

IN THE COURT OF APPEALS OF IOWA

No. 3-989 / 13-1307
Filed November 6, 2013

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

**A.M., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Louise M. Jacobs,
District Associate Judge.

A.M. appeals the juvenile court's order arguing there is insufficient
evidence in the record to support the termination of her parental rights.

AFFIRMED.

John C. Heinicke of Kragnes & Associates, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Faye Jenkins,
Assistant County Attorney, for appellee.

M. Kathryn Miller, Des Moines, attorney and guardian ad litem for minor
child.

Considered by Doyle, P.J., and Tabor and Bower, JJ.

BOWER, J.

A.M. appeals the juvenile court's order arguing there is insufficient evidence in the record to support the termination of her parental rights. We find there is sufficient evidence to support the termination of A.M.'s parental rights. We affirm.

I. Background Facts and Proceedings

A child in need of assistance petition (CINA) was filed on January 31, 2012, alleging E.M. to be a child in need of assistance. The petition alleged the mother, A.M., had placed the child in danger after the mother assaulted her then boyfriend in the presence of the child. The petition alleged A.M. threw a lamp and Christmas decorations which nearly struck the child. At the time of the petition, A.M. had been arrested, jailed, released, and jailed again after violating the terms of a no-contact order. The child was removed from the mother's care and, following a hearing, the mother's parental rights were terminated on August 3, 2013.¹

After removal of the child from her care, A.M. initially engaged in regular visitation with the child. A.M. has struggled, however, to maintain consistent living arrangements or to find regular employment. She has been diagnosed with bipolar disorder and has struggled to take advantage of treatment options. A.M. has been offered parenting classes which she has attended sporadically. By

¹ The juvenile court also terminated the rights of the father, who is no longer in this country. The record indicates numerous attempts to contact the father and engage him in the termination process were made with no success. He did not appear for the termination hearing and has not appealed the termination of his parental rights to this court.

May 2012, her visitations with E.M. had become inconsistent, and she was not regularly participating in services. She continued to have no contact with E.M. through August 15, 2012. On September 5, 2012, E.M.'s therapist did not believe visitation was in the child's best interests. A.M. eventually began participating in services, though visitation did not resume until October 2012. Participation in mental health services did not continue, however, and A.M. continued to bounce between residences and jobs.

Visitation continued on an occasional basis early in 2013; however E.M. displayed aggressive behaviors after visits. It is alleged A.M. had been telling the child during visits that the child did not need to listen to the foster parents because the child would be returned to A.M.

On May 13, 2012, it was reported A.M. had missed six recent visits; she had not been attending all necessary parenting classes and was only working occasionally. The Department of Human Services (DHS) reported on June 5, 2013, that A.M. was missing therapy appointments, refusing to take medications, and continued to miss opportunities for visitation.

II. Standard of Review

Our review of termination proceedings is *de novo*. *In re A.B.*, 815 N.W.2d 764, 773 (Iowa 2012). We give weight to the factual findings of the juvenile court, particularly on matters of credibility, but we are not bound by them. *Id.*

III. Discussion

We may affirm the decision by the juvenile court on any ground for which there is clear and convincing evidence. *In re D.W.*, 791 N.W.2d 703, 707 (Iowa

2010). We need only agree with one ground used by the juvenile court for the court's decision to be upheld. *A.B.*, 815 N.W.2d at 774. In assessing termination under Chapter 232 of the Iowa Code, we engage in a three-step process. *D.W.*, 791 N.W.2d at 707. First, we decide whether a ground for termination has been established under section 232.116(1) (2013). *Id.* If it has, we proceed to engage in a best-interest analysis under section 232.116(2). *Id.* Finally, if the best interests of the child support termination, we examine whether any exceptions under section 232.116(3) apply. *Id.*

A.M. argues there is insufficient evidence under three separate subsections of section 232.116 to support termination. She also argues termination is not in the best interests of the child and termination would be detrimental to the child because of the closeness of the parent-child relationship.

Section 232.116(1)(d)(1) allows for termination when the child has been abused or neglected due to the act or omission of either parent. Iowa Code § 232.116(1)(d)(1). The court must also find, however, that subsequent to the child in need of assistance adjudication, the parents were offered services and did not correct the circumstances. Iowa Code § 232.116(1)(d)(2). A.M. concedes section 232.116(1)(d)(1) has been satisfied. She argues there is insufficient evidence services have not rectified the circumstances because she has a strong bond with the child. We disagree. A.M. suffers from mental health issues which create an unstable environment for the child and leaves A.M. unable to effectively parent the child. She was offered services aimed at helping her address her mental health difficulties, as well as parenting classes which

would help her better parent the child. She has failed to consistently engage in either. The record indicates A.M. has not regularly attended counseling sessions and refused, at times, to take necessary medication. A.M. has also resisted attending all parenting classes. Her refusal, coupled with her inconsistent employment and ongoing problems maintaining a regular, stable residence, shows there is little hope she could reunite with the child in the future.

Section 232.116(1)(e) allows for removal when the child has been adjudicated as in need of assistance, has been removed from the parent for at least six months, and the parent has failed to maintain significant and meaningful contact with the child and has made no reasonable efforts to resume care despite an opportunity to do so. Iowa Code § 232.116(1)(e)(1)–(3). A.M. only challenges the sufficiency of the evidence on subsection three, which examines maintenance of significant and meaningful contact and efforts for reunification. The section defines significant and meaningful contact as assumption of the duties of being a parent and a genuine effort to maintain communication with the child. Iowa Code § 232.116(1)(e)(3). We find A.M. has failed in each of these areas. She has missed multiple visitation opportunities, and her inability to find consistent housing or employment shows she is no better prepared to resume her parenting duties today than she was on the date of removal. She also has failed to successfully complete all necessary parenting classes, showing she is not making a reasonable effort towards reunification.

Having found grounds for termination exist, we next must determine whether termination is in the best interests of the child. Iowa Code § 232.116(2).

We find A.M.'s mental condition impairs her ability to care for the child. She has struggled to maintain employment and stable housing, which does not provide an acceptable environment for the long-term growth of the child. E.M. has also displayed a history of aggressive behavior after visits with A.M., evidencing contact between the parent and child has been detrimental to the emotional wellbeing and growth of the child. The best interest of the child support termination in this case.

Finally, we must consider whether termination would be detrimental to the child due to the closeness of the parent-child relationship. Iowa Code § 232.116(3)(c). A.M. argues she is close to the child and the child displays affection for her. Visitation between the child and A.M. has been sporadic and inconsistent, and at times the child has expressed an unwillingness to have visitation at all. The relationship which has grown in their limited time together does not override E.M.'s need for a stable environment, nor A.M.'s inability to create an environment which would serve the child's needs.

AFFIRMED.