

**SUMMARIES OF DECISIONS, IOWA COURT OF APPEALS**  
**July 5, 2018**

Pursuant to Iowa Rule of Appellate Procedure 6.904(2)(6), an unpublished opinion of the Iowa Court of Appeals may be cited in a brief; however, unpublished opinions shall not constitute controlling legal authority.

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**No. 16-1601**

**DOWELL v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Polk County, Jeffrey D. Farrell, Judge. Considered by Vogel, P.J., and Potterfield and Mullins, JJ. Opinion by Mullins, J. (10 pages)

Troy Dowell appeals the summary dismissal of his application for postconviction relief arising out of a hearing to extend a no-contact order under Iowa Code section 664A.8 (2013), raising several claims. **OPINION HOLDS:** We conclude Dowell was not entitled to court-appointed counsel at the section 664A.8 hearing on the extension of the no-contact order, as such hearing was civil and was not a part of the underlying criminal proceedings. Therefore, Dowell could not claim relief under chapter 822 (2016). Although on different grounds, we affirm the district court's ruling dismissing Dowell's application for postconviction relief.

**No. 17-0189**

**STATE v. POLAND**

**CONVICTIONS  
AFFIRMED, SENTENCE  
VACATED IN PART,  
AND REMANDED.**

Appeal from the Iowa District Court for Des Moines County, Mary Ann Brown, Judge. Heard by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (13 pages)

Dakota Poland appeals the judgment and sentence imposed on his convictions for first-degree kidnapping, second-degree kidnapping, and willful injury. **OPINION HOLDS: I.** Substantial evidence supports a finding that Poland confined L.R. as necessary to support both kidnapping convictions and inflicted the severe physical or mental pain on L.R. necessary to satisfy the torture element of Poland's first-degree-kidnapping conviction. **II.** Because our supreme court has determined the sentence for first-degree kidnapping does not violate prohibitions on cruel and unusual punishment, we affirm the life sentence imposed on that conviction. **III.** We vacate the portion of the sentence assessing him court costs and remand for a determination of Poland's reasonable ability to pay.

**No. 17-0274**

**MCCULLOUGH v. EMERITUS CORPORATION**

**AFFIRMED.**

Appeal from the Iowa District Court for Linn County, Christopher L. Bruns, Judge. Heard by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (8 pages)

Defendants appeal from the district court's ruling denying their motion to compel arbitration. **OPINION HOLDS:** The district court did not err in determining it was to decide the issue of whether defendants waived their right to arbitration based on their litigation conduct. Additionally, under the facts of this case, the district court did not err in determining defendants waived their right to compel the matter to arbitration. Accordingly, we affirm the ruling of the district court denying defendants' motion to compel arbitration.

**No. 17-0673**

**STATE v. TUCKER**

**AFFIRMED.**

Appeal from the Iowa District Court for Wapello County, Daniel P. Wilson, Judge. Considered by Vogel, P.J., Doyle, J., and Scott, S.J. Opinion by Vogel, P.J. (9 pages)

Kashenna Tucker appeals her conviction for child endangerment resulting in death. She argues the evidence is insufficient to prove she knowingly acted in a

manner that created a substantial risk to the decedent's safety. **OPINION HOLDS:** We find the evidence is sufficient to support her conviction.

**No. 17-0755**

**DANIELS v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Black Hawk County, David P. Odekirk, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (5 pages)

Derrick Daniels appeals from the district court's denial of his application for postconviction relief. He asserts that his postconviction counsel was ineffective for failing to argue his trial counsel should not have withdrawn a motion to suppress his inculpatory statements. **OPINION HOLDS:** Because we find no reasonable probability that he could prevail with the other extensive evidence of his guilt properly admitted into the evidence, Daniels cannot prevail on the prejudice prong. Therefore, we affirm.

**No. 17-0762**

**NASSIF v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Linn County, Patrick R. Grady, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. Potterfield, J., takes no part. (3 pages)

Ed Nassif appeals the denial of his postconviction-relief application. He contends his sentence of life in prison without the possibility of parole amounts to cruel and unusual punishment and violates his constitutional right to equal protection of the laws. **OPINION HOLDS:** We affirm the denial of Nassif's postconviction-relief application.

