

IN THE COURT OF APPEALS OF IOWA

No. 2-352 / 12-0523
Filed May 9, 2012

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

**J.M.A., Mother,
Appellant.**

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

A mother appeals the termination of her parental rights. **AFFIRMED.**

Laura A. Sopher of Grimes, Buck, Schoell, Beach & Hitchins,
Marshalltown, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Jennifer Miller, County Attorney, and Joshua Vander Ploeg,
Assistant County Attorney, for appellee State.

Darrell G. Meyer, Marshalltown, for appellee father.

Kevin M. O'Hare of Peglow, O'Hare & See, P.L.C., Marshalltown, attorney
and guardian ad litem for minor child.

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

VOGEL, P.J.

Juanita appeals the termination of her parental rights to J.H., born in 2006. The district court terminated Juanita's rights under Iowa Code section 232.116(1)(e)¹ and (f) (2011). We affirm.

Our review of proceedings to terminate parental rights is de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). When the district court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the district court to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

Juanita does not challenge the grounds for termination under Iowa Code section 232.116(1)(f), which provides for termination if:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the parents for at least twelve of eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that at the present time, the child cannot be returned to the custody of the child's parents as provided in section 232.102.

J.H. is five years old, has been adjudicated a child in need of assistance (CINA), and has been removed from Juanita's custody since November 2009—far more than twelve consecutive months prior to the termination hearing. In addition, Juanita is currently incarcerated and serving a ten-year sentence, therefore precluding J.H.'s return to her custody at the present time. We affirm the district

¹ See Iowa Code § 232.116(1)(e) (adjudicated CINA, removed at least six months, parent has not maintained significant and meaningful contact with child during previous six consecutive months).

court's termination of Juanita's parental rights under Iowa Code section 232.116(1)(f).

Juanita also seeks an additional six months to work toward reunification. However, as she did not request any additional time before the district court, she has failed to preserve error for our consideration of the issue on appellate review. See *In re C.S.*, 776 N.W.2d 297, 299 (Iowa Ct. App. 2009) ("An issue that is not raised at the trial court may not be raised for the first time on appeal.").

Juanita next asserts that a bond still exists between herself and J.H. and the district court erred in finding termination of her parental rights was in J.H.'s best interests. Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). Further, Iowa Code section 232.116(3)(c) allows a court not to terminate if there is clear and convincing evidence termination would be detrimental to the child due to the closeness of the parent-child relationship. When determining a child's best interests, "[a] child's safety and the need for a permanent home are now the primary concerns." *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially).

J.H. has been removed from Juanita's care and custody for more than two years. During that period, Juanita has been incarcerated, fled the state of Iowa, been reincarcerated, and at the time of the termination hearing, had not seen J.H. for almost one year. Such circumstances undermine any argument Juanita advances regarding a bond between J.H. and her that might otherwise militate against termination. It is through Juanita's own poor decisions that any bond

between J.H. and her has been severely weakened. Moreover, J.H. is in a pre-adoptive home with one of his half-siblings, where he is stable and has made positive behavioral changes. Because J.H.'s safety and need for a permanent home are our primary concerns, we find termination of Juanita's parental rights is in J.H.'s best interests and no factors militate against termination. We therefore affirm.

AFFIRMED.