IN THE COURT OF APPEALS OF IOWA

No. 2-414 / 12-0533
Filed June 13, 2012

IN THE INTEREST OF B.M.,
Minor Child,

D.M., Mother,
Appellant.

Appeal from the Iowa District Court for Linn County, Susan Flaherty, Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights. **AFFIRMED.**

Brandy Lundy of Lundy Law Office, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Jerry Vander Sanden, County Attorney, and Lance Heeren, Assistant County Attorney, for appellee State.

Julie Trachta of Linn County Advocate, Inc., Cedar Rapids, for minor child.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ.

EISENHAUER, C.J.

A mother appeals from the order terminating her parental rights to her child. She contends the statutory grounds were not proved by clear and convincing evidence and termination is not in the child's best interests. We review her claims de novo, *see In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010), and affirm.

The mother's parental rights to another infant, born prematurely in May 2010, were terminated about the time of this child's birth. The mother's cognitive and emotional limitations interfered with her ability to provide basic care for the child. This child, born prematurely in April 2011, required an extended stay in the hospital. Based in part on the same concerns that led to termination of the mother's parental rights to the older child, the child in this case was placed in the custody of the department of human services in early May and placed in foster family care upon release from the hospital in mid-June. The mother has been unable to identify the father of the child. Paternity testing excluded the first man she named and two others were excluded after investigation. A fourth man the mother named could not be located. The mother participated in services but was not consistent in attending supervised visitation and resisted some parenting skill instruction. She made some progress in learning to change a diaper, bathe and dress a child, and prepare a bottle after receiving repeated instruction through the course of both child-in-need-of-assistance proceedings, but neither the service providers nor the evaluator who performed Allen cognitive testing on the mother believed she could safely care for a child without supervision.

In October the mother said she did not want any more visits with the child and wanted to consent to termination of her parental rights. By mid-December she had not signed any written consent to termination, but had not visited the child since mid-October. The State then filed a petition to terminate the mother's parental rights. The mother's visitation after the petition was filed was sporadic. Following a contested hearing in March 2012, the court terminated the mother's parental rights under Iowa Code section 232.116(1)(e), (g), and (h) (2011).

On appeal, the mother contends the court erred in finding clear and convincing evidence the child could not be returned to her care at the present time. Section 232.116(1)(e), concerning a parent maintaining "significant and meaningful contact" with a child, does not require proof a child cannot be returned to a parent's care at the present time.

> "[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.

Iowa Code § 232.116(1)(e). The mother raises no other challenge to termination under section 232.116(1)(e). We find clear and convincing evidence the mother did not maintain significant and meaningful contact with the child during the six months prior to termination and affirm on this ground. We need not address the mother's challenges to the other statutory grounds cited by the court. *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) ("When the juvenile court terminates parental rights on more than one statutory ground, we need only find

grounds to terminate under one of the sections cited by the juvenile court to affirm.").

The mother also contends termination is not in the child's best interests, citing the following factors: (1) she visited the child and believes she has a close bond, (2) the court noted the mother was attentive during visits, and (3) she made numerous requests the child be placed with relatives.

In considering the child's best interests once a statutory ground for termination is established, we "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." Iowa Code § 232.116(2). We look to a parent's past performance because that performance may be indicative of the quality of the future care the parent is capable of providing. *In re L.L.*, 459 N.W.2d 489, 494 (Iowa 1990). After considering the statutory factors and reviewing the mother's abilities and minimal progress over the course of this and the juvenile case involving her older child, we conclude, as did the district court, termination is in the child's best interests. Although the mother loves her child and believes they have a close bond, *see* Iowa Code § 232.116(3)(c), our consideration must center on whether the child will be disadvantaged by termination, and whether the disadvantage overcomes the mother's inability to provide for the child's developing needs. *See In re D.W.*, 791 N.W.2d 703, 709 (Iowa 2010). We do not find termination would be detrimental to the child based solely on the closeness of the parent-child bond.

The court did not address the issue of relative placement in its order, and no motion to amend or enlarge was filed. It is not preserved for our review. *See In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994).

AFFIRMED.