**No. 17-0856**

**COLE v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Buchanan County, Andrea J. Dryer, Judge. Considered by Danilson, C.J., Mullins, J., and Mahan, S.J. Opinion by Mahan, S.J. (3 pages)

James Lee Cole appeals the denial of his application for postconviction relief, asserting his plea counsel "fail[ed] to properly advise Cole during the plea negotiation process and sentencing," and that he pled guilty in Buchanan County based on a "promise" that he would complete the 321J program in a work-release facility. **OPINION HOLDS:** We conclude the record belies Cole's claim that such a promise existed or that counsel failed to properly advise him.

**No. 17-0897**

**HOUSTON v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Polk County, Arthur E. Gamble, Judge. Considered by Vogel, P.J., Bower, J., and Carr, S.J. Opinion by Bower, J. (4 pages)

Joseph Anthony Houston appeals the denial of his application for postconviction relief from his conviction for first-degree kidnapping and assault with intent to inflict serious injury. **OPINION HOLDS:** We find the postconviction relief application is time barred and affirm the district court.

**No. 17-0934**

**GRAM v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Polk County, David N. May, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (9 pages)

Troy Gram appeals the denial of his application for postconviction relief (PCR). As he did in his application to the PCR court, Gram maintains he received

ineffective assistance from trial counsel because trial counsel (1) allowed him to plead guilty to failure to comply with sex-offender registry requirements, second offense, without a factual basis to support the plea and (2) failed to challenge the statute as unconstitutionally vague. **OPINION HOLDS:** Because Gram has not established that the record lacked a factual basis to support his guilty plea or that the statutes are unconstitutionally vague as applied to him, we cannot find his trial counsel provided ineffective assistance. We affirm the PCR court's denial of his application for PCR.

**No. 17-1016**

**TAYLOR v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Pottawattamie County, Mark J. Eveloff, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (4 pages)

James Taylor appeals the district court's summary dismissal of his application for postconviction relief (PCR). **OPINION HOLDS:** Because the doctrine of equitable tolling is not recognized in Iowa, Taylor's PCR counsel was not ineffective in failing to assert it as a basis for tolling the three-year statute of limitations set forth in Iowa Code section 822.3 (2015).

**No. 17-1025**

**STATE v. MURILLO**

**AFFIRMED.**

Appeal from the Iowa District Court for Dallas County, Paul R. Huscher and Randy V. Hefner, Judges. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (14 pages)

Pedro Ibarra Murillo Jr. appeals from the denial of his motion to suppress. He maintains his constitutional rights were violated when police officers detained him without reasonable suspicion to prolong the stop after arresting the passenger of his vehicle. He asks that we reverse the denial of his motion and suppress all evidence obtained from his vehicle. **OPINION HOLDS:** Because the officer had a basis to lawfully continue the stop, Murillo's constitutional rights were not violated when the officer approached his vehicle after detaining the passenger and asked for Murillo's license, registration, and proof of insurance. Additionally, because the officer had a reasonable suspicion Murillo was concealing narcotics in his vehicle, Murillo's constitutional rights were not violated when the officer detained him to call the K-9 unit. We affirm the district court's denial of Murillo's motion to suppress the evidence found in his truck.

**No. 17-1038**

**WORKMAN v. IOWA DISTRICT COURT FOR MUSCATINE COUNTY**

**WRIT SUSTAINED.**

Certiorari to the Iowa District Court for Muscatine County, Thomas G. Reidel, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Tabor, J. (10 pages)

Dennis Workman petitions for writ of certiorari from the district court's issuance of a bench warrant for his arrest when he failed to appear for a contempt hearing. **OPINION HOLDS:** We find the court did not exercise discretion it had to allow Dennis to appear by telephone at the contempt hearing; we further find the court overstepped its authority by issuing an open-ended bench warrant inconsistent with the contempt provision of Iowa Code chapter 665 (2016). Accordingly, we sustain the writ.

**No. 17-1049**

**LONG v. STATE**

**AFFIRMED.**

Appeal from the Iowa District Court for Webster County, Thomas J. Bice, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (3 pages)

Peter Long appeals following the dismissal of his second application for postconviction relief. **OPINION HOLDS:** The claims raised in Long's second application are untimely under Iowa Code section 822.3 (2017), and his challenge to the legality of his sentence was decided in a prior appeal and cannot be revisited. Because no grounds exist for granting postconviction relief, we affirm.

