

IN THE COURT OF APPEALS OF IOWA

No. 9-172 / 09-0202
Filed March 26, 2009

**IN THE INTEREST OF J.M. and C.M.,
Minor Children,**

**T.D.M., Mother,
Appellant.**

Appeal from the Iowa District Court for Fayette County, Alan D. Allbee,
Associate Juvenile Judge.

A mother appeals the termination of her parental rights to two of her
children. **AFFIRMED.**

Richard J. Buffington of Buffington Law Office, P.C., Oelwein, for appellant
mother.

Shawn Harden, Independence, for appellee father D.L.

Andrew P. Thalacker, Waterloo, for appellee father S.H.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, W. Wayne Saur, County Attorney, and Nathan James Lein,
Assistant County Attorney, for appellee State.

John Sullivan, Oelwein, for minor children.

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

VAITHESWARAN, J.

Tosha appeals the termination of her parental rights to two children, born in 2005 and 2007. She asserts that the juvenile court (1) “erred in concluding there was clear and convincing evidence to terminate [her] parental rights . . . pursuant to Iowa Code section 232.116(1)(e) and (h),” (2) “erred in concluding that the termination of [her] parental rights . . . was in the best interest of the minor children,” (3) “abused its discretion by not utilizing the exception to termination of parental rights pursuant to Iowa Code section 232.116(3)(a) and (c),” and (4) “failed to prove reasonable efforts were made to return the children to [her] care.” On our de novo review of the record, we disagree with her contentions.

I. We may affirm the juvenile court’s termination of the mother’s parental rights if we find clear and convincing evidence to support either of the grounds cited by the court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). The record contains clear and convincing evidence to support the second ground. See Iowa Code § 232.116(1)(h) (2007) (requiring proof of several elements including proof that the children could not be returned to the parent’s custody).

Tosha began using methamphetamine when she was twelve years old. By the time of the termination hearing, she was twenty-four years old, had been through recovery or treatment programs three different times, and was participating in a fourth program at a residential treatment facility that did not allow children. At the termination hearing, she testified,

I'm not saying that I can leave here today and take care of my children, I'm not saying that, that's why I feel like they are completely safe where they are It's just—I don't want to lose that option to be able to have a part of their life later on.

This admission alone supports the juvenile court's determination that the children could not be returned to Tosha's care.

II. Tosha next asserts that termination is not in the children's best interests. See *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) ("The primary interest in termination proceedings is the best interests of the child."). We disagree. Just two months after her discharge from a drug treatment facility, Tosha left the state for four months and lived with her methamphetamine-using father. Between June 2008 and the termination hearing in January 2009, she saw her older child only once and her younger child twice. Although a Department of Human Services employee and others conceded that the older child shared a bond with his mother, that bond alone is insufficient to warrant deferral of termination in the absence of greater progress toward sobriety.

III. A court need not terminate a parent's rights if a child has been placed with a relative or if termination would be detrimental to the child given the closeness of the parent-child relationship. See Iowa Code § 232.116(3)(a), (c).

Tosha's older child was placed with his father and, as noted, the child shared a bond with Tosha. However, as the juvenile court thoroughly explained, Tosha's history of relapses precluded a return of the child to his mother's custody at the time of the termination hearing or in the imminent future. Under these circumstances, an exception to termination was not warranted.

As for the younger child, she was placed in foster care with a family that was not related to Tosha and there was little evidence that Tosha maintained a close relationship with the child. Accordingly, the cited exceptions did not apply.

IV. The State has an obligation to make reasonable efforts toward reunification. *C.B.*, 611 N.W.2d at 493. The juvenile court detailed the many services that Tosha was provided. These services were more than sufficient to satisfy the State's reasonable efforts obligation.

We affirm the juvenile court's termination of Tosha's parental rights to her two children, born in 2005 and 2007.

AFFIRMED.