

IN THE COURT OF APPEALS OF IOWA

No. 7-454 / 07-0786
Filed July 12, 2007

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

**L.M.M., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Mary Kennedy, Waterloo, for appellant mother.

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

Andrew Abbott of Abbott Law Office, P.C., for minor child.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

HUITINK, P.J.

Lisa appeals from the trial court's termination of her parental rights concerning her child, Jerimiah. She claims that termination is not in the child's best interests. We review her claims de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

Lisa lived in Oregon prior to Jerimiah's birth. Concerns were raised regarding her mental health and substance abuse; therefore the State of Oregon issued a protective custody letter, requesting that her child be taken into custody at birth. Lisa and the child's father, John, left Oregon and moved to Texas. Jerimiah was born in Texas in June of 2006. Within a month, concerns were raised that Lisa was not properly caring for Jerimiah and his medical condition.¹ When the State of Texas began to investigate these claims, Lisa and John left to live with relatives in Iowa. Shortly thereafter, she was arrested in Black Hawk County on theft charges. John was also arrested on unrelated charges. Jerimiah was removed and placed with relatives on August 18, 2006. When Lisa was released from jail, she did not cooperate with family services or arrange supervised visitations with Jerimiah. Instead, she and John left Iowa. Lisa made no attempt to contact the Iowa Department of Human Services until she was arrested for credit card fraud in Idaho. At the time of the termination hearing, Lisa was still incarcerated.

On April 23, 2007, the court terminated Lisa's and John's parental rights pursuant to Iowa Code sections 232.116(1)(b) (abandonment) and (g) (child

¹ Jerimiah was born with spina bifida.

CINA, parents' rights to another child were terminated, parent does not respond to services) (2007).

On appeal, Lisa claims the trial court erred because it did not make a specific finding that termination was in Jerimiah's best interests. She also claims Jerimiah's best interests would be better served by not terminating her parental rights.² John is not a party to this appeal.

While the district court did not explicitly hold that termination was in Jerimiah's best interests, the tenor of the order and the findings of fact contained therein indicate that the decision was based on Jerimiah's best interests. For example, the court found:

These parents' histories of neglect and abuse of other children, their histories of domestic violence between each other and their individual histories of substance abuse and unsuccessful mental health treatment present a bleak picture if this child were returned to their care.

The court went on to state:

[T]he parents rejected the efforts at reunification that were provided by the Department and put their needs ahead of any consideration of their child's needs. . . . Each of the parents continues to lack the ability or willingness to respond to services which would correct the situation. An additional period of rehabilitation would not correct the situation and *would be contrary to the welfare of the child*.

(Emphasis added.) Based on these statements, we find the court did consider the child's best interests when it decided to terminate Lisa's parental rights.

Upon our de novo review of the record, we also conclude termination is in Jerimiah's best interests. Lisa's past is marked by criminal behavior and

² Lisa does not contend the State failed to prove by clear and convincing evidence any of the statutory grounds upon which termination was based. Therefore, she waives any claims of error concerning the statutory grounds for termination by failing to raise them on appeal. See Iowa R. App. P. 6.14(1)(c). Consequently, we affirm the termination of her parental rights on statutory grounds.

domestic abuse. She routinely makes choices that place her needs above those of her children. Rather than attend supervised visitations and participate in family services, she chose to leave Iowa without notifying the Iowa Department of Human Services. As a result, she has not had contact with Jerimiah since September 15, 2006. Her parental rights to two previous children have also been terminated in other jurisdictions. The evidence of Lisa's past decision making and motivations suggests that she will not be able to properly provide for Jerimiah's future care. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) ("The future can be gleaned from evidence of the parents' past performance and motivations.").

Conversely, Jerimiah has thrived in the care of his paternal great aunt and uncle. He has adapted well to this home, and they wish to adopt him. In light of Lisa's past actions and overall lack of involvement in offered services, we find no reason to delay the permanency he deserves. See *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring) ("A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests."); *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983) (stating a child should not endlessly await the maturity of their parent). The juvenile court's ruling terminating Lisa's parental rights is affirmed.

AFFIRMED.