**No. 17-1120**

**RUNYAN v. RUNYAN**

**ORDER VACATED.**

Appeal from the Iowa District Court for Linn County, Denver D. Dillard, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (9 pages)

William Runyan appeals the entry of a domestic abuse protective order pursuant to Iowa Code section 236.5(1)(b) (2017). He contends the district court erred in finding he committed a domestic abuse assault against his wife, Melissa Runyan and issuing the protective order. He contends there was insufficient evidence that an assault occurred. William also requests an award of appellate attorney fees. **OPINION HOLDS:** There was not substantial evidence of an assault in the record and the court did not make a finding of assault to support the issuance of the protective order. We therefore vacate the protective order and all subsequent modifications. We deny William's request for attorney fees.

**No. 17-1170**

**STATE v. BARTLETT**

**CONVICTIONS  
AFFIRMED IN PART  
AND REVERSED IN  
PART, AND CASE  
REMANDED WITH  
DIRECTIONS.**

Appeal from the Iowa District Court for Cass County, Kathleen A. Kilnoski, Jeffrey L. Larson, and Gregory W. Steensland, Judges. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Danilson, C.J. (14 pages)

Joseph Bartlett appeals from judgment and sentence entered following a bench trial on the minutes of evidence and Exhibit 1, body- and dash-cam videos. He argues the district court erred in denying his motion to dismiss. Bartlett also argues the trial court misapplied the law and made insufficient findings of fact to sustain the convictions. He also contends that if this court nevertheless determines there is sufficient evidence in the record to sustain the verdicts, trial counsel was ineffective in failing to preserve error on the court's lack of sufficient findings of fact. **OPINION HOLDS:** We find no speedy-indictment violation. On our de novo review, we conclude the evidence is sufficient to prove Bartlett intentionally struck Deputy Bartholomew's car twice with intent to inflict damage to it to aid in his escape. However, we are not able to conclude Bartlett had the specific intent to commit an assault under these unique facts. Consequently, Bartlett's trial counsel had a duty to challenge the sufficiency of the trial court's findings in regard to Counts I and V and Bartlett was prejudiced by counsel's failure to do so. We affirm convictions on Counts II and III and reverse the convictions on Counts I and V. We remand for resentencing on Count II, III, and IV.

**No. 17-1217**

**STATE v. BOUTCHEE**

**AFFIRMED.**

Appeal from the Iowa District Court for Wapello County, Shawn R. Showers, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Tabor, J. (11 pages)

Johnnie Boutchee appeals from his convictions following a jury trial for two counts of willfully injury causing serious injury and one count each of attempted murder and going armed with intent. He challenges the sufficiency of the evidence for the attempted murder and going-armed-with-intent verdicts and claims his trial attorney was ineffective in failing to object to alleged "vouching" testimony of the victim's treating physician. **OPINION HOLDS:** There is ample evidence to support the jury verdicts and no cause for counsel to object to the

expert testimony as the doctor did not offer an opinion, directly or indirectly, on the truthfulness of the victim's testimony. The restitution issue is not ripe for review, as the restitution order is incomplete, and the district court is not required to determine Boutchee's ability to pay until the plan of restitution is final.

**No. 17-1227**

**IN RE MARRIAGE OF ANKENBAUER**

**AFFIRMED AS  
MODIFIED.**

Appeal from the Iowa District Court for Pottawattamie County, James M. Richardson, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Danilson, C.J. (7 pages)

Julie Ankenbauer appeals the economic provisions of the decree dissolving her marriage to Martyn Ankenbauer. **OPINION HOLDS:** It is inequitable not to divide Martyn's Iowa Public Employee Retirement System (IPERS) benefits. We modify the decree and remand with directions that a Qualified Domestic Relations Order shall be entered directing IPERS to pay twenty-five percent of Martyn's benefits to Julie consistent with Iowa Code section 97B.39 (2016). We determine the distribution of the marital assets is equitable with this modification. Because both parties are retired and will have similar income and expenses, we do not award spousal support. The parties should pay their own appellate attorney fees and costs are to be assessed one-half to each party.

