

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Pursuant to Iowa Rule of Appellate Procedure 6.904(2)(6), an unpublished opinion of the Iowa Court of Appeals may be cited in a brief; however, unpublished opinions shall not constitute controlling legal authority.

No. 16-1875

SANDOVAL v. STATE

AFFIRMED.

Appeal from the Iowa District Court for Polk County, Jeffrey D. Farrell, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (4 pages)

Fernando Sandoval appeals the summary dismissal of his third postconviction-relief (PCR) application on statute-of-limitations grounds. **OPINION HOLDS:** Sandoval's PCR application was filed more than three years after procedendo issued in his direct appeal and the ground-of-fact exception does not apply to except him from the statute of limitations. The State was therefore entitled to judgment as a matter of law. We affirm the district court's summary dismissal of Sandoval's PCR application.

No. 16-1893

RAMIREZ v. STATE

**REVERSED AND
REMANDED FOR
FURTHER
PROCEEDINGS.**

Appeal from the Iowa District Court for Marshall County, John J. Haney, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (14 pages)

Carlos Ramirez appeals from the district court's denial of his application for postconviction relief (PCR). As he did in his PCR application, Ramirez maintains he received ineffective assistance from trial counsel. Specifically, he maintains counsel was ineffective by failing to advise him adequately of the immigration consequences of his plea. **OPINION HOLDS:** Because counsel failed to advise Ramirez adequately of the immigration consequences of his guilty pleas and Ramirez has established that it would have been rational to reject the plea agreement and go to trial if he had been properly informed and that he would have made that decision, Ramirez received ineffective assistance from trial counsel. We remand this case to the district court to allow Ramirez to withdraw his plea and stand for trial.

No. 16-2035

HUFFMAN v. STATE

AFFIRMED.

Appeal from the Iowa District Court for Grundy County, George L. Stigler, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (4 pages)

Blake Huffman appeals from the denial of his application for postconviction relief. He contends his trial counsel provided constitutionally deficient representation in failing to object to a single sentence in the testimony of a forensic interviewer that allegedly vouched for the credibility of the victims. **OPINION HOLDS:** Huffman did not prove constitutional prejudice, and his claim is barred res judicata. We conclude the district court did not err in denying Huffman's application for postconviction relief.

No. 16-2184

STATE v. CARTER

AFFIRMED.

Appeal from the Iowa District Court for Scott County, Mary E. Howes, Judge. Heard by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Bower, J. (9 pages)

Robert Carter appeals his convictions for first-degree murder and first-

degree burglary. **OPINION HOLDS:** We find the district court did not abuse its discretion in denying Carter's motion for mistrial. In addition, Carter has not shown he received ineffective assistance of counsel. We affirm his convictions.

No. 17-0125

BUCHANAN v. STATE

AFFIRMED.

Appeal from the Iowa District Court for Polk County, Scott D. Rosenberg, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (8 pages)

Andrew Buchanan appeals the denial of his application for postconviction relief (PCR), arguing his trial counsel was ineffective in withdrawing his guilty plea and in failing to object to the court's lack of colloquy with him. **OPINION HOLDS:** It is clear under the facts of this case that Buchanan's guilty plea was revoked because he would not comply with a condition of the agreement, and an additional colloquy with Buchanan would not have made any difference. Consequently, there is no reasonable probability the outcome would have been any different but for counsel's alleged professional errors. Because Buchanan cannot establish prejudice, his ineffective-assistance-of-counsel claim fails as a matter of law. Accordingly, we affirm the PCR court's ruling denying his PCR application.

No. 17-0137

BRONNER v. REICKS FARMS, INC.

AFFIRMED.

Appeal from the Iowa District Court for Howard County, Margaret L. Lingreen, Judge. Heard by Danilson, C.J., and Mullins and Bower, JJ. Opinion by Danilson, C.J. (20 pages)

Kelsey Bronner appeals from the district court's order granting a new trial on her claims based on injuries sustained during a car accident for which Reicks Farms, Inc. (Reicks Farms) has stipulated liability. Bronner contends the district court improperly found Bronner's counsel engaged in misconduct warranting a new trial under Iowa Rule of Civil Procedure 1.1004(2). Reicks Farms asserts this court does not have jurisdiction to consider the appeal because the notice of appeal was not timely filed. Reicks Farms also maintains the district court did not abuse its discretion in granting a new trial. **OPINION HOLDS:** Finding no abuse of discretion in the district court's order granting a new trial, we affirm.

