

IN THE COURT OF APPEALS OF IOWA

No. 3-657 / 13-0733
Filed July 10, 2013

**IN THE INTEREST OF T.F.,
Minor Child,**

**R.S., Mother,
Appellant.**

Appeal from the Iowa District Court for Monona County, Mary J. Sokolovske, Judge.

A mother appeals the termination of her parental rights to her child.

AFFIRMED.

Jessica R. Noll of Deck Law, L.L.P., Sioux City, for appellant mother.

Thomas J. Miller, Attorney General, Katherine Miller-Todd, Assistant Attorney General, Michael P. Jensen, County Attorney, and Ian A. McConeghey, Assistant County Attorney, for appellee State.

David A. Dawson, Sioux City, attorney and guardian ad litem for minor child.

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

VAITHESWARAN, J.

This appeal, involving the termination of a mother's parental rights to her three-year-old child, was the subject of a prior appeal from the district court's dismissal of an earlier termination petition. *In re T.F.*, No. 12-1240, 2012 WL 4101551, at *1, 5–6 (Iowa Ct. App. Sept. 19, 2012). That opinion provides a detailed rendition of the factual background supporting the child's adjudication as a child in need of assistance, the mother's history of compliance and noncompliance with reunification services, and the sufficiency of some of those services. *Id.* at *1-4. In the end, this court affirmed the dismissal of the State's termination petition based on the State's failure to provide sufficient services and its failure to establish that termination was in the child's best interests. *Id.* at *6.

We will begin this opinion where the other left off. The State filed a second petition to terminate the mother's parental rights and, this time, the district court granted the petition. The court noted that the parents had not “fully tak[en] advantage of” supervised visits with their daughter and “chose not to make [the child] a priority.” On appeal, the mother contends (1) the State failed to prove the grounds for termination cited by the district court and (2) termination was not in the child's best interests.¹

I. The district court terminated the mother's parental rights pursuant to several statutory grounds. On our de novo review,² we find clear and convincing

¹ The father's parental rights were also terminated, and he has not appealed.

² Our de novo review is hampered by the absence of certain exhibits referenced in the transcript and ruling. However, the State witnesses who testified at the termination hearing recounted pertinent portions of those exhibits. Because the mother did not contest those narrations, we conclude they are an adequate substitute for the documentary evidence.

evidence to support termination under Iowa Code section 232.116(1)(h) (2013) (requiring proof of several elements, including proof that child cannot be returned to parent's custody). See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) (setting forth the standard of review and also providing that the appellate court may affirm a juvenile court's order terminating parental rights to a child if there is evidence to support any one ground relied upon by the juvenile court).

A case manager with the Iowa Department of Human Services testified that the child, born in 2009, came to the agency's attention when she was approximately six months old, based on allegations of physical abuse by her teenage mother. The child was placed with her maternal grandparents, where she remained throughout the proceedings.³

The mother was afforded weekly supervised visits with the child. The mother did not consistently attend those visits. According to the case manager, she also lacked parenting skills to be able to parent the child full-time and was living with a man who was on probation for a drug-related crime and who would not sign a release to permit an assessment of whether he posed a danger to the child. The case manager opined that the child could not be returned to the mother's care.

An in-home safety worker also testified on behalf of the State. While the focus of her testimony was on the father, her statement that there was never a point during supervised visits when she felt comfortable moving forward with unsupervised visits appears to apply equally to both parents.

³ The child's mother also lived in the home until she reached adulthood.

The mother did not appear at the termination hearing, rendering the State's evidence in support of termination undisputed. That evidence establishes that the child could not be returned to the mother's custody. Iowa Code § 232.116(1)(h).

II. Termination must also be in the child's best interests. *Id.* § 232.116(2); *In re P.L.*, 778 N.W.2d 33, 37 (Iowa 2010). The mother argues termination was not in the child's best interests because she "cares for her daughter very much," "participated in remedial services," and "participated in supervised visitations and met her daughter's needs during those visits." Even if all these assertions are true, the record contains scant evidence that she was able to provide a safe environment for her child on a sustained, unsupervised basis. We agree with the district court that termination was in the child's best interests.

In a related matter, the mother appears to argue that the court should have created a guardianship with her parents in lieu of termination. See Iowa Code § 232.116(3)(a). Assuming without deciding that this issue was preserved for our review, we note that the mother was afforded approximately three years to move towards reunification. Little progress was made during this period. We conclude termination, rather than a guardianship, was warranted.

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

AFFIRMED.