**No. 17-1235**

**OLSON v. DURANT COMMUNITY SCHOOL DISTRICT**

**AFFIRMED.**

Appeal from the Iowa District Court for Cedar County, Mark R. Lawson, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. Partial dissent by Danilson, C.J. (15 pages)

Alex Olson appeals an order granting summary judgment in favor of Durant Community School District (Durant) on his claims of disability discrimination, intentional infliction of emotional distress, and negligent infliction of emotional distress. He contends genuine issues of material fact exist as to each of his claims. **OPINION HOLDS:** We affirm the district court ruling granting summary judgment in favor of Durant on all claims. **PARTIAL DISSENT ASSERTS:** Olson has established a genuine issue of material fact respecting the disability-discrimination claim, and I would reverse and remand for further proceedings on that claim.

**No. 17-1305**

**STATE v. WILSON**

**AFFIRMED.**

Appeal from the Iowa District Court for Bremer County, Christopher C. Foy, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (3 pages)

Ervin Wilson challenges his convictions for burglary in the third degree and domestic abuse assault. He contends his plea counsel provided constitutionally deficient representation in failing to file a motion in arrest of judgment because the guilty pleas lacked a factual basis. **OPINION HOLDS:** Upon our de novo review, we conclude the record as a whole supports a factual basis for each element of the offenses. Defense counsel was not ineffective for failing to raise a meritless issue.

**No. 17-1342**

**STATE v. QUINN**

**AFFIRMED.**

Appeal from the Iowa District Court for Scott County, Marlita A. Greve, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Vaitheswaran, P.J. (3 pages)

Najawuan M. Quinn appeals his conviction, following a guilty plea, for possession of a firearm as a felon. He asserts his plea attorney was ineffective in

failing to challenge the factual basis for the plea. **OPINION HOLDS:** The facts satisfy the elements of the offense. Counsel was not ineffective. We affirm Quinn's conviction for possession of a firearm as a felon.

**No. 17-1463**

**STATE v. TYLER**

**AFFIRMED.**

Appeal from the Iowa District Court for Appanoose County, Lucy J. Gamon, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (4 pages)

Jeffery Tyler appeals his convictions following a jury trial for domestic-abuse assault by strangulation causing bodily injury and domestic-abuse assault causing bodily injury. On appeal, Tyler argues the district court erred by preventing him from arguing self-defense and he received ineffective assistance of counsel. **OPINION HOLDS:** We hold Tyler did not preserve his argument that the district court erred in preventing him from arguing self-defense and preserve his ineffective assistance of counsel claims for possible post-conviction proceedings.

**No. 17-1480**

**MCINTOSH v. CITY OF RIVERDALE**

**AFFIRMED.**

Appeal from the Iowa District Court for Scott County, Mark J. Smith, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (8 pages)

Paula McIntosh appeals the district court's annulment of a writ of certiorari, contending the district court erred in concluding the City of Riverdale was not required to publish notice of a hearing under Iowa Code section 372.15 (2017) and her due process rights were not violated as a result. **OPINION HOLDS:** We conclude publication of a notice of the hearing was not statutorily required and find due process to be satisfied in this case. We affirm.

**No. 17-1552**

**STATE v. BELLER**

**REVERSED AND  
REMANDED.**

Appeal from the Iowa District Court for Plymouth County, Robert J. Dull, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (9 pages)

The State of Iowa appeals a district court ruling granting Ashtyn Beller's motion to suppress evidence obtained in the course of a traffic stop. The State contends the district court erred in concluding a law enforcement officer impermissibly prolonged the duration of the traffic stop in violation of Beller's constitutional rights. **OPINION HOLDS:** We conclude Beller's constitutional rights were not violated and the evidence obtained as a result of any prolongation of the stop is not subject to the exclusionary rule. We reverse the decision of the district court granting Beller's motion to suppress and remand for further proceedings in the district court.

**No. 17-1584**

**STATE v. FIELDS**

**SENTENCE VACATED  
AND CASE REMANDED  
FOR FURTHER  
PROCEEDINGS.**

Appeal from the Iowa District Court for Polk County, Robert B. Hanson, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (5 pages)

Christopher Fields appeals from his conviction and sentence for distributing a drug to a minor, an aggravated misdemeanor, in violation of Iowa Code section 124.406(1)(c) (2017), and assault causing bodily injury or mental illness (sexually motivated offense), in violation of Iowa Code sections 708.1(2)(a), 708.2(2), and 708.15. Fields asserts his trial counsel provided ineffective assistance by permitting him to plead guilty to the assault charge without the record containing a factual basis to support the "bodily injury" element of that

charge. **OPINION HOLDS:** Because the State may be able to provide a factual basis to support all the elements of the offense charged, we vacate Fields's sentence and remand to the district court for further proceedings to provide the State an opportunity to offer this evidence.

