

**IN THE COURT OF APPEALS OF IOWA**

No. 3-005 / 12-2107  
Filed January 24, 2013

**IN THE INTEREST OF T.H. AND A.A.,  
Minor Children,**

**H.W., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,  
District Associate Judge.

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

David G. Thinnes of Thinnes Law Offices, L.L.C., Cedar Rapids, for  
appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant  
Attorney General, Jerry Vander Sanden, County Attorney, and William C.  
Croghan, Assistant County Attorney, for appellee State.

Andrew Wiezorek of Jacobsen Johnson & Viner, P.L.C., Cedar Rapids, for  
appellee father.

Amy Dollash, Cedar Rapids, for appellee father.

Sharon Hallstoos of Hallstoos Law Office, Cedar Rapids, attorney and  
guardian ad litem for minor children.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

**VOGEL, P.J.**

A mother, Hannah, appeals the juvenile court's decision terminating her parental rights to her two children, T.H., born 2009, and A.A., born 2011.<sup>1</sup> She argues on appeal the statutory elements were not met, and termination was not in the children's best interests due to her close bond with them.

Hannah's rights were terminated as to both children pursuant to Iowa Code section 232.116(1)(h) (2011) (child three or younger, adjudicated child in need of assistance (CINA), removed from home for six of last twelve months, and child cannot be returned home). We review termination of parental rights actions de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). Although we are not bound by them, we give weight to the district court's findings of fact. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence. See Iowa Code § 232.116. "Clear and convincing evidence" means there are no serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence. *C.B.*, 611 N.W.2d at 492.

This family first came to the attention of the Department of Human Services (DHS) in January 2011 when Hannah placed T.H. in danger by caring for him while she was participating in a burglary as a lookout. In August, the children were removed from Hannah's care after a founded report of physical abuse perpetrated by Hannah against the children. The children were adjudicated CINA on October 11, 2011.

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<sup>1</sup> The fathers of the children also had their parental rights terminated but do not appeal.

During the pendency of this case, Hannah was given two extensions of time to work towards reunification. She showed some improvement during that time, including gaining housing and employment, and was allowed a trial home placement of the children on July 25, 2012. Unfortunately, the trial placement only lasted just over one month, when the DHS worker had founded concerns regarding unauthorized individuals at the home, including one who had escaped from a work release center. It was also reported to the DHS the children were able to get out of the home on their own and were found wandering in the parking lot unattended. Moreover, Hannah's drug screen from August 17, while the children were still in her care, came back positive for methamphetamine.

Hannah has a history of significant mental health issues, as well as drug usage, as recently confirmed with the positive drug screen during the trial home placement. She continues to put her drug usage ahead of safely caring for her children. She also has not been able to separate herself from negative influences, including close associations with inappropriate people. While Hannah has gained employment and housing, the children cannot safely be returned to her care. The State has proved by clear and convincing evidence the statutory elements of Iowa Code section 232.116(1)(h) have been met and Hannah's parental rights to her children were properly terminated.

Hannah next argues termination is not in the children's best interest due to her close bond with them.<sup>2</sup> Our primary concern is the best interests of the

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<sup>2</sup> Hannah does not cite Iowa Code section 232.116(3)(c), providing an exceptionally close relationship can militate against termination. Instead, she makes a general "best interests" argument. The considerations found in section 232.116(3) are permissive and the court has discretion, based on the unique circumstances of each case and the best

children. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). We look to both the long-term interests as well as the immediate interests of the children in making the determination. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). The children are currently placed with A.A.'s paternal grandmother and doing well. The grandmother is going through the process to be approved for adopting the children. The children are bonded with this grandmother and well integrated into her home. T.H. in particular, while still slightly behind developmentally, has thrived and started to develop age appropriate language skills in this placement. Hannah received additional time to learn proper parenting and life skills, and was given—but failed—a trial home placement. “At some point, the rights and needs of the child rise above the rights and needs of the parents.” *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). The children have waited long enough for permanency and termination is in their best interests.

**AFFIRMED.**

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interests of the children, whether to apply the factors in this section to save the parent-child relationship. *In re D.S.*, 806 N.W.2d 458, 474-75 (Iowa Ct. App. 2011). We find even if Hannah were to frame her argument under section 232.116(3)(c), the bond is not exceptionally close so as to preclude termination.