

IN THE COURT OF APPEALS OF IOWA

No. 3-493 / 13-0551
Filed May 30, 2013

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

**C.L., Father,
Appellant.**

Appeal from the Iowa District Court for Dallas County, Virginia Cobb,
District Associate Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Robb Goedicke of Burdette Law Firm, P.C., Clive, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, Wayne Reisetter, County Attorney, and Sean Wieser,
Assistant County Attorney, for appellee State.

Kayla Stratton of the Juvenile Public Defender's Office, Des Moines, for
minor child.

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

EISENHAUER, C.J.

A father appeals from the order terminating his parental rights to his child, contending termination is not in the child's best interests. We affirm.

The child, born in April 2011, was removed from the father's care in December, when the father was arrested after he assaulted his mother and step-father while he and the child were living at the grandparents' house. The child's mother had had little involvement with the child since August. The paternal grandparents cared for the child throughout these proceedings and were allowed to intervene in September 2012.

The father has anger issues and possible mental health problems. Since the fight with his mother and step-father, the father has refused supervised visitation with the child unless the supervision is by someone other than the paternal grandparents. Throughout these proceedings, the father has refused to participate in most services, he has been unemployed and homeless, and he has been unwilling to address his emotional and mental health issues.

The court terminated the father's parental rights in December 2012 under Iowa Code section 232.116(1)(d), (e), and (h) (2011).¹ The court considered and rejected the father's request for additional time, finding "no basis to believe that an additional six months will make a difference." The court concluded termination was in the child's best interests.

We review terminations of parental rights de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). We examine both the facts and law, and adjudicate anew those issues properly preserved and presented. *In re L.G.*, 532 N.W.2d 478,

¹ The court also terminated the mother's parental rights. She did not appeal.

480-81 (Iowa Ct. App. 1995). We accord considerable weight to the findings of the juvenile court, especially concerning the credibility of witnesses, but are not bound by them. *Id.* at 481.

On appeal, the father contends termination is not in the child's best interests. In determining a child's best interests, we give primary consideration to "the child's safety, . . . the best placement for furthering the long-term nurturing and growth of the child, and . . . the physical, mental, and emotional condition and needs of the child." Iowa Code § 232.116(2). Those best interests are determined by looking at the children's long-range as well as immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). We consider what the future likely holds for the child if the child is returned to the parents. *In re J.K.*, 495 N.W.2d 108, 110 (Iowa 1993). Insight for that determination may be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of future care the parent is capable of providing. *In re L.L.*, 459 N.W.2d 489, 493-94 (Iowa 1990). "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).

The father has unresolved emotional and possible mental health issues. He has consistently refused services to address his needs. The father has no suitable home for the child, no way to provide for the child's needs, and no realistic plan to address these concerns. The father argues an extension of time or establishment of a guardianship would give the father an opportunity to find

employment and housing, and would give the child the opportunity to have a relationship with the father. The father did not take advantage of the time he had to maintain a relationship with the child, find employment, secure adequate housing, or resolve his emotional and mental health issues. “At some point, the rights and needs of the child rise above the rights and needs of the parents.” *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997), *overruled on other grounds by P.L.*, 778 N.W.2d at 39. Like the trial court, we find additional time would not change the father’s circumstances to allow the child to be returned to his care. We conclude the child’s best interests are served by terminating the father’s parental rights to free the child up for adoption.

AFFIRMED.