

IN THE COURT OF APPEALS OF IOWA

No. 3-037 / 12-2253
Filed February 13, 2013

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

A.C., Father,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

A father appeals from the order terminating his parental rights to his minor child. **AFFIRMED.**

Tammy L. Banning of Tammy L. Banning, P.L.C., Waterloo, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kathleen Hahn, Assistant County Attorney, for appellee State.

Andrew Abbott of Abbott Law Office, Waterloo, for minor child.

Considered by Tabor, P.J., Mullins, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2013).

MAHAN, S.J.**I. Background Facts & Proceedings.**

Amed is the father of J.B., who was born in 2005. Throughout the majority of J.B.'s life he resided with his mother, Jennifer, and had very little contact with Amed. Jennifer had a history of mental health and substance abuse problems. J.B. was removed from Jennifer's care August 9, 2011, and placed in foster care. J.B. was adjudicated to be in need of assistance pursuant to Iowa Code section 232.2(6)(c)(2) (2011).

After J.B. was removed from Jennifer's care, Amed became involved in services and visitation with the child. He progressed to having weekend overnight visits with J.B. On June 29, 2012, Amed was arrested for being a felon in possession of a firearm. Amed is not a citizen of the United States, and Immigration and Customs Enforcement began action to deport him as a result of his criminal offense. He was incarcerated pending a resolution of the deportation matters.

Jennifer died suddenly, possibly from a drug overdose, on September 14, 2012. Amed's wife, Amelia, came to the offices of the Iowa Department of Human Services on September 17, 2012, asking if J.B. could have visits in her home. At the recommendation of the child's play therapist, her request was denied at that time.

The State filed a petition seeking to terminate Amed's parental rights. A hearing was held November 21, 2012. At the time of the hearing Amed had recently been ordered to be deported to Mexico, and he was expected to be

removed shortly. J.B. remained in foster care, and there was a family who was interested in being a placement option for him.

The juvenile court entered an order on December 6, 2012, terminating Amed's parental rights to J.B. pursuant to section 232.116(1)(f). The court found it was in the child's best interests to terminate the father's parental rights. The court also found, "permanency through adoptive placement is the most permanent and appropriate long-term placement option." Amed appeals the decision of the juvenile court.

II. Standard of Review.

The scope of review in termination cases is *de novo*. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). Clear and convincing evidence is needed to establish the grounds for termination. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Where there is clear and convincing evidence, there is no serious or substantial doubt about the correctness of the conclusion drawn from the evidence. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). "The paramount concern in termination proceedings is the best interest of the child." *In re D.S.*, 806 N.W.2d 458, 465 (Iowa Ct. App. 2011).

III. Best Interests.

Amed does not contest the grounds for termination of his parental rights, instead he argues termination is not in J.B.'s best interests. He asks to have the child placed in Amelia's care. Amed and Amelia had three children together, and Amed asserts J.B. could be placed in the same home as his half-siblings. Amed asserts that even if he is no longer living in the United States, he could maintain

contact with J.B. through telephone calls and periodic visits by the child with him in Mexico.

We first note that it is not even clear Amelia was interested in having J.B. placed in her home. After Amed was arrested in June 2012, Amelia had no contact with the Department until September 17, 2012. Her lack of contact with the Department was part of the reason her request for visitation with J.B. was denied at that time. The Department had a later telephone call from a person stating they were calling on behalf of Amelia, but no further contact from Amelia herself. Lisa Cross, a representative of the Department, testified it was her understanding Amelia was not a legal citizen of the United States, and given her status, there were concerns as to whether she would be able to adopt J.B., even if she was interested.

In considering the best interests of children, 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); *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). Generally, it is not in a child’s best interests to make the child wait for permanency. See *In re A.B.*, 815 N.W.2d 764, 777 (Iowa 2012) (noting children “simply cannot wait for responsible parenting”).

After considering all of the factors in this case, we agree with the juvenile court’s conclusion that termination of Amed’s parental rights was in J.B.’s best interests. While Amed had recently developed a relationship with J.B. after he was removed from his mother’s care, Amed was being deported to another country and would not be available to provide for J.B.’s needs. Also, there is little

evidence Amelia was interested in having J.B. placed in her care, and it is unknown whether she would ever be able to adopt him. We also note the attorney and guardian ad litem joined in the recommendation of the State for termination of parental rights. J.B. has recently had a rough time in his life since his mother died and his father faced being deported. He needs permanency and a stable home as soon as possible. As the juvenile court correctly noted, this can best be accomplished through adoption.

We affirm the decision of the juvenile court.

AFFIRMED.