

IN THE COURT OF APPEALS OF IOWA

No. 1-002 / 10-1925
Filed February 9, 2011

**IN THE INTEREST OF E.J.,
Minor Child,**

**C.S.F., Mother,
Appellant.**

Appeal from the Iowa District Court for Bremer County, Peter B. Newell,
District Associate Judge.

A mother appeals the district court's order terminating her parental rights.

AFFIRMED.

Ethan D. Epley of Stumme Law Office, Shell Rock, for appellant mother.

Kelly J. Smith of Kelly J. Smith, P.C., Waterloo, for appellee father.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, and Kasey E. Wadding, County Attorney, for appellee State.

Heather A. Prendergast, Waterloo, attorney and guardian ad litem for
minor child.

Considered by Vogel, P.J., and Doyle and Tabor, JJ.

VOGEL, P.J.

Cassie appeals the termination of her parental rights to E.J., born January 2005.¹ The district court terminated Cassie's rights under Iowa Code sections 232.116(1)(b) (abandonment), (e) (child adjudicated CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), and (d) (child adjudicated CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services) (2009).² We affirm.

Our review of termination of parental rights cases is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

The Iowa Department of Human Services (DHS) has been involved with E.J.'s family since April 2005, after drug paraphernalia was found in Cassie's bedroom. Cassie was admittedly using marijuana while E.J. was in the home, and she voluntarily placed him with her grandparents. E.J. was originally adjudicated a child in need of assistance (CINA) in April 2005, but after Cassie complied with DHS services and had stable housing with her grandparents, the proceedings were dismissed, and E.J. was returned to Cassie's care. E.J. again came to the attention of DHS in November 2008 following a physical altercation

¹ The parental rights of the biological father of E.J. were also terminated and he does not appeal.

² Cassie failed to appeal from section 232.116(1)(d). Her failure to do so waives any right to appeal that issue, and we accordingly affirm the juvenile court's order terminating her parental rights on that ground. *In re C.D.*, 508 N.W.2d 97, 100 (Iowa Ct. App. 1993).

between E.J.'s parents, where E.J. was left unattended. DHS began services on an informal, voluntary basis, but social worker Melissa Lammers testified that the case eventually became more formal and CINA proceedings began based on "the lack of any parents," as Cassie "was mad . . . and refused to do services . . . [from] January '09, through October of '09;" she did not even see E.J. from June through October. E.J. was again adjudicated a CINA in December 2009. At the time of the adjudication, Cassie was facing burglary charges. In January 2010, Cassie was arrested for possession of marijuana and drug paraphernalia, and in September 2010, was placed at the Waterloo Residential Facility.

Cassie asserts the State failed to prove by clear and convincing evidence that she failed to maintain contact with E.J. prior to termination. Iowa Code § 232.116(1)(e). Cassie was incarcerated for the majority of the six months prior to the termination hearing, but claims she had a desire to maintain contact with E.J. DHS worker Lammers described Cassie's attendance when offered visitation with E.J. as "exceptionally sporadic," and although Cassie was in a residential facility, Lammers testified that Cassie always had resources available for visits, which she did not utilize. Further, Cassie only marginally complied by following through with DHS's recommended mental health and substance abuse treatment. Lammers testified that Cassie candidly admitted that her compliance was only to appease DHS, and done because she "[had] to." Cassie kept only five meetings with Mid-Iowa Family Therapy in eighteen months.

Moreover, the district court detailed four separate times Cassie abandoned E.J. throughout the course of his life. The court found that Cassie "has never throughout these proceedings, in any way, indicated that she would

positively assume the roles and responsibilities of a parent for this Child.” Further, “she has not demonstrated a genuine effort to communicate with the Child [or] established or maintained a place of importance in the Child’s life.” We agree that termination of Cassie’s parental rights under 232.116(1)(e) was proved by clear and convincing evidence.

Finally, while Cassie does not challenge the district court’s best interest finding, even if a statutory ground for termination is met, a decision to terminate must still be in the best interest of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider “the child’s safety,” “the best placement for furthering the long-term nurturing and growth of the child,” and “the physical, mental, and emotional condition and needs of the child.” *Id.* Cassie’s history is plagued with violence, substance abuse, and criminal behavior. She has not shown she can maintain a stable, safe environment for E.J. He is currently living in a stable home with his great-aunt, who seeks to adopt him; he also maintains a daily relationship with his great-grandparents. We conclude termination of Cassie’s parental rights was in E.J.’s best interest as set forth under the factors in section 232.116(2).

AFFIRMED.