No. 17-0245

IN RE MARRIAGE OF CHERNY

**AFFIRMED AS
MODIFIED.**

Appeal from the Iowa District Court for Polk County, David May, Judge. Heard by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (20 pages)

Eugene Cherny appeals provisions of the district court's decree of dissolution of his marriage to Ruth Ann Cherny. He asserts the district court erred in (1) requiring Ruth Ann to transfer her entire interest in the family's closely-held corporation to him in exchange for an equalization payment; (2) calculating and distributing the couple's other assets and debts; and (3) establishing the amount and duration of spousal support awarded to her. Ruth Ann requests appellate attorney fees. **OPINION HOLDS:** We find the district court properly and equitably ordered Ruth Ann to transfer her corporate shares to Gene in exchange for cash despite the pre-dissolution distribution of the shares, the corporate bylaws, the potential impact on non-parties, and the tax and distributive consequences of selling corporate assets. We also find the district court properly and equitably assigned assets and debts, including assigning the corporate debts to the corporations, but we make a small mathematical correction to the distribution. Additionally, we find the district court properly and equitably awarded spousal support to Ruth Ann despite the health of the parties and future retirement

concerns. Finally, we decline to award appellate attorney fees to Ruth Ann.

No. 17-0247

STATE v. ABDINUR

AFFIRMED.

Appeal from the Iowa District Court for Woodbury County, Steven J. Andreasen, Judge. Heard by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (14 pages)

Isack Abdinur challenges his conviction for murder in the first degree, in violation of Iowa Code section 707.2(1)(a) (2015). On appeal, he contends the district court erred in finding he did not prove his insanity defense and the district court abused its discretion in granting a continuance over his objection. **OPINION HOLDS:** We find the district court did not err. The district court was free to credit the report by the State's expert and the record as a whole supports the conclusion Abdinur understood the nature and quality of his act and was capable of distinguishing between legal right and legal wrong. We also find no merit to Abdinur's continuance arguments.

No. 17-0249

STATE v. FERRY

WRIT SUSTAINED IN PART AND REMANDED FOR FURTHER PROCEEDINGS.

Appeal from the Iowa District Court for Webster County, Thomas J. Bice, Judge. Considered by Doyle, P.J., McDonald, J., and Blane, S.J. Opinion by Blane, S.J. (9 pages)

Gregory Ferry seeks a writ of certiorari challenging the district court's order that denied his application for appointment of counsel and motion to correct an illegal sentence pursuant to Iowa Rule of Criminal Procedure 2.24(5)(a). Ferry contends the district court erred in summarily overruling his motion to correct an illegal sentence, which raised the issue of a constitutional violation of the prohibition of cruel and unusual punishment imposed by Iowa Code section 903B.1 (2009) (lifetime parole special sentence), without conducting a hearing to allow presentation of facts on a gross-disproportionality challenge. **OPINION HOLDS:** Because we find a hearing should have been held, we sustain the writ in part and remand for an evidentiary hearing. We annul the writ as to the denial of Ferry's application for appointment of counsel.

No. 17-0335

ANDREWS v. STATE

AFFIRMED.

Appeal from the Iowa District Court for Polk County, Bradley M. McCall, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (10 pages)

Renard Andrews challenges the dismissal of his application for postconviction relief. Andrews raises four claims of ineffective assistance of counsel and several additional claims in his pro se brief. **OPINION HOLDS:** Finding merit in none of Andrews' claims, we affirm the dismissal of Andrews' application for postconviction relief.

No. 17-0336

FRANZEN v. MYERS

AFFIRMED AND REMANDED WITH INSTRUCTIONS.

Appeal from the Iowa District Court for Fayette County, Richard D. Stochl, Judge. Considered by Vogel, P.J., Mullins, J., and Mahan, S.J. Opinion by Mahan, S.J. (8 pages)

In this interlocutory appeal, James Franzen challenges the district court's orders relating to a motion to quash a subpoena. **OPINION HOLDS:** We affirm the district court's orders, but we remand with instructions for the court to clarify whether ex parte communications were considered in determining the court's conclusion of this matter, and if so, for further proceedings in accord with this opinion.

No. 17-0516

CHRISTENSEN v. GOOD SHEPHERD, INC.

AFFIRMED.

Appeal from the Iowa District Court for Cerro Gordo County, Christopher C. Foy, Judge. Heard by Danilson, C.J., and Potterfield and Mullins, JJ. Opinion by Mullins, J. (26 pages)

Good Shepherd, Inc. appeals a district court order upholding a jury award in favor of the plaintiffs in a nursing-home-negligence case. Good Shepherd contends the district court: (1) erred in overruling its objections to four specifications of negligence in the jury instructions; (2) abused its discretion in allowing irrelevant or prejudicial testimony concerning its receipt of prior regulatory citations; (3) erred in overruling its motion for a directed verdict on the plaintiffs' claim for punitive damages; and (4) abused its discretion in declining to remit the punitive-damages award to an amount equal to the compensatory-damages award. **OPINION HOLDS:** We affirm in all respects the district court's order upholding the jury award in favor of the plaintiffs.

No. 17-0540

STATE v. BURKS

AFFIRMED.