**No. 17-1685**

**STATE v. VERONDA**

**AFFIRMED.**

Appeal from the Iowa District Court for Linn County, Lars G. Anderson, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (6 pages)

Travis Veronda appeals from the sentence he received following a remand for resentencing. He maintains his counsel provided ineffective assistance by failing to object when the State did not abide by the original plea agreement. **OPINION HOLDS:** Because Veronda has failed to establish that counsel breached an essential duty, his claim of ineffective assistance fails. We affirm.

**No. 17-1756**

**STATE v. BROOKS**

**AFFIRMED.**

Appeal from the Iowa District Court for Madison County, Richard B. Clogg, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (4 pages)

Megan Brooks appeals her conviction and sentence after pleading guilty to one count of possession of methamphetamine with intent to deliver. **OPINION HOLDS:** We preserve for postconviction-relief proceedings Brooks's claim that she received ineffective assistance of counsel because her counsel failed to file a motion to suppress the evidence discovered following an unlawful traffic stop in order to allow full development of the record. Brooks has failed to show the district court abused its discretion in sentencing her to prison.

**No. 17-1808**

**DAY v. ANDERSON**

**AFFIRMED IN PART,  
REVERSED IN PART.**

Appeal from the Iowa District Court for Allamakee County, Richard D. Stochl, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Danilson, C.J. (13 pages)

Arthur Day appeals and Misty Anderson cross-appeals from the order modifying the terms of the decree respecting the custody of their child, G.D. Day maintains G.D. should be placed in his physical care, or, in the alternative, the district court should have denied Anderson's request to modify the shared-care schedule. Day also asserts the court improperly modified other provisions of the decree. Day contends the court abused its discretion in refusing to admit exhibits at trial depicting text messages he obtained from Anderson's iPad. He also challenges both the district court's determination that Anderson was not in contempt and the order that Day pay \$600 toward Anderson's attorney fees due to his unsuccessful contempt action. On cross-appeal, Anderson asserts the court should have granted her request to modify the decree respecting G.D.'s schooling and requests appellate attorney fees. **OPINION HOLDS:** Finding no error in the district court's evidentiary rulings; determination to maintain shared care; and modification of the provisions of the decree respecting the shared-care schedule, the right of first refusal, and G.D.'s schooling, we affirm. We reverse the district court's modification of the decree's tax provisions. We also reverse the court's award of attorney fees to Anderson based on her successful defense to the contempt action. We deny Anderson's request for appellate attorney fees.

**No. 17-2044**

**IN RE MARRIAGE OF NOBORIKAWA**

**AFFIRMED.**

Appeal from the Iowa District Court for Black Hawk County, Linda M. Fangman, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion

by Doyle, J. (6 pages)

Deidra Miller appeals the child-custody and property-division provisions of the decree dissolving her marriage to Masatomo Noborikawa. **OPINION HOLDS: I.** A joint-physical-care arrangement is contrary to the children's best interests considering the parties' inability to communicate, the degree of conflict between them, and their inability to agree on daily matters concerning the children. **II.** Deferring to the district court's credibility findings, the division of property was equitable. **III.** We decline to award appellate attorney fees.

**No. 17-2051**

**IN RE A.L.**

**AFFIRMED.**

Appeal from the Iowa District Court for Polk County, Jeanie K. Vaudt, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (13 pages)

A father appeals a district court ruling denying his petition to terminate the mother's parental rights under Iowa Code chapter 600A (2017). He argues the district court erred in concluding there was not clear and convincing evidence to support termination under Iowa Code section 600A.8(3)(b) and termination is not in the best interests of the child. **OPINION HOLDS:** We affirm the district court's order denying the father's petition to terminate the mother's parental rights.

