

IN THE COURT OF APPEALS OF IOWA

No. 3-604 / 13-0736

Filed June 26, 2013

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

**S.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Linn County, Susan F. Flaherty,
Associate Juvenile Judge.

A mother appeals the termination of her parental rights to her child.

AFFIRMED.

Kristin L. Denniger of Denniger Law Firm, Cedar Rapids, for appellant
mother.

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

Sharon Hallstoos, Dubuque, attorney and guardian ad litem for minor
child.

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

VAITHESWARAN, J.

A mother appeals the termination of her parental rights to her child, born in 2008. She contends (1) the State failed to prove the ground for termination cited by the juvenile court, (2) the juvenile court should have declined to terminate her parental rights based on her bond with the child, and (3) termination was not in the child's best interests.

I. The juvenile court terminated the mother's parental rights pursuant to Iowa Code section 232.116(1)(*I*) (2013), which requires proof of several elements including proof that "[t]he parent has a severe substance-related disorder and presents a danger to self or others as evidenced by prior acts" and "the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home." On our *de novo* review, we agree that the State established these elements by clear and convincing evidence. See *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010) (setting forth the standard of review).

The Department of Human Services became involved with the family when the child was approximately six months old and continued its involvement well past the child's fourth birthday. Throughout that period, the mother's substance abuse was the primary concern. Time after time, the mother used drugs or alcohol, relapsed, underwent treatment, and relapsed again. The juvenile court recounted this cycle in detail. The court's narrative finds support in department reports and the testimony of a department employee. Most pertinently, the employee stated that the mother had "struggled with substance abuse essentially since the onset of this case" and did not "have the capability of

remaining sober outside of the treatment facility,” despite the receipt of several services designed to facilitate reunification, including two trial home placements. Based on this evidence, we conclude the cited statutory ground for termination was proven.

II. Even if a statutory ground for termination is established, the court need not terminate a parent’s rights if there exists a close relationship between the parent and child. Iowa Code § 232.116(3)(c).

There is no question mother and child shared a close relationship. The department employee assigned to the case acknowledged this fact, testifying that the child “love[d] her mother very much” and mother and child had a “great bond,” which was “very evident if you ever observe[d] any interaction between” them. She noted that the child was “really struggling with the back and forth of visits” and the child’s behaviors showed that she was “distressed about her current situation.” According to the employee, the child “very clearly state[d] that she wants to go home.”

Despite the child’s desire to live with her mother, the employee opined that reunification was not the best option. She noted that the child needed to “have permanency in her life.” The juvenile court agreed, stating the “bond is not sufficient to overcome the need to provide [the child] with a safe, stable, drug-free environment.” We agree with this assessment.

The juvenile court showed exceptional patience and forbearance in the face of the mother’s numerous relapses, going so far as to afford her two opportunities to show that she could safely parent the child on her own. The

mother squandered those opportunities. Under these circumstances, the child's evident attachment to the mother was not grounds to decline termination.

III. Termination must also be in the child's best interests. Iowa Code § 232.116(2); *P.L.*, 778 N.W.2d at 40. The mother wrote a poignant letter to the court admitting she had "struggled throughout this case," but expressing a readiness "to make changes." She characterized her child as "my whole world" and asked for "just one last chance."

We do not doubt the sincerity of the mother's feelings, which were corroborated by a family support worker who supervised visits between mother and child during the second trial home placement. The worker reported that mother and child reciprocated love for each other. She also reported no "safety concerns in the home or in [the mother's] ability to care for her daughter" and found that the mother "appropriately redirected and manage[d]" the child "under stressful circumstances."

Were this the state of the record at the time of the termination hearing, we might have heeded the mother's plea for another chance. Several interim events altered the picture. After the family support worker wrote her glowing comments, the mother provided a dilute drug test, missed seven drug tests in a month, was not available during multiple drop-in visits, and was found to be staying with her boyfriend, who had several convictions for domestic abuse and alcohol-related crimes. Given this turn of events, we agree with the following assessment by the juvenile court:

[A]nother chance and more time for [the mother] comes at the expense of [the child's] need for permanency, safety and stability. [The mother] has already received multiple chances and many

months of extra time to gain control of her substance abuse. She has not been successful over the past almost four years and with virtually every service and support available in this community. A grant of additional time is not in the child's best interest.

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

AFFIRMED.