

**IN THE COURT OF APPEALS OF IOWA**

No. 24-0089  
Filed March 27, 2024

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

**A.T., Mother,**  
Appellant,

**R.W., Father,**  
Appellant.

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Appeal from the Iowa District Court for Carroll County, Joseph McCarville,  
Judge.

A mother and father separately appeal the termination of their parental  
rights to their child. **AFFIRMED ON BOTH APPEALS.**

Kelsea M. Hawley of Minnich, Comito, Neu & Hawley, P.C., Carroll, for  
appellant mother.

Mark J. Rasmussen of Rasmussen Law Office, Jefferson, for appellant  
father.

Brenna Bird, Attorney General, and Mackenzie Moran, Assistant Attorney  
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guardian ad litem for minor child.

Considered by Bower, C.J., and Greer and Chicchelly, JJ.

**BOWER, Chief Judge.**

A mother and father separately appeal the termination of their parental rights to their child, born in 2019. The mother claims the State failed to prove the grounds for termination cited by the juvenile court and termination is not in the child's best interests. Both parents claim the State did not engage in reasonable efforts to reunite them with the child. Upon our review, we affirm on both appeals.

***I. Background Facts and Proceedings***

This family most recently came to the attention of the department of health and human services (the department) in November 2021, upon reports of the parents using methamphetamine. A caseworker visited the family's home, but the mother refused to let anyone enter "without a warrant." The father came to the door and told the caseworker the child was at the paternal grandmother's home. The caseworker called the paternal grandmother, who reported she had dropped the child off at the maternal grandmother's home the day before. She stated the child "had spent a lot of time in her home," "sometimes for entire weeks at a time," because the father asked her to allow the child to stay with her while the parents were "abusing meth."

The caseworker then contacted the maternal grandmother, who confirmed the child was at her home. She reported the mother "had her rights terminated on her other children" as "a result of [her] meth use."<sup>1</sup> The maternal grandmother stated she was concerned about the child's well-being because the mother was still using methamphetamine, and she agreed to continue caring for the child under

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<sup>1</sup> The mother's parental rights to her three older children were terminated in 2018, due to her methamphetamine use and mental-health concerns.

a safety plan. The child was removed from the parents' custody and placed with the maternal grandmother, and the parents stipulated to his adjudication as a child in need of assistance.

Over the next year, the parents continued to use methamphetamine and failed to engage in substance-use treatment. The mother participated in visits with the child, but as the court observed, "If she doesn't complete treatment and get clean, it is hard to see a path to reunification." It was "unclear" whether the parents continued their relationship, which was described as a "complicated primarily unhealthy relationship," but "verbal altercations" and physical violence between them persisted. In an October 2022 report, the caseworker stated after the parents were informed of their positive drug test results in August, "they knew they needed to take steps towards maintaining sobriety," but in the two months since, "little to no progress has been made." The State initiated termination-of-parental-rights proceedings.

Several months later, the parents moved to Nebraska. The termination hearing began in April 2023. The mother had "just recently obtained [her] own apartment" and was working on her sobriety. Meanwhile, the father was in jail stemming from an incident during which he "stole a car, got pulled over, resisted arrest, received an [operating-while-intoxicated charge], got arrested." After "several hours of testimony," the parties agreed to continue the hearing "to allow the [department] and the father to do more in preparation" for the hearing. The court also issued an expedited interstate compact placement evaluation (ICPC) of the mother's home.

The remainder of the hearing took place over two days in September and December. By that time, the father had been unsuccessfully discharged from inpatient treatment and he was completing a seventeen-month prison sentence. He agreed the child could not be safely returned to his custody within six months.

