

IN THE COURT OF APPEALS OF IOWA

No. 3-953 / 13-1246
Filed October 2, 2013

**IN THE INTEREST OF D.B. JR.,
Minor Child,**

**K.H., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Colin J. Witt, District Associate Judge.

The mother appeals from the juvenile court's termination of her parental rights pursuant to Iowa Code section 232.116(1)(d) (2013). **AFFIRMED.**

Magdalena Reese of Carr & Wright, P.L.C., Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellee State.

ConGarry Williams of the Polk County Juvenile Public Defender's Office, Des Moines, attorney and guardian ad litem for minor child.

Considered by Vogel, P.J., and Danilson and Tabor, JJ.

VOGEL, P.J.

The mother appeals from the juvenile court's termination of her parental rights pursuant to Iowa Code section 232.116(1)(d) (2013), claiming the court erred in denying her request for a permanency extension so she could further engage in services, and termination was not in D.B.'s best interest due to the bond between him and the mother. Because we find a substantial amount of time has passed in which the mother failed to reengage in D.B.'s life, and the mother did not show any bond actually exists such that termination is not in D.B.'s best interest, we affirm.

D.B. Jr., born in August 2007, first came to the attention of the Iowa Department of Human Services (DHS) in 2010, then again in August 2011, because of repeated instances of D.B. escaping the home and wandering outside by himself. D.B. was residing with his father and had almost no contact with his mother.¹ On October 18, 2012, D.B. was removed from the father's home due to the father's inability and unwillingness to care for D.B., based in part on D.B.'s behavioral issues. On December 21, 2012, D.B. was adjudicated a child in need of assistance (CINA). The father consented to the termination of his parental rights.

The mother, who lives in Minnesota, was contacted some time after DHS became involved with the family. She informed DHS she had not seen D.B. for

¹ The mother claims the father prevented her from contacting D.B., though her struggles with substance abuse, mental health issues, and homelessness also contributed to her absence from D.B.'s life.

two years.² She stated she was willing to engage in services so as to be reunited with D.B. and would move to Des Moines to do so. She personally attended the CINA adjudication hearing on November 2, 2012, though she was not present for the December 21, 2012 hearing, and relocated to Des Moines in late December 2013. While in Iowa she engaged in services and regularly attended visits with D.B. for a period of approximately two months, though DHS did report she struggled to follow through with some services and missed a few supervised visits. However, after being forced to leave Hope Ministries just three days after being admitted to the program, the mother moved back to Minnesota in February 2012 and has had no further contact with D.B. She currently has no job, is living in an apartment with two men she recently met, and has no plans to find a more permanent residence.

Based on the father's consent and the mother's cessation of contact with D.B., the State filed a petition to terminate the parental rights of both parents on May 15, 2013. A permanency hearing was held on July 12, 2013, in which the mother testified, though she only attended the first day of the hearing. On July 18, 2013, in a well-reasoned order, the juvenile court terminated both the father's and mother's parental rights under Iowa Code section 232.116(1)(d).³

The mother appeals, asserting that, because no permanent home has been found for D.B., she should be allowed to take advantage of this time to

² The mother also informed DHS she had been involved in a domestic violence situation resulting in her arrest and had various substance abuse issues—she began using marijuana at thirteen, which she stated she continued until recently, and has further experimented with cocaine, methamphetamine, and PCP.

³ The court also terminated the father's rights under Iowa Code sections 232.116(1)(b) and (e). Only the mother appeals.

further engage in services so she may become a fit parent. She also relies on a letter from her counseling service stating she has been compliant with treatment and taking her prescribed medications. She further claims termination was not in D.B.'s best interest because during their few interactions, it was clear "that she loved [D.B.] and was working hard to form a bond."

We review termination proceedings de novo. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). The grounds for termination must be proved by clear and convincing evidence. *Id.* Our primary concern is the child's best interest. *Id.*

Here, the State proved by clear and convincing evidence the grounds for termination under Iowa Code section 232.116(1)(d), and the juvenile court did not err in denying the mother's request for a permanency extension. While it is true the mother initially attempted to reengage in D.B.'s life once the father no longer wanted custody, she left for Minnesota in February and has not had contact with D.B. since that time, despite being offered services. It is evident she has had ample time to reconnect with D.B., and while she claims she has tried to contact him through phone calls and Facebook, she has nonetheless failed to do so. When parents have gone a significant period of time without participating in services or attempting to reengage in their child's life, due to the continued stress on the child resulting from his unstable circumstances, the parent should not be granted an extension to prove they are capable of parenting. See *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000) (holding in light of the preceding eighteen months, the mother's changes in the past two or three months was not enough to show an extension of time should be granted). Given these circumstances, we agree with the juvenile court clear and convincing evidence exists showing the

circumstances leading to D.B.'s CINA adjudication continue to exist despite the offer and receipt of services, and more time would not correct the situation. See Iowa Code § 232.116(1)(d).

Furthermore, we find termination was in D.B.'s best interest. The mother has failed to demonstrate any actual bond between her and D.B.—she has not been involved in D.B.'s life in any significant or long-term manner, even after being given many opportunities to do so. Moreover, the mother has not been able to find a permanent residence, and, indeed, has given no indication she is attempting to find a stable home. However, both the DHS worker and D.B.'s therapist agree his next home must be both stable and permanent. As the juvenile court aptly noted, D.B. has a history of escaping from his caregivers, and by living such a transient existence, it is unclear at best the mother is mature enough to parent her child adequately. D.B. should not be forced to wait for the mother to grow up. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) (“When the statutory time standards found in section 232.116 are approaching, and a parent has made only minimal progress, the child deserves to have the time standards followed by having termination of parental rights promptly pursued.”). Therefore, we find termination is in D.B.'s best interest and affirm the termination of the mother's parental rights.

AFFIRMED.