

**IN THE COURT OF APPEALS OF IOWA**

No. 7-728 / 07-1390  
Filed October 12, 2007

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

**S.A.P., Mother,**  
Appellant.

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

A mother appeals from the order terminating her parental rights to five  
children. **AFFIRMED.**

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

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Chris Gonzales,  
Assistant County Attorney, for appellee State.

Yvonne Naanep, Des Moines, for appellee father.

Charles Fuson of the Youth Law Center, Des Moines, for the minor  
children.

Considered by Huitink, P.J., and Vogel and Baker, JJ.

**VOGEL, J.**

Sherry is the mother of Brittany, Billie, Christina, Joseph, and Charlene. These children were born between 1996 and 2004. The children first came to the attention of the juvenile court in May 2006 upon the State's application for temporary removal, which noted their parents' methamphetamine use and the children's possible exposure to those drugs. Based on this report, the State filed a petition alleging the children to be in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b), (c)(2), and (n) (2005). After finding the parents were in no position to care for the children due to their continued drug use, the court adjudicated the children as alleged in the petition. After Sherry failed to adequately address her drug abuse, the State sought to terminate her parental rights to the five children. Following a hearing, the court terminated her rights under sections 232.116(1)(d), (f), and (l) (2007).<sup>1</sup> Sherry appeals from this order.

We review termination orders de novo. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). The grounds for termination must be proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa Ct. App. 1995). However, even if those elements are met, the court must still determine the termination is in the children's best interests. See *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996). While the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

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<sup>1</sup> The children's father consented to the termination of his parental rights.

On appeal, Sherry first argues there is insufficient evidence to support the termination under the grounds found by the juvenile court. In particular, she claims the State failed to prove the circumstances that led to the children's adjudication still continue to exist. See Iowa Code § 232.116(1)(d)(2). She also claims the State failed to establish that the children cannot be returned to her home. See Iowa Code §§ 232.116(1)(f)(4); (1)(3). Finally, she urges that termination of her parental rights is not in the best interests of the children. Upon our de novo review of the record, we reject all of these contentions.

Sherry reportedly began using methamphetamine in 1993 and at the time of the children's removal she was using every other day. However, despite the offer of numerous services, there is little indication that Sherry has successfully overcome her substance abuse problem. Sherry was first advised that she needed to attend the House of Mercy residential treatment center; however, she disregarded this and instead went to a different outpatient treatment. She left this program as she continued to use. In 2007, she eventually entered the House of Mercy program. Despite being there for over six months at the time of the termination hearing, she had yet to progress beyond level one of the program. The record fully bears out the juvenile court's concern regarding Sherry's "wavering commitment to sobriety." The conditions that led to the adjudication have not been addressed sufficiently to alleviate any adjudicatory concerns.

Only recently did Sherry progress to supervised visitation of the children. In the past, it appeared that she was under the influence of drugs while at visitations. Furthermore, Sherry has continued to have contact with the

children's father, despite his violent tendencies and apparent continued use of drugs. When asked to give an explanation for her recommendation to terminate, social worker Jill Meier testified as follows:

The amount of services she's been offered, her lack of consistency with programming at House of Mercy, the safety issues that continue to exist . . . and just her lack of consistency in her recovery.

She also expressed concerns about Sherry's inability "to demonstrate that she can provide a safe, stable home environment for the children." For all of these reasons, including her continuing struggles with her severe and chronic drug use, we conclude the children cannot be returned to Sherry's home. *See In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in a child's best interests).

Finally, we conclude termination of Sherry's parental rights is in the best interests of the children. All of the children were out of her home for more than one year at the time of the termination hearing. They need and deserve the type of stability and nurturing environment Sherry has proved incapable of providing. *See In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987) ("The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems."). Sherry's fourteen years of methamphetamine use continued until at least January of 2007. Based on her prior behaviors, there is a strong possibility she may never be able to provide for the children's basic needs. *See In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981) (noting evidence of a parent's past

performance may be indicative of the quality of future care the parent is capable of providing).

**AFFIRMED.**