The mother had been unsuccessfully discharged from inpatient treatment in spring 2023. Initially, she engaged in outpatient treatment, although she refused to allow the treatment facility to send her drug-test results to the department. In June, the mother completed a hair-follicle test for the department, which was negative for all substances, but concerns were raised about the test results due to a report she had “performed a hair bleaching detox kit to tamper with the test results.” In August, the mother tested positive for methamphetamine, around the same time the ICPC was approved for placement of the child in Nebraska. Eventually, the mother admitted she “relapsed one time, one incident. That’s it.” In September, the mother refused to test because she was “already frustrated.” In October, the mother obtained another substance-use evaluation, which recommended outpatient treatment. In November, she returned a sweat patch with a negative result, but the test “had been tampered with” and “was hardly still attached when she returned to testing.” The mother began outpatient treatment in mid-December, the week prior to the final day of the termination hearing.

The mother testified she was looking into placement at another treatment facility in Nebraska. The mother stated she had “struggled with this drug addiction [since] early 2017” and admitted her history “of lying about [her] drug use.” She agreed her parental rights to her older three children were terminated for “[t]he same reason [as] this one.” She explained she “wasn’t ready to get help then,” but

she was “ready this time.” She requested the child be returned to her custody “today.” She acknowledged, however, the child could not be placed with her at the treatment facility.

The court entered an order terminating the mother’s parental rights pursuant to Iowa Code section 232.116(1)(e), (f), (g), and (l) (2023) and the father’s parental rights pursuant to section 232.116(1)(e), (f), and (l). The mother and father separately appeal.

## **II. Standard of Review**

We review termination-of-parental-rights proceedings de novo. *In re L.T.*, 924 N.W.2d 521, 526 (Iowa 2019). Upon our review, our primary consideration is the best interests of the child, *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006), the defining elements of which are the child’s safety and need for a permanent home. *In re H.S.*, 805 N.W.2d 737, 748 (Iowa 2011).

## **III. Discussion**

*A. Grounds for Termination.* The mother challenges all four of the grounds the juvenile court relied on to terminate her parental rights. “When the juvenile court terminates parental rights on more than one statutory ground,” we may affirm “on any ground we find supported by the record” evidence. *In re A.B.*, 815 N.W.2d 764, 774 (Iowa 2012). We focus on paragraph (f). Relating to that paragraph, the mother claims the State failed to show by clear and convincing evidence the child could not be returned safely to her custody at the time of the termination hearing. See Iowa Code § 232.116(1)(f)(4).

The mother had a short period of progress in early 2023 when she engaged in treatment and seemed to be focused on maintaining her sobriety. The mother

testified she had learned about her methamphetamine “triggers” and “what had led up to [her] continuing to use and use the way that [she] did” and stated she had “changed a lot” since her prior use. Unfortunately, the mother continued to use methamphetamine, and she did not demonstrate sobriety for any length of time. See *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000) (stating parent “waited too long to respond [to services], and the underlying problems which adversely affected her ability to effectively parent were too serious to be overcome in the short period of time prior to the termination hearing”). Even after the termination hearing was continued, the mother refused some drug tests and tested positive for methamphetamine. The department had not authorized another test since the mother’s last test in November, which was “tampered with,” because the caseworker had not “been able to reach [the mother] since that time.”

Additionally, the mother failed to take accountability for the risk her drug use had on the child’s safety, maintaining she “never put [the child] in any harm’s way” when she used methamphetamine. The caseworker opined the mother was “still struggling with th[e] same issues of mental health and substance abuse” as she had in her first termination-of-parental-rights case. The caseworker explained the mother had made only “minimal progress,” “engaging in the substance abuse evaluation and engaging briefly in the treatment but not completing them successfully.” Based on these and other facts replete in the record (including the mother’s unaddressed mental-health concerns), we agree with the court’s finding the child could not be returned to her custody at the time of the termination hearing. Iowa Code section 232.116(1)(f) was satisfied.

*B. Best Interests.* Termination also must serve the child's best interests. See Iowa Code § 232.116(2). As the caseworker testified, "[The child] is at a young age where he relies on his parents for care, for full care of him and methamphetamine is a mind-altering drug that does not allow for a parent to take care of a child [his] age." The guardian ad litem opined:

While this case was initiated due to struggles of the parents, at its core it is (and should be) focused on P.W.'s best interests. P.W. has been out of [the mother]'s care for the past 22 months. P.W. is entitled to a more permanent plan than "let's see if your parent(s) can maintain sobriety and establish a stable residence."

