

IN THE COURT OF APPEALS OF IOWA

No. 2-924 / 12-1607
Filed October 17, 2012

**IN THE INTEREST OF Y.G.,
Minor Child,**

**M.G., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, Cheryl Traum,
District Associate Judge.

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

Cynthia Z. Taylor of Zamora, Taylor, Woods & Frederick, Davenport, for
appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd and Teresa
Baustian, Assistant Attorneys General, Michael J. Walton, County Attorney, and
Julie Walton, Assistant County Attorney, for appellee State.

Angela Reyes, Davenport, for appellee father.

Jennifer Olsen, Davenport, attorney and guardian ad litem for minor child.

Considered by Eisenhauer, C.J., and Vogel and Vaitheswaran, JJ.

VOGEL, J.

Marie appeals the termination of her parental rights to her child, Y.G. (born November 2010).¹ She asserts there is not clear and convincing evidence that the child cannot be returned home. We affirm.

After a hearing held on July 16, 2012, the district court terminated Marie's rights under Iowa Code sections 232.116(1)(b) (2011) (clear and convincing evidence the child has been abandoned or deserted); (d) (adjudicated child in need of assistance (CINA) for neglect, circumstances continue despite services); (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child); (h) (child three or younger, adjudicated CINA, removed from home for six of last twelve months, and child cannot be returned home); (i) (child CINA, child was in imminent danger, services would not correct conditions); and (l) (child CINA, parent has substance abuse problem, child cannot be returned home within a reasonable time).

If the district court terminates parental rights on more than one statutory ground, we need only find that the evidence supports termination on one of the grounds cited by the district court to affirm. *In re R.K.*, 649 N.W.2d 18, 19 (Iowa Ct. App. 2000). We review termination of parental rights proceedings de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

For years Marie has struggled with drug and alcohol abuse and mental illness. She previously consented to termination of her parental rights to an older child, in part, because of her addictions. In November 2009, Y.G.'s older half brother was placed in foster care. Based on Marie's admitted drug use during

¹ Y.G.'s biological father's rights were also terminated in this action; he does not appeal.

her pregnancy with Y.G., Marie has been offered and participated to some extent in treatment. She, however, has been unable to demonstrate long-term success. In January 2011, Marie left one treatment facility because she claimed it had nothing more to offer her. From March 14 until July 25 she participated in another treatment program that allowed the children to be in her care. Unfortunately, and rather abruptly, Marie took the children and disappeared.

On August 2, 2011, Marie was found driving recklessly, allegedly high on crack cocaine, with Y.G. in the car. Y.G. was then removed from Marie's care and placed in foster care where she has remained. Y.G. was adjudicated as a CINA on September 19. After the August 2 removal, Marie again disappeared and only reappeared when she was arrested in October for possession of crack cocaine, with intent to deliver. She was in jail until her trial in February 2012. After being found guilty of the charges, Marie was given a deferred judgment, with three years probation. She soon relapsed into cocaine use and has resided at the Residential Correctional Facility (RCF) through the Department of Corrections since May 16, 2012. At the time of the termination hearing she was not projected to be in a position to care for Y.G. for several more months, which is until her release from the RCF program and her establishment of a stable and safe home for Y.G.

"It is well-settled law that we cannot deprive a child of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child." *In re P.L.*, 778 N.W.2d 33, 41 (Iowa 2010). We agree with the district court there is clear and convincing evidence the statutory

requirements of section 232.116(1)(h) are satisfied. At the time of the hearing, Y.G. had been removed from Marie's care for over eleven months. Marie required several more months to complete her treatment program at the RCF, and demonstrate success, which she has been unable to do in the past. While she is currently employed, she has a history of a nomadic, transient, and unstable lifestyle, including days or weeks of disappearing, reverting to drug and alcohol abuse. Marie refused services until just before the hearing and continued to be unable even to provide for her own needs. In the past she has not succeeded in staying sober outside of a structured setting, and we join the district court in its concern that Marie will not be able to provide Y.G. with the consistent care and protection she needs and deserves.

The paramount consideration in parental termination proceedings is always the best interests of the child. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Y.G. is thriving in her foster family where she has lived over half her young life. The foster family is willing to adopt her. It is in Y.G.'s best interests that she not be forced to wait for her mother to comply with services, abide by recovery efforts, and maintain stability. Termination of Marie's parental rights is in Y.G.'s best interests.

AFFIRMED.