

IN THE COURT OF APPEALS OF IOWA

No. 1-142 / 11-0075
Filed March 30, 2011

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

**R.P.K., Father,
Appellant.**

Appeal from the Iowa District Court for Story County, Victor G. Lathrop,
Associate Juvenile Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Matthew A. Mauk of Ostebee Law Office, Ames, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Stephen Holmes, County Attorney, and Jessica Reynolds,
Assistant County Attorney, for appellee.

James Thornton, Ankeny, for appellee mother.

James G. Rowe of Rowe Law Firm, P.L.L.C., Ankeny, attorney and
guardian ad litem for minor child.

Considered by Sackett, C.J., Potterfield, J., and Huitink, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

SACKETT, C.J.

A father appeals from the order terminating his parental rights to his child. He contends¹ the court erred in finding he did not maintain meaningful contact with the child and in not declining to terminate because of the closeness of the parent-child bond. We affirm.

We review the termination of parental rights de novo. *In re C.S.*, 776 N.W.2d 297, 298 (Iowa Ct. App. 2009). The parent-child relationship is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S. Ct. 549, 554, 54 L. Ed. 2d 511, 519 (1978). The State has the burden of proving the grounds for termination by clear and convincing evidence. *In re P.L.*, 778 N.W.2d 33, 34, 39 (Iowa 2010). Although we give weight to the juvenile courts findings of fact, we are not bound by them. *In re J.A.D.-F.*, 776 N.W.2d 879, 883 (Iowa Ct. App. 2009). If the juvenile court terminates a parent's rights on multiple statutory grounds, we may affirm if any ground is supported by clear and convincing evidence. *Id.* at 884. In determining whether to terminate, our primary considerations are the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child. *P.L.*, 778 N.W.2d at 37, 39 (citing Iowa Code § 232.116(2) (2009)). We also consider whether any of the

¹ Iowa Rule of Appellate Procedure 6.201(d) requires that the petition on appeal "substantially comply with form 5 in rule 6.1401." The petition on appeal does not separately state the legal issues presented for appeal. See Iowa R. App. P. 6.1401–Form 5 (2010). It also does not set forth "findings of fact or conclusions of law with which you disagree" as required by the form. See *id.* The latter requirement was added effective May 27, 2010.

circumstances in section 232.116(3) allow the court not to terminate. *Id.* at 37–39; Iowa Code § 232.116(3).

The child was born in 2007. The court found the child to be in need of assistance in 2009. The father, who has a history of substance abuse and violence, has been incarcerated at various times since the child’s birth and was incarcerated at the time of the termination. The father exercised visitation with the child, but it was sporadic because the father frequently was incarcerated. Two of the father’s visits were unsupervised. The father has been incarcerated for more than 80% of the child’s life. At the termination hearing, the father presented no evidence. The worker who supervised visitation testified there was a relationship between father and child, that dissolving the relationship would be hard on the father, but she was “not sure” if it would be hard on the child. The caseworker testified the father believes he’s developed a bond with the child. She further testified the child enjoys visitation, “but I don’t know that I would say that it’s—that he’s bonded to him and knows him as his father.”

The court terminated the father’s parental rights under Iowa Code section 232.116(1)(e) and (h). The court specifically found there was “no close relationship” between father and child and termination “would not be detrimental to the child based on the parent-child relationship.”

On appeal, the father does not challenge the statutory grounds for termination under section 232.116(1)(h). The first three elements are undisputed. Because the father was incarcerated at the time of the termination, there is clear and convincing evidence the child could not be returned to his care

at that time. See Iowa Code § 232.116(1)(h)(4). We affirm the termination under section 232.116(1)(h).

There is no evidence in the record of a strong parent-child bond between the father and the child, or evidence that termination of the father's parental rights "would be detrimental to the child at the time due to the closeness of the parent-child relationship." *Id.* § 232.116(3)(c).

AFFIRMED.