

IN THE COURT OF APPEALS OF IOWA

No. 9-251 / 09-0290

Filed April 22, 2009

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

**C.W.M., Father,
Appellant.**

Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, Associate Juvenile Judge.

A father appeals the district court's order terminating his parental rights to his four children. **AFFIRMED.**

Leslie Blair of Blair & Fitzsimmons, P.C., Dubuque, for appellant father.

Jamie Splinter of Splinter Law Office, Dubuque, for appellee mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Ralph Potter, County Attorney, and Jean Becker, Assistant County Attorney, for appellee State.

Sarah Stork Meyer, Dubuque, for minor children.

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

VOGEL, P.J.

Caine appeals from the district court's order terminating his parental rights to his four children pursuant to Iowa Code section 232.116(1)(f) (2007) (child is four years of age or older, has been adjudicated a child in need of assistance, removed from the home for at least twelve of the last eighteen months, and cannot be returned to the parent's custody).¹ He challenges the sufficiency of the evidence. Upon our de novo review, we find Caine's argument is without merit and termination is in the children's best interests. See *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006) (de novo review).

Caine and C.C. are the parents of four children born in 1999, 2001, 2002, and 2005. In May 2006, Caine, who had a history of domestic violence, beat C.C. with a lead pipe and threatened to kill her while in the presence of their children. C.C. also reported that Caine threatened to kill their children. Subsequently, Caine was convicted of several crimes and sentenced to twenty-five years in prison.² Caine testified that since his arrest in May 2006, he has not had any contact with the children and has not contacted the Iowa Department of Human Services about the children. See *In re M.M.S.*, 502 N.W.2d 4, 8 (Iowa 1993) (stating that a parent "cannot use his incarceration as a justification for his lack of relationship with the child"); *In re J.L.W.*, 523 N.W.2d 622, 624 (Iowa Ct. App. 1994) (discussing that a parent must take full responsibility for conduct that

¹ The children's mother's parental rights were also terminated pursuant to Iowa Code section 232.116(1)(a), but are not at issue in this appeal.

² Caine testified he was convicted of willful injury, going armed with intent, and neglect or abandonment.

resulted in his incarceration). Although he has services available to him in prison, he has not participated in any services.

The children have found a safe and permanent home with their maternal grandmother, who is willing to adopt them. See *J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in determining a child's best interests). We conclude that termination was proved by clear and convincing evidence and termination is in the children's best interests. We affirm pursuant to Iowa Court Rule 21.29(1)(a), (c), (d), and (e).

AFFIRMED.