Appeal from the Iowa District Court for Polk County, Odell McGhee II, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Danilson, C.J. Special concurrence by McDonald, J. (9 pages)

Hernandis Cortez Burks appeals from the judgment and sentence entered on his conviction for possession of a controlled substance (marijuana), in violation of Iowa Code section 124.401(5) (2016). Burks maintains the district court should have granted his motion to suppress and failed to provide sufficient reasons for the sentence imposed. **OPINION HOLDS:** Because we find the motion to suppress was properly denied, and the court did not abuse its discretion in imposing the sentence, we affirm. **SPECIAL CONCURRENCE ASSERTS:** I concur in the judgment. I write separately to note that controlling case law does not suggest a passenger could never have an expectation of privacy in an automobile. However, this defendant has not asserted a particularized expectation of privacy in the areas searched beyond that of a mere passenger in the automobile.

No. 17-0563

STATE v. HAYES

AFFIRMED.

Appeal from the Iowa District Court for Polk County, Robert J. Blink, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (11 pages)

Maurice Hayes appeals his convictions after a jury found him guilty of attempted murder, first-degree robbery, and assault causing bodily injury. **OPINION HOLDS: I.** Because the eyewitness identifications and surveillance video footage could convince a rational factfinder beyond a reasonable doubt that Hayes was the assailant, sufficient evidence supports Hayes's convictions. **II.** The trial court did not abuse its discretion in admitting into evidence video footage and a photograph depicting Hayes in handcuffs. The jury was already aware that Hayes was arrested and taken into custody at the police station in June 2016, and the arrest and interview concerned the events for which Hayes was on trial, lessening the danger of unfair prejudice. **III.** Hayes has failed to establish his trial counsel was ineffective in failing to request a curative instruction concerning the video and photograph evidence depicting him in handcuffs or in failing to object to a jury instruction that correctly stated the law. We preserve his other claims of ineffective assistance of counsel for postconviction proceedings to allow full development of the record.

No. 17-0567

STATE v. CASON

AFFIRMED.

Appeal from the Iowa District Court for Polk County, David N. May, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (7 pages)

Jeffrey Cason appeals following his guilty pleas to two separate charges of possession of a controlled substance—marijuana with the intent to deliver and third-degree burglary. **OPINION HOLDS:** Because the district court informed Cason of the minimum and maximum penalties associated with his guilty pleas, the record did not suggest a question of Cason's mental competence, and he did not claim he lacked representation at his previous felony convictions, the court did not err in conducting its plea colloquy and Cason's ineffective-assistance-of-counsel claims fail.

No. 17-0614

STATE v. KUDRON

**JUDGMENT AFFIRMED;
SENTENCE AFFIRMED
IN PART AND VACATED
IN PART AND
REMANDED FOR
RESENTENCING.**

Appeal from the Iowa District Court for Polk County, Lawrence P. McLellan, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Vaitheswaran, P.J. (8 pages)

Dan Kudron appeals his judgment and sentence for conspiracy to deliver a controlled substance and failure to possess a tax stamp. He contends the court was not authorized to impose a D.A.R.E surcharge on the drug tax stamp violation. He also makes various pro se claims. **OPINION HOLDS:** Assuming without deciding the surcharge was applied to the tax stamp count, we vacate the surcharge on that count and remand for resentencing. We affirm Kudron's judgment without prejudice to his right to make a freestanding claim of actual innocence. We preserve for postconviction relief his ineffective-assistance-of-counsel claims alleging failures to move for dismissal and to accurately inform him of weaknesses in the State's case.

No. 17-0620

LATIKER v. STATE

AFFIRMED.

Appeal from the Iowa District Court for Dubuque County, Bradley J. Harris, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. Bower, J., takes no part. (10 pages)

Quinteze Latiker appeals the denial of his postconviction-relief (PCR) application. He contends (1) the district court erred in denying relief on his claim that his trial attorneys were ineffective in failing to properly advise him of his confrontation rights before he waived them and thereafter failing to object to non in-person testimony at trial and (2) his PCR counsel's ineffectiveness in failing to present evidence and advocate for him at the PCR hearing amounted to structural error. **OPINION HOLDS:** Finding neither trial nor PCR counsel provided ineffective assistance, we affirm the district court's denial of Latiker's PCR application.

No. 17-0639

STATE v. CARROLL

AFFIRMED.

Appeal from the Iowa District Court for Sioux County, Robert J. Dull, District Associate Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Tabor, J. (13 pages)

Robert Carroll appeals his conviction for operating while intoxicated. He asserts the court erred in denying a jury instruction regarding evaluation of eyewitness-identification testimony. He also alleges he received constitutionally deficient representation from defense counsel because counsel did not object to

testimony regarding prior bad acts and did not move to suppress evidence from an unlawful search and seizure. **OPINION HOLDS:** Because other evidence identified Carroll and the jury was informed of the limitations of the eyewitnesses' observations, reversal is not necessary. We preserve Carroll's ineffective-assistance claims for postconviction-relief proceedings so that an adequate record may be developed.