I have a sincere hope that both [the mother] and [the father] can achieve their stated goal(s) of ongoing sobriety. However, no evidence currently available can demonstrate that this goal of sobriety/stability is currently anything more than a hope. [The child] should not be required to wait and hope for that prospective outcome.

In assessing the best interests of the child, we must look at his long-range as well as immediate interests. See *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989). "This requires considering what the future holds for the child if returned to the parents." *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). When making this decision, we look to the parents' past performance because it may indicate the quality of care they are capable of providing in the future. *Id.* Despite the uncertainty in the recovery of either parent, by all accounts, the child was "thriving" in the care of his maternal grandmother, and she was willing to adopt him. Upon our review, we agree termination is in the child's best interests.

*C. Exception to Termination.* The mother further claims termination is not in the child's best interests because she has a bond with the child. "Consideration of the parent-child bond is not a part of our best-interests analysis." *In re E.S.*, No. 23-0590, 2023 WL 4104126, at \*2 (Iowa Ct. App. June 21, 2023). However,

section 232.116(3)(c) allows the court to forego termination when “[t]here is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.” The mother has the burden of convincing us to apply the permissive factor. See *In re A.S.*, 906 N.W.2d 467, 475–76 (Iowa 2018). Although it is undisputed the mother and child are “very” bonded, the mother has not established termination of her parental rights will be detrimental to the child.

*D. Reasonable Efforts.* Both parents claim the State did not engage in reasonable efforts to reunite them with the child. The State must show reasonable efforts toward reunification “as a part of its ultimate proof” that grounds for termination exist. See, e.g., *C.B.*, 611 N.W.2d at 493. Specifically, the mother claims she “was continuously denied increased visitation and decreased supervision.” The caseworker testified about this topic. She stated the mother’s visits were not “moved from fully supervised to semi-supervised” due to “ongoing concerns with [her] sobriety.” The caseworker further explained the department was “looking at increasing [the mother’s] time with [the child]” when she showed signs of progress in 2023, but “due to the positive drug test in August as well as concerns of her sister . . . living with her, it would not have been appropriate to go to semi-supervised visits.” Even despite the department’s unwillingness to transition to semi-supervised visits, which we find to be reasonable under the circumstances, the child’s grandmothers graciously accommodated and supervised regular visits for the mother by transporting the child to see her.



Similarly, the father claims the department “failed to make any accommodation for him and the child to see each other.”<sup>2</sup> The father acknowledged his move to Nebraska limited the resources Iowa was able to provide, but he responded, “They could have made those resources available to me when I was still in Iowa.”<sup>3</sup> Yet the father agreed at the outset of the case, the department set forth the case plan requirements “very clearly” to him—“get an evaluation, follow through with drug treatment, and stay off drugs.” The father stated he did not stop using drugs until after he moved to Nebraska, and shortly after he moved to Nebraska, the father was arrested. Although he was “given an opportunity [for] leniency by going into a treatment facility,” he “refused a direct order so they discharged [him] from the facility.” When asked “if there’s anything else [the department] could provide to [him],” the father responded, “I don’t know how to tell you to do your job.” Under these facts and circumstances, we find the department met its reasonable-efforts obligation to both parents.

Having addressed the issues raised on the parents’ appeals, we affirm the termination of their parental rights.

**AFFIRMED ON BOTH APPEALS.**

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<sup>2</sup> The father also claims the court should have granted him an additional six months to reunite with the child. To grant an extension of time for reunification, the court must “enumerate the specific factors, conditions, or expected behavioral changes” providing a basis to determine the child will be able to return to the parent at the end of the additional six months. Iowa Code § 232.104(2)(b). As noted above, at the termination hearing, the father agreed the child could not be returned to him in six months. The court had no basis on which to grant the father an extension.

<sup>3</sup> The father testified he was able to see the child “every other week” even after he moved to Nebraska.