

IN THE COURT OF APPEALS OF IOWA

No. 3-1032 / 13-1435
Filed November 6, 2013

**IN THE INTEREST OF S.L.,
Minor Child,**

**M.L., Mother,
Appellant.**

Appeal from the Iowa District Court for Dickinson County, David C. Larson, District Associate Judge.

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

Pamela Wingert, Spirit Lake, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Jason Carlstrom, County Attorney, and Travis Johnson, Assistant County Attorney, for appllee State.

Shannon Sandy of Sandy Law Firm, P.C., Spirit Lake, attorney and guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Potterfield and Danilson, JJ.

VAITHESWARAN, P.J.

A mother appeals the termination of her parental rights to her child, born in 2011. She contends (1) “custody of the child should have been returned to [her]” and (2) “the State failed to meet its burden to show by clear and convincing evidence that termination was in [the child’s] best interest.”

I. The juvenile court terminated the mother’s parental rights pursuant to two code provisions. We may affirm if we find clear and convincing evidence to support either of the statutory grounds. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review, we agree with the district court that the State established the ground for termination set forth in Iowa Code section 232.116(1)(h) (2013) (requiring proof of several elements, including proof the child could not be returned to the parent’s custody).

The young mother lived in a trailer with up to eight or nine people and five dogs. Before the birth of the child that is the subject of this appeal, the trailer caught fire and the mother’s older child died. As a result, this child was adjudicated in need of assistance and the Department of Human Services initiated services to help the family.

A service provider who worked with the family for approximately ten months testified that the trailer was in “[d]eplorable” condition. She noted that it had “an unusually [significant] high fire load,” a measure of the number of items in the home that could ignite. She cited “numerous safety concerns” that, in her view, posed an “imminent danger.” The service provider also described the relationship between the mother and father as “[v]ery complicated” and “volatile at times” and stated the mother did not consistently take medication prescribed

for mental health diagnoses.¹ She characterized the progress the family had made as “[e]xtremely minimal.”

A nurse with a public health agency cited similar concerns with sanitation and safety and testified to “the lack of emotional, mental health treatment that the parents were willing to accept.” Of particular concern was the mental health of the baby, in whom she saw “extreme fear.”

The child was eventually placed with the paternal grandmother in South Dakota. At the termination hearing, the grandmother testified that the child had been in her “full-time custody and care” for more than a year. She said the child was “a number one priority” for her and she did not see the child “as the number one priority for anybody else.”

Professionals who worked with the family after the child’s removal from her mother opined that the child could not be returned to the mother’s custody. A department employee noted that there were no visits between mother and child for approximately three months and, after that point, the visits only occurred once a month. When asked if she had concerns about the safety of the child should the child be returned to care for mother, she stated “[d]efinitely.”

The service provider who supervised the few visits that took place expressed concern with the mother’s lack of follow-through, her failure to take care of her mental health needs, and her volatile relationship with the father of the child. When asked if it would be safe to return the child to the mother he stated “[n]ot right now.”

¹ A psychologist diagnosed the mother with mood disorder not otherwise specified, anxiety disorder not otherwise specified, and personality disorder not otherwise specified.

Based on this record, we conclude the State proved by clear and convincing evidence that the child could not be returned to the mother's custody.

II. Termination must also be in the best interests of the child. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). The mother argues termination was not in the child's best interests because "there was demonstrated affection between them." We disagree.

One of the service providers who worked with the family stated that "[t]here did not appear to be a strong bond between" the mother and child. The grandmother seconded this opinion, stating the child viewed her as the mother and called her "mom." While we do not underestimate the mother's desire to parent this child, we conclude she was simply not in a position to develop the strong connection that would make reunification a viable option.

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

AFFIRMED.