No. 17-0688

**REVERSED AND
REMANDED.**

STATE v. SCHABLE

Appeal from the Iowa District Court for Woodbury County, Timothy T. Jarman, District Associate Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (10 pages)

Austin Schable appeals from the district court's denial of his motion to suppress. **OPINION HOLDS:** The officer seized Schable when he directed him to get out of the vehicle, and the State has not established that any recognized exception to the warrant requirement applies. Trial counsel breached an essential duty by failing to raise the issue in the motion to suppress and Schable was prejudiced by that failure, so we reverse and remand.

No. 17-0693

**AFFIRMED IN PART,
VOIDED IN PART, AND
REMANDED.**

ESTATE OF STEENSMA v. BUYSMAN, INC.

Appeal from the Iowa District Court for Osceola County, Don E. Courtney, Judge. Heard by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (15 pages)

Buysman, Inc. and Jesse, Dale, and Danna Braaksma appeal from the denial of their post-judgment motion to void the judgment and motion to enlarge. They challenge the judgment requiring Jesse to relinquish his shares in Buysman and holding the four defendants jointly and severally liable for the amount of \$203,930.32. The Estate of Tena Steensma maintains the appeal of Buysman and the Braaksmas is untimely and asks that we dismiss the appeal. **OPINION HOLDS:** Because a ruling may be attacked as void at any time, the defendants' appeal is timely, and we deny the estate's motion to dismiss. In considering the merits of the defendants' appeal from the denial of the post-judgment motion, we void the judgment as to the corporation, Buysman. We affirm the district court's summary judgment ruling as to all three individual defendants: Jesse, Dale, and Danna Braaksma. We remand for entry of a corrected order.

No. 17-0709

**REVERSED AND
REMANDED.**

STATE v. SCOTT

Appeal from the Iowa District Court for Black Hawk County, Linda Fangman, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (4 pages)

James Scott appeals his forgery conviction. **OPINION HOLDS:** Because the note Scott attempted to utter states on its face that it is not legal currency, the requirement that the writing purports to be money was not satisfied. The evidence is insufficient to support Scott's conviction. Accordingly, we vacate Scott's sentence, reverse his conviction, and remand for dismissal of the charge.

No. 17-0777

**AFFIRMED AS
MODIFIED AND
REMANDED.**

IN RE MARRIAGE OF SEELY

Appeal from the Iowa District Court for Linn County, Fae E. Hoover-Grinde, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (8 pages)

Chad Seely appeals the child support and postsecondary education provisions of a modification decree. He contends the district court erred in calculating child support and in determining the necessary expenses for the

postsecondary education subsidy. **OPINION HOLDS:** The district court erred in the calculation of child support and in including a vehicle and related expenses in the postsecondary education subsidy. We vacate the modification order in part and remand this matter for the determination of child support based on the parties' present financial circumstances and the current child support guidelines.

No. 17-0797

STATE v. DALTON

AFFIRMED.

Appeal from the Iowa District Court for Linn County, Angeline M. Wilson, District Associate Judge. Heard by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Danilson, C.J. (4 pages)

Justin Dalton appeals from judgment and sentence entered upon his conviction for theft in the fourth degree. Dalton contends he was denied a fair trial by the prosecutor's failure to provide copies of proposed exhibits and an exhibit list, and that trial counsel was ineffective in not obtaining copies of the State's intended exhibits. **OPINION HOLDS:** Because a criminal defendant has no due process right to pretrial discovery and Iowa Rule of Criminal Procedure 2.14 requires only that the State allow the defendant "to inspect and copy or photograph" relevant requested information, and because trial counsel had access to the evidence the State intended to offer, we affirm.

No. 17-0855

STATE v. CONWAY

AFFIRMED.

Appeal from the Iowa District Court for Polk County, David N. May, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. Special concurrence by McDonald, J. (10 pages)

Timothy Conway appeals the conviction entered following his *Alford* plea to the charge of possession of a controlled substance, third or subsequent offense, contending his counsel rendered ineffective assistance. **OPINION HOLDS:** We conclude Conway was not provided ineffective assistance of counsel and we therefore affirm his conviction, judgment, and sentence. **SPECIAL CONCURRENCE ASSERTS:** I respectfully concur in the judgment. Although I disagree with the majority's rationale, the plea record establishes all that is needed to show a factual basis for the possession charge.

No. 17-0867

GINTHER v. SECOND INJURY FUND

AFFIRMED.

Appeal from the Iowa District Court for Polk County, Paul D. Scott, Judge. Heard by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (9 pages)

Ronald Ginther appeals the district court's ruling on judicial review affirming the decision of the Iowa Workers' Compensation Commissioner denying his claim for benefits from the Second Injury Fund of Iowa (Fund). **OPINION HOLDS:** Upon our review, we find no error in the district court's determination that the commissioner did not err or abuse its discretion in finding Ginther was legally required to show he suffered a first-qualifying injury within the meaning of Iowa Code section 85.64(1) (2015), but he failed to prove as a matter of fact that he did suffer such an injury. Accordingly, we affirm the district court's ruling affirming the agency's decision and denying Ginther's petition for judicial review.

