

**IN THE COURT OF APPEALS OF IOWA**

No. 7-346 / 07-0436

Filed May 23, 2007

**IN THE INTEREST OF M.A.P., Minor Child,**

**T.M.P., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Pottawattamie County, Gary K. Anderson, District Associate Judge.

A mother appeals from a juvenile court order terminating her parental rights to one child. **AFFIRMED.**

Ryan M. Sewell, Council Bluffs, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Matthew Wilber, County Attorney, and Dawn Eimers, Assistant County Attorney, for appellee.

Lori Falk-Goss, Council Bluffs, for father.

Robert Megal, Council Bluffs, guardian ad litem for minor child.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

**MILLER, J.**

Toni is the mother of five-year-old Miguel, who is also known as Michael. Toni appeals from a March 2007 juvenile court order terminating her parental rights to Miguel. The order also terminated Miguel's father's parental rights, and he has not appealed. We affirm.

Miguel was removed from Toni's physical custody and placed in the temporary legal custody of the Iowa Department of Human Services (DHS) in March 2006. The removal was the result of Toni leaving then four-year-old Miguel in the yard of a friend without notifying the friend. Toni was charged with child endangerment as a result.

The State filed a child in need of assistance (CINA) petition. Following an uncontested removal hearing, in March 2006 the juvenile court placed custody of Miguel in the DHS for placement in family foster care. Miguel thereafter remained in the custody of the DHS and in family foster care.

Miguel was adjudicated a CINA in May 2006, pursuant to Iowa Code sections 232.2(6)(c)(2), (g), and (n) (2005), and a dispositional order was entered in June 2006. In October 2006 the juvenile court waived reasonable efforts to preserve and unify the family. The State filed a petition to terminate parental rights in December 2006. Following hearing the juvenile court terminated Toni's parental rights pursuant to Iowa Code sections 232.116(1)(d) (child adjudicated CINA for abuse or neglect, parents offered or received services but circumstances continue), (e) (child adjudicated CINA, child removed from parents at least six consecutive months, parents have not maintained significant and meaningful contact with child during previous six consecutive months and have

made no reasonable efforts to resume care of child), and (I) (child adjudicated CINA, parent has severe, chronic substance abuse problem and presents danger as evidenced by prior acts, parent's prognosis indicates child cannot be returned within reasonable period of time). Toni appeals.

We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. 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.

*In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

Toni first claims the State did not prove that Miguel's best interest would be furthered through termination of her parental rights. Toni is twenty-seven years of age. She suffers from depression and other mental health problems, as well as serious and unresolved substance abuse problems involving more than one illegal drug. Toni has previously had her parental rights terminated as to each of five children older than Miguel. She has been unable or unwilling to secure and maintain employment. Toni has been unable to secure housing other than housing provided by others, including Miguel's father and subsequently another male, both of whom engaged in domestic abuse of Toni. She has been largely uncooperative with services offered to deal with her many problems and lead to reunification with Miguel.

Some evidence in the record suggests Toni has a bond, perhaps even a strong bond, to Miguel. However, other evidence is to the contrary. Toni was incarcerated when Miguel was born, and had only had his full-time care for about one year before his removal. The attorney and guardian ad litem for Miguel

reports that when Toni did attend supervised visits her interaction with Miguel indicated he was not bonded to her and he has an attachment disorder.

We conclude Miguel needs the security, stability, and permanency which have so far been largely lacking in his life, needs them now, and Toni will be unable to provide them at any time within the reasonably foreseeable future. We therefore conclude that termination of Toni's parental rights is in Miguel's best interest, provided the State proved the statutory grounds relied on by the juvenile court.

Toni claims the State did not prove that she did not have significant and meaningful contact with Miguel during the previous six months. This claim implicates only the third element of section 232.116(1)(e). The State asserts Toni has therefore preserved error only with respect with section 232.116(1)(e).

We believe the absence of any challenge to the juvenile court's conclusion the State proved the grounds for termination pursuant to sections 232.116(1)(d) and (l) more correctly involves a waiver of any issue as to those grounds rather than a failure to preserve error. See Iowa R. App. P. 6.14(1)(c) (stating a "[f]ailure . . . to state . . . an issue may be deemed waiver of that issue."). We deem waived any claim or issue concerning the juvenile court's conclusions the State proved the elements of sections 232.116(1)(d) and (l). We therefore affirm termination of Toni's parental rights pursuant to those two provisions. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) ("When the juvenile terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm.").

**AFFIRMED.**