

IN THE COURT OF APPEALS OF IOWA

No. 3-006 / 12-2159
Filed January 24, 2013

**IN THE INTEREST OF K.D.,
Minor Child,**

**A.D., Father,
Appellant.**

Appeal from the Iowa District Court for Bremer County, Peter B. Newell,
District Associate Judge.

A father appeals the termination of his parental rights to his child.

AFFIRMED.

Mark A. Milder, Waverly, for appellant father.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant
Attorney General, and Kasey E. Wadding, County Attorney, for appellee State.

Lana Luhring of Laird & Luhring, Waverly, for appellee mother.

Amy Swanson of Lawler and Swanson, P.L.C., attorney and guardian ad
litem for minor child.

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

VAITHESWARAN, P.J.

A father appeals the termination of his parental rights to his child, born in 2008. He acknowledges having “no documented contact with” the child after February 2011 but contends termination was not the answer. On our de novo review, we disagree. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) (setting forth the standard of review).

The Department of Human Services became involved with the family in December 2008 based on health and safety conditions in the home and substance abuse by the father. The child was later placed with a relative.

The father initially expressed an interest in undergoing a substance abuse evaluation and mental health treatment but did not follow through with either. The father also did not make efforts to pursue visits with his child.

Time elapsed with no progress towards reunification. At the termination hearing, the father declined to testify or call witnesses on his behalf, leaving the caseworker’s sometimes confusing and contradictory testimony as the sole live evidence supporting the termination decision. Nonetheless, her testimony was clear on one point: the father had no relationship with the child. This testimony, together with documentary evidence, provided clear and convincing support for the juvenile court’s findings that the father did not have significant and meaningful contact with the child and that the child could not be returned to the father’s custody. See Iowa Code § 232.116(1)(e), (f) (2011) (enumerating two separate grounds for termination). The father does not challenge the evidence supporting these grounds for termination.

The father's first argument in support of reversal relates to a third ground for termination cited by the juvenile court, Iowa Code section 232.116(1)(b): abandonment. The father notes that this provision was not pled by the State and, accordingly, could not serve as a basis for termination. The State concedes error on this point but correctly notes that we may affirm the termination decision based on the other two unchallenged grounds. *S.R.*, 600 N.W.2d at 64.

The father next contends the juvenile court should have placed the child in a guardianship with the caretaking relative, which "would have had the tangential result of giving [him] more time to re-establish himself in the child's life and work toward a possible reunification as well." See Iowa Code § 232.116(3)(a) (stating court need not terminate a parent's rights to a child if "[a] relative has legal custody of the child"). The father furnished no factual basis for the court to exercise this option. For that reason, the court appropriately declined to set up a guardianship in lieu of terminating the father's parental rights.

Finally, the father contends termination was not in the child's best interests because it would disrupt the child's relationship with his half-sibling, who was placed in a separate home. See *id.* § 232.116(2) (requiring court to consider "the best placement for furthering the long-term nurturing and growth of the child"). The caseworker addressed this argument at the termination hearing, testifying that the child lived "right down the street" from his half-sibling and that each foster parent had "every intention of keeping contact between the children." Based on this testimony, the juvenile court appropriately declined to apply the factors in section 232.116(2).

We affirm the juvenile court's termination of the father's parental rights to his child.

AFFIRMED.