No. 17-0870

STATE v. PURSLEY

AFFIRMED.

Appeal from the Iowa District Court for Black Hawk County, David P. Odekirk, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (10 pages)

Corion Pursley appeals the convictions entered following his guilty pleas

to two counts of second-degree burglary and one count of third-degree burglary. He contends his counsel was ineffective in failing to: (1) challenge his guilty pleas to the second-degree-burglary charges on factual-basis grounds, (2) file a motion to suppress evidence obtained in a search of a vehicle involved in the crimes, (3) file a motion for a bill of particulars, and (4) pursue an intoxication defense before allowing him to plead guilty. **OPINION HOLDS:** We find Pursley's counsel was not ineffective as alleged. We therefore affirm Pursley's convictions.

No. 17-0876

STATE v. VANDEKIEFT

AFFIRMED.

Appeal from the Iowa District Court for Lyon County, Patrick M. Carr, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Carr, S.J., takes no part. Opinion by Vogel, P.J. (19 pages)

Perry VanDekieft appeals his conviction of sexual abuse in the second degree for his actions with C.L. He asserts the district court abused its discretion in allowing testimony from the expert witness, it erred in allowing hearsay from his wife Tari VanDekieft, and the prosecutor committed misconduct in his statements, all of which inappropriately supported the credibility of C.L. He also asserts his counsel was ineffective for failing to object to a jury instruction that allowed the jury to use his out-of-court statements as if they had been made at trial. **OPINION HOLDS:** We find he did not preserve error on his objection to the expert witness, and, even if he had preserved error, the expert did not comment on C.L.'s credibility. We also find the district court improperly admitted hearsay, but the inadmissible hearsay did not prejudice Perry's substantial rights. Additionally, we find he did not preserve error on his claim of prosecutorial misconduct, and, even if he had preserved error, the prosecutor's statements do not rise to the level of misconduct. Finally, we find Perry's counsel was not ineffective because the jury instruction correctly states the law, and, even if we were to find it misstates the law, no prejudice resulted.

No. 17-0888

CANNON v. STATE

AFFIRMED.

Appeal from the Iowa District Court for Des Moines County, John G. Linn, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (4 pages)

Joe Cannon appeals the dismissal of his fifth application for postconviction relief. **OPINION HOLDS:** Because Cannon's application was filed more than twenty years after procedendo issued following direct appeal of his convictions and his claims could have been raised within the time limit set forth in Iowa Code section 822.3 (2016), the district court properly dismissed the application as time barred. The fact that Cannon requested DNA testing under Iowa Code section 81.10, which does not have a time limit, does not convert Cannon's application into a timely one.

No. 17-0921

STATE v. BROWN

**REVERSED AND
REMANDED WITH
DIRECTIONS.**

Appeal from the Iowa District Court for Scott County, Mary E. Howes, Judge. Considered by Danilson, C.J., Vaitheswaran, J., and Carr, S.J. Opinion by Carr, S.J. (11 pages)

Raahsann Brown Jr. appeals the district court order entering judgment and sentence after his deferred judgment was revoked. **OPINION HOLDS:** Because no motion to revoke probation was ever filed prior to the expiration of Brown's probation on October 22, 2016, the district court did not retain jurisdiction beyond the probation period. Accordingly, a corrected order and an order revoking Brown's probation, both entered in May 2017, had no effect. We reverse the judgment and sentence entered on Brown's conviction, and we

remand to the district court for entry of an order discharging Brown from probation and vacating the conviction and sentence imposed.

No. 17-1013

STATE v. FINN

AFFIRMED.

Appeal from the Iowa District Court for Scott County, Mark D. Cleve, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Bower, J. (5 pages)

Chad Finn appeals his conviction for possession of a controlled substance (methamphetamine) with intent to deliver. **OPINION HOLDS:** We find Finn has not shown he received ineffective assistance of counsel. The evidence does not show the State breached the terms of the plea agreement and, therefore, defense counsel did not have an obligation to object. We affirm Finn's conviction.

No. 17-1032

STATE v. LAKTAS

AFFIRMED.

Appeal from the Iowa District Court for Lee (South) County, Mark E. Kruse and John M. Wright, Judges. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (4 pages)

Crystal Laktas appeals her sentence following her guilty plea to second-degree theft, in violation of Iowa Code sections 714.1 and 714.2(2) (2016). **OPINION HOLDS:** Because the sentence was based on Laktas's criminal history and the nature of the offense, not grounds that are untenable or unreasonable, we affirm.

