

**IN THE COURT OF APPEALS OF IOWA**

No. 7-923 / 07-1437  
Filed December 12, 2007

**IN THE INTEREST OF C.D., K.C., K.R., and K.S.,  
Minor Children,**

**V.C., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Henry County, Michael Dieterich,  
District Associate Judge.

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

Laura M. Krehbiel of Law Office of Laura M. Krehbiel, Donnellson, for  
appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, and Darin Stater, County Attorney, for appellee.

Alan Waples, Burlington, for father.

Richard J. Bell of Bell Law Office, Mt. Pleasant, guardian ad litem for  
minor children.

Considered by Sackett, C.J., Vaitheswaran and Baker, JJ.

**SACKETT, C.J.**

A mother appeals from the juvenile court order terminating her parental rights to four children.<sup>1</sup> She contends the statutory grounds for termination are not supported by clear and convincing evidence and termination is not in the best interest of the children. We affirm.

**I. Background**

Victoria is the mother of Christian, born in November of 2001, Kallee, born in January of 2003, Kelly, born in July of 2004, and Kelsey, born in July of 2005. The children were placed voluntarily with their maternal great-aunt in August of 2005 following allegations of abuse and neglect by the mother or her live-in paramour. The court found the children in need of assistance in September of 2005 based on the physical abuse and neglect and Victoria's substance abuse. The court ordered the continued placement in family foster care for the three older children, but returned the infant Kelsey to Victoria's care with protective supervision. In December of 2005, following Victoria's arrest for forgery, all four children were placed in the custody of the Department of Human Services for placement in foster care. Subsequent review and permanency hearings continued the children's placement outside Victoria's home.

The State petitioned to terminate Victoria's parental rights to all four children in February of 2007. Following a hearing in May, the court in August ordered termination of her parental rights. It found clear and convincing evidence to terminate her parental rights to all the children under Iowa Code sections 232.116(1)(d), (e), and (f) (2007). It found the evidence supported termination of

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<sup>1</sup> The court also terminated the parental rights of the father of each child, but none of the fathers are involved in this appeal.

her parental rights to Christian and Kallee under sections 232.116(1)(f) and (i). The court also found evidence supported termination of Victoria's parental rights to Kelly under sections 232.116(1)(h) and (i) and to Kelsey under sections 232.116(1)(j) and (i).

During the pendency of these proceedings, Victoria was incarcerated from January of 2006 until January of 2007, at which time she was released and paroled. She was incarcerated again beginning in April and remained incarcerated at the time of the termination hearing and order.<sup>2</sup>

## **II. Scope of Review**

We review orders terminating parental rights de novo. Iowa R. App. P. 6.4; *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). The statutory grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We give weight to the findings of the juvenile court, especially concerning the credibility of witnesses, but are not bound by them. Iowa R. App. P. 6.14(6)(g). When the court terminates parental rights on more than one statutory ground, we may affirm if any of the grounds cited are supported by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

## **III. Analysis**

*Statutory Grounds.* We first note Victoria has not directly challenged the statutory grounds for termination under section 232.116(1)(d) (all children) or (j) (Kelsey). Consequently, any such challenge is waived. See Iowa R. App. P. 6.14(1)(c) ("Failure in the brief to state, to argue or to cite authority in support of

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<sup>2</sup> Victoria testified at the termination hearing that she would go before the parole board in November of 2007.

an issue may be deemed waiver of that issue.”). We affirm the termination of her parental rights on those statutory grounds. In addition, Victoria was incarcerated at the time of the termination hearing in May and had no prospect of release before going before the parole board in November. We find clear and convincing evidence the children could not be returned to her care at the time of the termination hearing and affirm the termination of her parental rights under sections 232.116(1)(f) (Christian and Kallee) and (h) (Kelly and Kelsey).

*Best Interest.* Having determined grounds for termination have been established by clear and convincing evidence, we must next determine whether it is in the children’s best interests to terminate parental rights. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When determining a child’s best interests, we look to both the child’s long-range and immediate interests. *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa Ct. App. 1998).

Victoria has mental and substance abuse issues. She has not demonstrated the ability to remain free from illegal drugs except while incarcerated. Victoria has not provided adequate supervision, protection, or medical care for her children—resulting in two founded abuse reports prior to the children’s removal from her care. Since the children’s removal from her care, Victoria has not adequately addressed issues of substance abuse, domestic abuse, mental health, physical abuse, and criminal activity. “A child’s safety and the need for a permanent home are now the primary concerns when determining a child’s best interests.” *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially) (internal citation omitted). Victoria can provide neither.

Victoria argues that she “and her family believe the children are bonded to [her] and that she loves them very much.” Iowa Code section 232.116(3)(c) allows a court the discretion not to terminate parental rights “if there is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.” We do not find such evidence in the record before us. Victoria also argues there is family “willing and able to care for the children.” Although the children initially were placed with Victoria’s aunt, they were removed just a few months later. They have been in foster care since that time.

We find clear and convincing evidence that termination of Victoria’s parental rights to Christian, Kallee, Kelly, and Kelsey best serves their interest. We affirm the termination of Victoria’s parental rights.

**AFFIRMED.**