

**IN THE COURT OF APPEALS OF IOWA**

No. 3-699 / 13-0823

Filed July 24, 2013

**IN THE INTEREST OF E.C.,  
Minor Child,**

**T.C., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Romonda D. Belcher,  
District Associate Judge.

A mother appeals the termination of her parental rights claiming the  
termination was not in the child's best interest. **AFFIRMED.**

Aaron H. Ginkens of Ginkens Law Firm, P.L.C., Clive, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John Sarcone, County Attorney, and Kevin Brownell, Assistant  
County Attorney, for appellee.

Erin Mayfield of Youth Law Center, Des Moines, attorney and guardian ad  
litem for the child.

Considered by Potterfield, P.J., and Mullins and Bower, JJ.

**MULLINS, J.**

A mother appeals the termination of her parental rights to her daughter, E.C., who was born in August of 2009.<sup>1</sup> The mother raises two issues in this appeal: whether the termination was in the child's best interest and whether the termination was proper given the closeness and bond of the parent-child relationship.

**I. BACKGROUND FACTS AND PROCEEDINGS.**

This termination arises out of the second child-in-need-of-assistance (CINA) proceeding involving this mother and child. The first CINA petition was filed just weeks after the child was born due to the mother's drug use. The child tested positive for marijuana at birth, and the mother tested positive for methamphetamine a few weeks after the birth. The child was placed in family foster care for most of her first year of life. The child was eventually returned to the mother while she was in rehab, and the CINA case was closed in August 2011.

The mother admitted celebrating the closing of the CINA case by immediately using marijuana and eventually started using methamphetamine again. The mother consented to the child's removal in November of 2011 after admitting using methamphetamine. The child was placed back in the same foster family and was adjudicated a CINA again in December. At the permanency hearing in May 2012, the court found the mother was making progress and granted her an additional six months to work toward reunification,

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<sup>1</sup> The district court also terminated the father's parental rights, though he did not appear at the termination hearing and did not file an appeal.

though it required her to find a therapist to help her address her past and determine what brought her to use illegal drugs and have the child removed. She was also ordered to grow and maintain support systems. The mother continued to use illegal substances in the late summer, early fall of 2012 and was admitted to in-patient treatment in November. She was discharged to a half-way house after twenty-one days of treatment.

The State filed a petition to terminate the mother's rights in December 2012. The case proceeded to a hearing, which took place January 31, March 8, 11, and 25, 2013. Following the first day of the termination hearing, the mother tested positive for methamphetamine at the half-way house and admitted to using. The department of human services (DHS) social worker testified the child was attached to the foster parents and looked to them to have her basic needs met. The mother had completed only one session with a therapist by the time of the final day of the termination hearing. Every witness acknowledged, including the mother, that the mother was not immediately prepared to parent the child as she needed to work more on her sobriety.

The court entered an order terminating the mother's rights May 17, 2013, finding the child could not be returned to the mother immediately as she continued to struggle with her sobriety, was not leading a lifestyle of recovery, and was clean from drugs for only a short period of time. "The mother's failure to fully engage in services such as therapy, obtaining a sponsor, and working through the steps and actively participating in continuing care does not assure this Court that the mother can adequately and safely parent the child without fully

addressing her substance abuse.” The court found there was a strong loving bond between the mother and child but also between the foster parents and the child. The court concluded it was in the child’s best interests to terminate the mother’s parental rights.

## **II. SCOPE AND STANDARD OF REVIEW.**

Our view of termination proceedings is de novo. *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011). “We give weight to the juvenile court’s factual findings, especially when considering the credibility of witnesses, but we are not bound by them.” *Id.* We are primarily concerned with the best interests of the child even if the statutory grounds for termination are met. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994).

## **III. ANALYSIS.**

The mother does not contest the ground for termination. The mother appears to assert the termination of her rights was not in the best interests of the child. She also appears to claim the termination was not proper due to the closeness and bond of her relationship with the child.<sup>2</sup>

From our de novo review of the record, we agree with the district court’s finding that the termination was in the child’s best interests. The mother struggled with substance abuse long before the child was born. The substance abuse caused two CINA cases to be initiated. After the first CINA case closed,

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<sup>2</sup> In her appellate brief the mother only lists the issues as questions followed by block quotes of supporting legal authority. The brief provides no statement as to what findings of fact or conclusions of law made by the district court with which she disagreed and why. The brief also fails to reference the parts of the record that support her position as required by Iowa Rule of Appellate Procedure 6.1401, Form 5.

the mother immediately relapsed. She was admitted twice to in-patient treatment and after she was released she relapsed. She even relapsed days after the first day of the termination hearing. The child has spent the majority of her three years in the care of her foster parents, and she should not be forced to endlessly wait while the mother attempts once again to regain sobriety. See *In re P.L.*, 778 N.W.2d 33, 41 (Iowa 2010) (“It is well-settled law that we cannot deprive a child of permanency after the State has proved a ground for termination . . . by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child.”). The child is in a loving and stable foster home that is a potential adoptive placement. We find termination of the mother’s parental rights is in the child’s best interests.

Under Iowa Code section 232.116(3)(c) (2011), the court does not need to terminate if it finds the termination would be detrimental to the child due to the closeness of the parent-child relationship. While we acknowledge, as the district court did, that there is a bond between the mother and child, this bond is not an overriding consideration, but merely a factor to consider. See *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). The child was also strongly bonded with the foster parents and looked to them to satisfy her basic needs. We do not find the bond with the mother justifies a continued delay of permanency this child needs and deserves. See *In re D.W.*, 791 N.W.2d 703, 707 (Iowa 2010) (“We do not gamble with the children’s future by asking them to continuously wait for a stable biological parent, particularly at such tender ages.” (internal quotation marks omitted)).

We therefore affirm the district court's ruling terminating the parental rights of the mother.

**AFFIRMED.**