

IN THE COURT OF APPEALS OF IOWA

No. 2-190 / 11-2117
Filed March 14, 2012

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

**L.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, Associate Juvenile Judge.

A mother appeals the termination of her parental rights. **AFFIRMED.**

Victoria D. Noel of Blair & Fitzsimmons, P.C., Maquoketa, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Ralph Potter, County Attorney, and Jean A. Becker, Assistant County Attorney, for appellee State.

Sarah E. Stork Meyer of Clemens, Walters, Conlon & Meyer, L.L.P., Dubuque, attorney and guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Tabor and Mullins, JJ.

VAITHESWARAN, P.J.

A mother appeals the termination of her parental rights to her son. She contends the juvenile court (1) “erred in finding clear and convincing evidence that [her] parental rights should be terminated” and (2) “erred in finding clear and convincing evidence that an extension of time for continued reunification efforts would be detrimental to [the child].” On our de novo review, we are persuaded that the juvenile court acted appropriately. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010) (setting forth standard of review).

The child was removed from the mother’s care immediately after his birth in January 2011 based on the mother’s (1) history of neglect or abuse of two other children, including the termination of her parental rights to one of those children; (2) lack of a permanent residence, transportation, or employment; (3) history of drug use; and (4) diagnosis of major depression with a recent hospitalization and outpatient commitment order. The child remained in foster care throughout the proceedings.

Approximately seven months after the child’s removal, the State petitioned to terminate the mother’s parental rights to the child. Following a hearing, the juvenile court concluded that the child could not be returned to the mother’s care, but “a short extension” was appropriate

in order to give [the mother] the opportunity to demonstrate that she can maintain an apartment on her own, obtain/maintain necessary supplies for [the child], arrange transportation when necessary, obtain employment, continue to address her own mental health needs, and provide appropriate care for [the child] in a home environment.

The court granted the mother three additional months to achieve these goals.

Three months came and went with continued progress in some areas but a significant lack of progress in other areas. The mother tested negative for the presence of illegal drugs in her system, appropriately maintained a subsidized apartment she moved into shortly before the extension was granted, and qualified for Supplemental Security Income disability benefits, obviating the need to search for employment. However, she fell short on demonstrating that she could independently care for the child.

Following the court-ordered extension, the Iowa Department of Human Services made significant efforts to test the mother's parenting abilities by expanding her daytime visits with the child and by affording her several overnight visits. A department social worker specifically noted that "when the visits started after the extension we had four days a week for eight hours at a time" and "there were three weeks of that and then we went to overnight visits for two weeks." The mother struggled with appropriately caring for the child during these visits. The social worker reported that she did not thoroughly wash the child, did not feed him adequately, and did not engage him in play or other nurturing activities. With respect to the overnight visits, the social worker reported:

Within that two-week timeframe, there were many concerns that arose as noted above as well as all the prompting that still needed to be done. His needs were not being met as he was losing weight, and there were concerns about his overall demeanor.

Given the mother's lack of progress, the department curtailed the overnight visits but expressed a willingness to continue the extended daytime visits, with the proviso that the mother call to confirm them. The mother did not consistently make these calls and, as a result, did not see her son for three weeks. While she

noted that a brief hospitalization also interfered with her ability to see the child, the three-month extension had almost expired by that time.

At the permanency/termination hearing following the extension, a service provider who supervised the visits opined that the child could not be returned to the mother. She reasoned that the child “has spent significant time with [the mother] and she has been inconsistent in meeting his needs, often needing prompts.” The department social worker overseeing the case seconded this opinion, stating the mother was “unable to read [the child’s] cues” and was “unable to meet some of his basic needs.” She expressed particular concern with “[t]he interaction [between mother and child].” Based on these concerns, she recommended against another extension of time to address the mother’s issues.

The juvenile court terminated the mother’s parental rights pursuant to Iowa Code section 232.116(h) (2011) (requiring proof of several elements including proof that child could not be returned to parent’s custody). The court reasoned as follows:

Given [the mother’s] inability to provide consistent basic care for [the child] and her deterioration in participating in services and interactions since the time of the last court hearing, the Court finds there is clear and convincing evidence that [the child] cannot be returned to the custody of [the mother] at the present time.

The court also declined to grant a second extension of time, reasoning as follows: “[T]he Court does not believe another extension of time would remedy the concerns identified and would not be in [the child’s] best interests.”

We fully concur in the court's conclusions and we affirm the termination of the mother's parental rights to her child.

AFFIRMED.