**No. 18-0546**

**IN RE K.R.**

**AFFIRMED.**

Appeal from the Iowa District Court for Scott County, Christine Dalton Ploof, District Associate Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Tabor, J. (6 pages)

A mother appeals an order terminating her parental rights to two children. She contends the State failed to offer sufficient proof the children could not be returned home; the department of human services (DHS) did not make reasonable efforts to reunite the family; and termination was not in the children's best interests. **OPINION HOLDS:** The mother does not dispute the grounds for termination pursuant to Iowa Code section 232.116(1)(b), (d), or (e) (2017), and therefore waives any challenge to the statutory grounds for termination. The best interests of the children dictates termination of her parental rights. After the removal, she moved out of state and did not cooperate with DHS or participate in any ordered services, despite DHS's reasonable efforts. There was no demonstrable bond between her and the children. We affirm termination on all grounds.

**No. 18-0656**

**IN RE E.F.**

**AFFIRMED.**

Appeal from the Iowa District Court for Polk County, Rachael E. Seymour, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (15 pages)

A mother appeals the termination of her parental rights to her child. She contends the State failed to provide her adequate notice of the termination hearing and prove the statutory grounds for termination by clear and convincing evidence. She additionally contends termination is not in the child's best interests and asks for additional time to reunify with the child. **OPINION HOLDS:** We affirm the court's order to dispense with service as we find the State made a reasonably diligent effort to notify the mother and her whereabouts could not be ascertained. We find the statutory grounds for termination under section 232.116(1)(h) (2017) were established by clear and convincing evidence, termination is in the child's best interests, and an extension of time is unwarranted. We affirm the decision of the juvenile court.



**No. 18-0657**

**IN RE M.M.**

**AFFIRMED.**

Appeal from the Iowa District Court for Polk County, Colin J. Witt, District Associate Judge. Considered by Potterfield, P.J., Tabor, J., and Mahan, S.J. Opinion by Mahan, S.J. (8 pages)

A father appeals a child-in-need-of-assistance permanency order continuing his child's removal from his home. **OPINION HOLDS:** Upon our review, we affirm the juvenile court's order placing the child in the care of another suitable person.

**No. 18-0700**

**IN RE R.B.**

**AFFIRMED.**

Appeal from the Iowa District Court for Marshall County, Paul G. Crawford, District Associate Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Bower, J. (7 pages)

A mother appeals the juvenile court decision terminating her parental rights. **OPINION HOLDS:** We conclude it is in the best interests of the children to terminate the mother's parental rights, the mother's continued custody would likely result in serious emotional harm and physical danger to the children, and no section 232.116(3) (2017) exception precludes the need for termination. We affirm the decision of the juvenile court.

**No. 18-0776**

**IN RE L.L.**

**REVERSED AND  
REMANDED.**

Appeal from the Iowa District Court for Polk County, Romonda D. Belcher, District Associate Judge. Considered by Potterfield, P.J., and Doyle and Tabor, JJ. Opinion by Potterfield, P.J. (5 pages)

A mother appeals the juvenile court order adjudicating her child a child in need of assistance. **OPINION HOLDS:** We find the juvenile court's adjudication of the child as a child in need of assistance under Iowa Code section 232.2(6)(c)(2) (2018) is not supported by clear and convincing evidence and reverse the ruling of the juvenile court.

**No. 18-0778**

**IN RE N.W.**

**AFFIRMED.**

Appeal from the Iowa District Court for Linn County, Susan F. Flaherty, Associate Juvenile Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (5 pages)

A mother appeals the termination of her parental rights to her child. **OPINION HOLDS:** Because the mother failed to adequately address her substance-abuse issues, clear and convincing evidence shows the child could not be returned safely to the mother's care at the time of the termination hearing as required to terminate parental rights pursuant to Iowa Code section 232.116(1)(h) (2017). The child's need for permanency and safety outweigh any possible negative effects from terminating the mother's parental rights. Accordingly, we affirm.

**No. 18-0837**

**IN RE O.T.**

**AFFIRMED.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (7 pages)

A mother appeals from an order terminating her parental rights pursuant to Iowa Code chapter 232 (2017). She contends the Iowa Department of Human Services failed to make reasonable efforts towards reunification and argues

termination is not in the best interest of her child. **OPINION HOLDS:** Upon our de novo review, we find no merit to these contentions. We affirm the juvenile court's order terminating the mother's parental rights in O.T.