitment to Lacie. Laura has placed her relationships with violent men over her commitment to Lacie. Lacie needs stability and a chance to work on past issues of physical abuse.

We affirm the decision of the juvenile court.

AFFIRMED.