No. 17-1051

IN RE MARRIAGE OF HACKETT

**AFFIRMED AS
MODIFIED AND
REMANDED.**

Appeal from the Iowa District Court for Dubuque County, Monica L. Ackley, Judge. Considered by Vogel, P.J., Bower, J., and Blane, S.J. Opinion by Blane, S.J. (14 pages)

Michael Hackett appeals from the decree dissolving his marriage to Kimberly Hackett. Michael claims the district court's award of rehabilitative alimony at \$1500 per month for seven years was inequitable, the court improperly used his former salary rather than current earnings to determine his child-support obligation, and the court abused its discretion when it ordered him to pay the full amount of Kimberly's attorney fees—including fees from her contempt action. Kimberly asks that we affirm the district court's decree and award her appellate attorney fees. **OPINION HOLDS:** Upon our de novo review, we find the district court's award of spousal support equitable. Because the district court should have used Michael's current income to determine his child-support obligation, we remand for child support to be recalculated using the parties' current incomes. We also remand for entry of a corrected order removing Kimberly's attorney fees incurred in the contempt action. We decline to award Kimberly appellate attorney fees.

No. 17-1065

STATE v. REUTHER

AFFIRMED.

Appeal from the Iowa District Court for Scott County, Joel W. Barrows, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (2 pages)

Thomas Reuther challenges his conviction for escape from custody in violation of Iowa Code section 719.4(1) (2016). He argues his plea counsel provided constitutionally deficient representation in failing to file a motion in arrest of judgment because there was no factual basis in support of the guilty plea. **OPINION HOLDS:** On de novo review, we conclude the claim is without merit because the record as a whole supports a factual basis for each element of the

offense.

No. 17-1072

STATE v. TONEY

AFFIRMED.

Appeal from the Iowa District Court for Cerro Gordo County, Colleen D. Weiland, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (11 pages)

Revell Toney appeals his convictions of attempt to commit murder and possession of a firearm by a felon. He asserts the district court abused its discretion in excluding his witness and his trial counsel was ineffective for failing to object to the prosecutor's improper statements. **OPINION HOLDS:** Because Toney did not file the notice of an additional witness until after the State had rested and the proffered testimony lacked relevance, the district court did not abuse its discretion in excluding the witness, and Toney has not shown the prosecutor committed misconduct resulting in prejudice.

No. 17-1111

STATE v. KARR

AFFIRMED.

Appeal from the Iowa District Court for Washington County, Myron L. Gookin, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (9 pages)

Stacy Karr appeals from his conviction of possession of methamphetamine—third offense, asserting there was insufficient evidence to support the conviction beyond a reasonable doubt, the verdict was against the weight of the evidence, the district court erred by not including a jury instruction on “dominion and control,” and the district court should have answered a jury question in the presence of Karr and his counsel. **OPINION HOLDS:** Because Karr's confession was corroborated by evidence seized by officers, the evidence was sufficient to support Karr's conviction. The district court did not abuse its discretion in denying Karr's motion for a new trial. Also, the district court did not err in declining to instruct the jury on “dominion and control” using the firearm instruction, and Karr failed to preserve error on his claim that the district court violated his constitutional right to be present at every stage of the proceedings when it answered a jury question.

No. 17-1113

IN RE MARRIAGE OF JONES

AFFIRMED.

Appeal from the Iowa District Court for Scott County, John D. Telleen, Judge. Considered by Mullins, P.J., McDonald, J., and Carr, S.J. Opinion by Carr, S.J. (4 pages)

Misty Jones appeals the dismissal of her application for order to show cause why Jason Jones should not be held in contempt for violating the child-custody provisions of their dissolution decree. **OPINION HOLDS:** Because our review of the record supports the district court's finding that Jason did not willfully disobey the decree, we affirm the order dismissing Misty's application.

No. 17-1222

IN RE MARRIAGE OF SIMMONS

AFFIRMED.

Appeal from the Iowa District Court for Union County, Dustria A. Relph, Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (6 pages)

Bruce Simmons appeals from a modification decree. He contends the amount of the increase in his child support obligation contravenes Iowa court rules, federal law, and results in a substantial injustice. **OPINION HOLDS:** Finding these arguments without merit, we affirm the modification decision of the district court in all respects.

No. 17-1248

STATE v. KUCHARO

AFFIRMED.

Appeal from the Iowa District Court for Scott County, Thomas G. Reidel, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Vaitheswaran, P.J. (4 pages)

Sarah Kucharo, now known as Sarah Ford, appeals following her guilty plea to possession of marijuana with intent to deliver and failure to affix a drug tax stamp, contending the district court erred in (1) “failing to advise [her] of her right to allocution and [in] failing to ask whether there were any legal reasons that judgment should not be pronounced” and (2) “considering unproven allegations in sentencing [her].” **OPINION HOLDS:** We affirm Kucharo’s judgment and sentence for possession with intent to deliver and failure to affix a drug tax stamp.

No. 17-1262

STATE v. JIMMISON

AFFIRMED.

