

**IN THE COURT OF APPEALS OF IOWA**

No. 1-845 / 11-1459  
Filed November 9, 2011

**IN THE INTEREST OF A.A.,  
Minor Child,**

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

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Appeal from the Iowa District Court for Polk County, Rachael E. Seymour,  
District Associate Judge.

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

**AFFIRMED.**

Jami J. Hagemeyer of Williams & Blackburn, P.L.C., Des Moines, for  
appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Cory McClure,  
Assistant County Attorney, for appellee State.

Steven E. Clarke of Pargulski, Hauser & Clarke, P.L.C., Des Moines, for  
father.

Charles S. Fuson of Youth Law Center, Des Moines, attorney and  
guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

**POTTERFIELD, J.**

A.A. was born in February 2005. His mother, Amanda, did not care for the child for the majority of his life. Instead, Amanda left A.A. in the care of her parents without providing food, clothing, medical authorization, or emergency contact information. A.A.'s grandfather was capable of caring for the child, but worked overnights three days a week and slept during the day, leaving no one to watch the child except the grandmother. Amanda's mother suffered from a mental disability or learning disorder, the extent of which is not clear from the record. Amanda generally did not live in her parents' home with her child for more than a week at a time.<sup>1</sup>

A.A. came to the attention of the Department of Human Services (DHS) in June 2010 when he was found wandering alone. Then five years old, A.A. could not tell police his name or where he lived. Most of his speech could not be understood, he was under-socialized, and not potty-trained.

On July 13, 2010, a temporary removal order was entered as Amanda's whereabouts were unknown and she had left her son with inappropriate caretakers. A.A. was placed with his maternal uncle, Travis. On July 19, 2010, a removal hearing was held and A.A.'s placement remained with Travis, where he continues to reside today with Travis's fiancée and his daughter.

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<sup>1</sup> The child's father has had very limited involvement in the child's life and voluntarily consented to the termination of his parental rights.

A.A. was adjudicated a child in need of assistance (CINA) on August 19, 2010, pursuant to Iowa Code section 232.2(6)(c)(2), (n) (2009).<sup>2</sup>

A September 6, 2010 report to the court noted,

Amanda admits she has not been responsible for [A.A.'s] needs in the past but is willing to participate in services to help her learn how to provide for physical and emotional needs. Amanda identified she needs to be able to provide a stable home, demonstrate the ability to parent [A.A.], and identify healthy relationships and environments for [A.A.] to live in.

Amanda said she is currently living with her dad and mom, with [paramour] Jeff. Amanda does not have a job and has gone to the temp agency a couple of times. She said she just can't get motivated to get up early enough to get there when they pass out jobs. Amanda identified she does not have a history of consistent employment to this date.

[A background check on Jeff] revealed an indecent contact with a child charge in another county and theft charges. This worker asked Jeff about the charges. . . . He was 19 years old at the time in 2001. He said he was found incompetent for court.

A disposition hearing was held on September 16, 2010. Amanda did not attend and the subsequent disposition order indicated she had not maintained regular contact with DHS. A.A. was confirmed CINA and he remained in the care of Travis and his family. The guardian ad litem noted Amanda had not visited A.A. since July 2010.

Following a family team meeting held on October 13, 2010, a service overview indicated Amanda had made no contact with the DHS social worker or

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<sup>2</sup> The pertinent provisions of section 232.2(6) define a CINA as an unmarried child: . . .

c. Who has suffered or is imminently likely to suffer harmful effects as a result of . . .

(2) [t]he failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

. . . .

n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

Family Safety, Risk, and Permanency (FSRP) provider, and did not attend the family team meeting. Bus tokens had been provided for transportation to appointments and in-home services were in place, but Amanda “has not accessed any of the services.” It was reported Amanda was living in another city with Jeff and had not visited with A.A. or telephoned. The social worker noted “Travis and his fiancée take exceptional care of [A.A.] and are able to set appropriate boundaries with Amanda.” A.A. was in school and working with a speech therapist. “Travis said [A.A.] fit into the family well and there are currently no concerns.” A.A. and Travis’s daughter “got along great.”

A December 21, 2010 review hearing did not take place; the mother failed to appear and her whereabouts were unknown. The court ordered a permanency hearing be set.

A January 2011 report to the court noted Amanda had not had contact with A.A. and had made no effort to contact him or DHS since August 2010. A petition to terminate Amanda’s parental rights was filed on January 3, 2011.

A termination hearing was held on February 2 and 25, 2011.<sup>3</sup> Amanda acknowledged she had not visited or telephoned A.A. for six months. She also acknowledged that A.A. was doing well with Travis. She indicated she was living with Jeff and believed A.A. could be returned to her presently.

Amanda’s rights were terminated pursuant to Iowa Code section 232.116(1)(b) (child has been abandoned or deserted), (d) (child previously adjudicated CINA as a result of neglect; parent offered “services to correct the

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<sup>3</sup> Amanda did not appear at the February 2 hearing, but did arrive at the courthouse later that day. Due to weather conditions and failure of service on the father, the court continued the matter and an additional hearing occurred at which Amanda did appear.

circumstance which led to the adjudication, and the circumstance continues to exist despite services”), and (e) (child adjudicated CINA; removed from custody at least six months; and parents have not maintained significant and meaningful contact and made no reasonable efforts to resume care). The court wrote in part:

Mother testified she wanted the child to return home today and they would reside in [Jeff’s] home. Mother did not mention [Jeff’s] criminal history, but did mention he would need to “get help for his temper.” The Court’s limited information regarding [Jeff] indicates he is not an appropriate person for the child to be around, yet Mother is still oblivious to the obvious risks he poses. Mother also testified she had been “doing everything” she could to have him reunified. Unfortunately, the evidence showed quite the opposite as Mother had failed to participate in *any* services, even one visitation, since July 2010. While the court is em[pathetic] to Mother’s intellectual deficiencies, they do not excuse her completely abdicating her parental role and failing to even participate in services.

The trial court found that termination was in A.A.’s best interests as the mother had not

demonstrated [she was] willing or able to provide parenting that is safe and promotes the longer nurturing and growth of this child. . . . While the Mother requested the child be returned immediately, she provided no evidence she can safely parent this child now or in the future. In fact, her testimony showed a complete lack of insight of this child’s emotional and physical needs.

Finally, the court rejected the mother’s contention that factors weighed against termination.

Upon our de novo review, see *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010), we agree that clear and convincing evidence supports the statutory grounds for termination. At the time of the termination hearing, Amanda had not seen or contacted her child for more than six months. And she had not participated in

services, though they were offered. See Iowa Code §§ 232.2(14) (“Desertion’ means the relinquishment or surrender for a period in excess of six months of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of desertion need not include the intention to desert, but is evidenced by the lack of attempted contact with the child or by only incidental contact with the child.”); 232.116(e)(3) (“[S]ignificant and meaningful contact includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child’s life.”); *In re Goettsche*, 311 N.W.2d 104, 106 (Iowa 1981) (“[P]arental responsibilities include more than subjectively maintaining an interest in a child. The concept requires affirmative parenting to the extent it is practical and feasible in the circumstances.”).

The mother argues termination is not in the child’s best interests, but we conclude termination will allow A.A. to be adopted, which placement will best provide for his long-term nurturing and growth. See Iowa Code § 232.116(2), (3)(a) (stating court need not terminate if a relative has legal custody of child). We cannot agree with the mother that the parent-child bond here weighs against termination. See *id.* § 232.116(3)(c). As stated by the district court, “[u]nfortunately in this case there is little, if any, parent-child relationship to maintain.” We affirm the termination of parental rights.

**AFFIRMED.**