

IN THE COURT OF APPEALS OF IOWA

No. 2-915 / 12-1406
Filed October 31, 2012

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

A.M., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Louise Jacobs,
District Associate Judge.

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

Daniel M. Northfield, Clive, for appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant
Attorney General, John Sarcone, County Attorney, and Christina Gonzales and
Faye Jenkins, Assistant County Attorneys, for appellee State.

Joanne Picray of Picray Law, Des Moines, for appellee father.

Kimberly Ayotte of Youth Law Center, Des Moines, attorney and 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 child, born in 2010. She contends: (1) the district court should not have terminated her rights pursuant to the several cited grounds for termination and (2) termination was not warranted because a relative had custody of the child and she shared a close bond with the child.

I. “When the juvenile court terminates parental rights on more than one statutory ground, we may affirm the juvenile court’s order on any ground we find supported by the record.” *In re A.B.*, 815 N.W.2d 764, 774 (Iowa 2012). On our de novo review of the record, we are persuaded that the State established termination under Iowa Code section 232.116(1)(h) (2011) (requiring proof of several elements, including proof that the child cannot be returned to the parent’s custody). *See id.* at 773 (setting forth standard of review).

The mother chronically abused methamphetamine. Her drug use led to the removal of her child in May 2011 and may have been behind her incarceration later that year.¹ The mother admitted that her substance abuse spanned two decades and admitted that she continued to use drugs while undergoing drug treatment in 2011.

At the time of the termination hearing in 2012, the mother was serving a five-year prison term. While she was slated to appear before the parole board in September 2012, she admitted that, even if she were placed in a halfway house following the appearance, the facility would not accept children. Based on this

¹ The mother had a lengthy criminal history and a number of arrests in 2011. It is unclear from the record which arrest culminated in her conviction and prison sentence.

record, we agree with the district court that the mother was in no position to have her child returned to her custody.

II. “Even after we have determined that statutory grounds for termination exist, we must still determine whether termination is in the child’s best interests.” *Id.* at 776; see also Iowa Code § 232.116(2). We must also decide whether termination need not occur for one of several reasons set forth in section 232.116(3). *A.B.*, 815 N.W.2d at 778 n.8. Although the mother cites subsections 232.116(2) and (3), her argument focuses on subsection (3), and specifically (3)(a) (stating the court need not terminate a relationship if “[a] relative has legal custody of the child”) and (3)(c) (stating the court need not terminate the relationship if termination would be detrimental to the child due to the closeness of the parent-child relationship).

With respect to section 232.116(3)(a), the record reflects that the child was placed with the father, who had succeeded in addressing his own substance abuse issues. At the time of the termination hearing, the father was in the process of divorcing the mother, leaving little likelihood that the family unit would remain intact following the mother’s release from prison or that the father would voluntarily facilitate contact between mother and child. For these reasons, the fact the child was with a relative did not militate in favor of denying the termination petition.

We turn to the mother-child bond. By the time of the termination hearing, the mother had not seen the child for several months. While we do not doubt the sincerity of her testimony that she loved the child, her feelings were not enough to overcome the overwhelming evidence of her inability to care for the child.

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

AFFIRMED.