

IN THE COURT OF APPEALS OF IOWA

No. 1-980 / 11-1800
Filed January 19, 2012

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

**W.J., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Louise M. Jacobs,
District Associate Judge.

A father appeals the juvenile court's ruling terminating his parental rights.

AFFIRMED.

John C. Heinicke of Kragnes & Associates, P.C., Des Moines, for
appellant father.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, John P. Sarcone, County Attorney, and Annette Taylor, Assistant
County Attorney, for appellee State.

Ryan R. Gravett of Oliver Law Firm, P.C., Windsor Heights, for appellee
mother.

Kimberly Ayotte of Youth Law Center, Des Moines, attorney and guardian
ad litem for minor child.

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

VAITHESWARAN, P.J.

A father appeals the termination of his parental rights to his daughter. He does not challenge the statutory grounds for termination cited by the juvenile court. He simply argues that termination was not in the child's best interests given a bond he believes he shared with the child. See Iowa Code § 232.116(2) (2011). He contends the court should have granted an exception to termination based on that bond. *Id.* § 232.116(3)(c).

Iowa Code section 232.116(2) requires us to “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.” See also *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). Section 232.116(3)(c) provides an exception to termination if “[t]here is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.” See also *P.L.*, 778 N.W.2d at 41. On our de novo review, we are persuaded that neither provision warrants a denial of the termination petition. See *id.* at 40 (setting forth the standard of review).

The child was born in the spring of 2010. Less than five months later, the father was arrested for violating a no-contact order between himself and his wife. He was jailed and, following a conviction for domestic abuse assault, began serving a five-year prison term. The father was not slated to discharge his sentence until December 2012, although he thought he might be eligible for parole sometime sooner.

The father conceded he did not serve as primary caretaker of the child prior to his incarceration. He said his role was to supervise his wife's caretaking of his daughter. When asked about his level of interaction with the child, he stated,

I made sure I fed her and changed her And when she was awake, I used to tickle her, play with her a lot I used to rock her to sleep She used to fall asleep on my chest a lot. And I would burp her, things of that nature.

This regular but limited interaction ended completely with the father's incarceration in September 2010. For the following year, he had no contact with the child. When asked why he should be part of his daughter's life under these circumstances, he stated he "would be a positive role model." However, he conceded he had not been a positive role model up to that point. He specifically acknowledged a criminal record dating back to 1992, when he was just twelve years old. He additionally acknowledged that four of his five prior convictions for domestic abuse involved the mother of this child. Finally, he conceded that the abuse he inflicted on the mother could have psychologically damaged the child.

As for the father's future prospects, he stated he intended to move to North Dakota or Montana after the discharge of his sentence, leaving little likelihood that he could regenerate the bond he may have created with the child during the first four-and-a-half months of her life.

We affirm the termination of the father's parental rights to his daughter.

AFFIRMED.