

IN THE COURT OF APPEALS OF IOWA

No. 2-755 / 12-1233
Filed September 6, 2012

**IN THE INTEREST OF N.W.,
Minor Child,**

**K.W., Mother,
Appellant.**

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

A mother appeals the order terminating her parental rights. **AFFIRMED.**

Christopher Kragnes Sr. of Kragnes and Associates, P.C., Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant Attorney General, and Faye Ann Jenkins, Assistant County Attorney, for appellee State.

William E. Sales III of Sales Law Firm, P.C., Des Moines, attorney for minor child and Christine Bisignano, Windsor Heights, guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Potterfield and Bower, JJ.

VAITHESWARAN, P.J.

A mother appeals the termination of her parental rights to her daughter, born in 1994. She does not challenge the ground for termination cited by the district court. Instead, she contends the district court (1) violated her due process rights by declining to permit telephone participation in the termination hearing and (2) should not have concluded that termination was in the best interests of the child, as the child might have been eligible for benefits as the dependent of a veteran. Our review of these issues is de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

I. The record reflects that the mother was in prison at the time of the termination hearing. Her attorney asked the court for permission to have his client appear by telephone. The district court denied the request.

The mother was present at two permanency review hearings involving this child. While she missed the final review hearing preceding the termination hearing, she was aware of the termination petition and had been aware since early 2011 that termination was imminent. It is clear, therefore, that the mother had ample opportunity to prepare and present a defense through an alternate means, such as a deposition. *See In re J.S.*, 470 N.W.2d 48, 52 (Iowa Ct. App. 1991) (“Where a parent receives notice of the petition and hearing, is represented by counsel, counsel is present at the termination hearing, and the parent has an opportunity to present testimony by deposition, we cannot say the parent has been deprived of fundamental fairness.”).

Because the mother had sufficient time to present deposition testimony, we affirm the district court's denial of her request for telephone participation.¹

II. We turn to the second issue, whether termination was in the best interests of the child. See *P.L.*, 778 N.W.2d at 39. As noted, the mother's argument is narrow; she asserts that she "is a United States Veteran" and "[t]he [c]hild as a dependent of a Veteran is entitled to certain benefits," which may be affected by the termination of her parental rights. The mother cites no facts to support this assertion. And, the law is against her, as the Iowa Supreme Court recently held that the legislature did not intend the "potential loss of child support to be a component of the section 232.116(2) best interests test." *In re H.S.*, 805 N.W.2d 737, 749–50 (Iowa 2011). *In re H.S.* forecloses the mother's argument.

We affirm the termination of the mother's parental rights to this child.

AFFIRMED.

¹ The better practice, however, would be to allow parental participation when requested and feasible.