Appeal from the Iowa District Court for Cass County, James M. Richardson and Gregory W. Steensland, Judges. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Doyle, J. (6 pages)

Tanor Jimmison appeals his convictions for driving while barred and operating while intoxicated. **OPINION HOLDS: I.** Because the anonymous tip concerning an impaired driver included a personal observation of Jimmison’s erratic driving, the tip contained the requisite indicia of reliability needed to justify the officer’s investigatory stop. We therefore affirm the denial of Jimmison’s motion to suppress. **II.** Because the record is inadequate to resolve Jimmison’s ineffective-assistance claims, we preserve them for postconviction proceedings to allow for full development of the record.

No. 17-1303

STATE v. REED

REVERSED.

Appeal from the Iowa District Court for Ida County, Edward A. Jacobson, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (9 pages)

John Reed appeals his convictions for possession with intent to deliver cocaine and marijuana and failure to affix a drug tax stamp. On appeal, he argues there is insufficient evidence to support his conviction because the State failed to prove he possessed the drugs found in the trunk. **OPINION HOLDS:** Because the State presented insufficient evidence to prove Reed possessed the drugs found in the trunk, we reverse.

No. 17-1409

LINARES v. TYSON FRESH MEATS, INC.

AFFIRMED.

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

Vicente Linares appeals the district court order affirming the final agency decision denying his review-reopen petition. **OPINION HOLDS:** The agency properly applied the law in determining Linares failed to prove by a preponderance of the evidence that his original injury proximately caused a decrease in his earning capacity after he was awarded workers’ compensation benefits. Because we reach the same conclusion as the district court, we affirm.

No. 17-1447

STATE v. HARPER

**SENTENCE VACATED
AND REMANDED FOR**

Appeal from the Iowa District Court for Polk County, Robert B. Hanson, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (3 pages)

RESENTENCING.

Elisa Harper appeals the sentence imposed by the district court for her conviction for fourth-degree theft. She maintains the district court failed to adequately state its reasons on the record for the sentence it imposed and asks that we remand for resentencing. **OPINION HOLDS:** We cannot conclude the district court adequately stated reasons for its sentence on the record as required by Iowa Rule of Criminal Procedure 2.23(3)(d). Thus, we vacate the sentence and remand to the district court for resentencing.

No. 17-1450

STATE v. CRAIG

AFFIRMED.

Appeal from the Iowa District Court for Polk County, William A. Price, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Mullins, J. (4 pages)

Loran Craig appeals the convictions entered following his guilty pleas to second-offense possession of a controlled substance and driving while barred, contending his counsel was ineffective in allowing him to plead guilty without fully investigating his criminal history and using the deficiencies in the State's understanding of his criminal history in plea bargaining. **OPINION HOLDS:** We find Craig has suffered no prejudice. We therefore affirm his convictions.

No. 17-1522

STATE v. DUKES

AFFIRMED.

Appeal from the Iowa District Court for Dubuque County, Thomas A. Bitter, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Bower, J. (10 pages)

Jeremy Dukes appeals his conviction for conspiracy to commit a forcible felony (second-degree robbery). **OPINION HOLDS:** We find there is substantial evidence in the record to show Dukes entered into an agreement with others to commit second-degree robbery and he had the specific intent to promote or facilitate the commission of second-degree robbery. We also find Dukes has not shown he received ineffective assistance because defense counsel failed to challenge the evidence as to whether all of the other co-conspirators were proven not to be law enforcement agents. We preserve for possible postconviction proceedings the issue of whether defense counsel should have given an opening statement. We affirm Dukes's conviction.

No. 17-1570

IN RE A.T.

AFFIRMED.

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

A father appeals from the termination of his parental rights pursuant to Iowa Code chapter 600A (2017). He challenges the sufficiency of the evidence supporting the statutory grounds authorizing the termination of his parental rights and the sufficiency of the evidence establishing the termination of his parental rights was in the best interest of the children. **OPINION HOLDS:** We find clear and convincing evidence to support the termination of parental rights pursuant to Iowa Code section 600A.8(4). We also find termination is in the best interest of the children.

No. 17-1595

IN RE MARRIAGE OF PAULSEN

**AFFIRMED AND
REMANDED.**

Appeal from the Iowa District Court for Kossuth County, Nancy L. Whittenburg, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Tabor, J. (8 pages)

Kati Paulsen appeals the district court's order modifying a joint physical care provision of a dissolution decree to transfer physical care to her ex-husband, Heath Paulsen. She contends the district court applied the wrong standard of proof, and she is the better parent. Both parties request attorney fees. **OPINION HOLDS:** Although Kati is correct that she only has to show she is the better parent, the district court balanced the strengths shown and ultimately determined Heath was the more stable parent and had "the ability to minister more effectively" to the wellbeing of the children. Kati's impulsive move 144 miles away from Heath and the children's extensive support network, including child care provided by Heath's mother, and her ongoing alcohol use issues, show Heath is the more stable parent. We agree with the district court's conclusion the twins' best interests are served by placing them in their father's physical care. Because Heath has prevailed upon appeal, Kati should contribute toward his attorney fees, but his attorney did not file a supporting affidavit. We remand for the district court to determine the amount of appellate attorney fees to be paid by Kati.

No. 17-1623

YOUNG v. STATE

AFFIRMED.

Appeal from the Iowa District Court for Marshall County, Timothy J. Finn, Judge. Considered by Potterfield, P.J., Tabor, J., and Blane, S.J. Opinion by Blane, S.J. (7 pages)

Michael Young appeals from the dismissal of his four applications for postconviction relief. The district court found they were time-barred as filed beyond the three-year statute of limitations. **OPINION HOLDS:** A single-justice dismissal of his application for discretionary review was not an "opinion" under Iowa Rule of Appellate Procedure 6.1205(1), so Young's "petition for rehearing" did not toll or delay procedendo, which properly issued February 17, 2014. Applications for postconviction relief must be filed within three years of issuance of procedendo under Iowa Code section 822.3 (2017). The three-year statute of limitations therefore ran on February 17, 2017; Young did not file his applications until May 2017. The district court did not err in dismissing them.

No. 17-1667

STATE v. EATMAN

AFFIRMED.

Appeal from the Iowa District Court for Johnson County, Marsha Bergan, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Bower, J. (5 pages)

Ricky Eatman appeals his conviction for possession of a controlled substance (marijuana) with intent to deliver. **OPINION HOLDS:** We find there is a sufficient factual basis to support Eatman's guilty plea. Because there is a sufficient factual basis, defense counsel did not have an obligation to object to the guilty plea. We affirm Eatman's conviction.

No. 17-1686

LARSON v. MASIAS

AFFIRMED.

Appeal from the Iowa District Court for Scott County, Joel W. Barrows, Judge. Considered by Danilson, C.J., McDonald, J., and Blane, S.J. Opinion by Blane, S.J. (5 pages)

The State, on behalf of Samantha Larson, a protected party, appeals from the district court's dismissal of its application for order to show cause against defendant Greg Masias Jr. based upon an alleged violation of a no-contact order and contemporaneous visitation order during a child-visitation exchange. **OPINION HOLDS:** Because the evidence supports the district court's findings, we affirm the dismissal of the application for order to show cause; the State failed to show Masias's conduct constituted a willful violation of the no-contact order.

No. 17-1695

IN RE C.T.

AFFIRMED.

Appeal from the Iowa District Court for Page County, Amy L. Zacharias, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (6 pages)

A father appeals from an order terminating his parental rights pursuant to Iowa Code chapter 600A (2017). He challenges the sufficiency of the evidence supporting the statutory grounds authorizing the termination of his parental rights. **OPINION HOLDS:** We find clear and convincing evidence to terminate the parental rights of the father pursuant to Iowa Code section 600A.8(4).

No. 17-1716

STATE v. MCCONNELEE

AFFIRMED.

Appeal from the Iowa District Court for Delaware County, Stephanie C. Rattenborg, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Danilson, C.J. (3 pages)

Brian McConnelee appeals from judgment and sentence entered upon his guilty plea, contending his attorney was ineffective in allowing him to plead guilty without a factual basis. **OPINION HOLDS:** Because a factual basis exists, counsel was not ineffective.

No. 17-1802

IN RE H.N.M.

AFFIRMED.

Appeal from the Iowa District Court for Wright County, Paul B. Ahlers, District Associate Judge. Heard by Vaitheswaran, P.J., and Doyle and Tabor, JJ. Opinion by Doyle, J. (15 pages)

A mother appeals from the juvenile court order denying her petition to terminate the father's parental rights to their daughter under Iowa Code chapter 600A (2017). **OPINION HOLDS:** Taking the lead from our supreme court's recently filed opinion in *In re Q.G.*, ___ N.W.2d ___, 2018 WL 2071823 (Iowa 2018), we conclude that even assuming the mother proved by clear and convincing evidence either of the two statutory grounds for private termination, she failed to prove by clear and convincing evidence the best interests of the child will be advanced by termination of the father's parental rights. We therefore affirm the juvenile court's denial of the mother's petition.

No. 17-1817

IN RE MARRIAGE OF KRUEGER

**AFFIRMED AS
MODIFIED AND
REMANDED.**

Appeal from the Iowa District Court for Hardin County, James A. McGlynn, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (4 pages)

Scott Krueger appeals from the decree dissolving his marriage to Elyse Krueger. He argues the district court erred in declining to grant joint physical care and in establishing the visitation schedule. Elyse requests appellate attorney fees, and she cross-appeals claiming the district court erred in calculating child support. **OPINION HOLDS:** We find the district court's factual determinations are supported by the record, and we affirm the physical care award and the visitation schedule. We also find Elyse is entitled to partial appellate attorney fees, and we agree with her on the child support calculation.

No. 17-1978

STATE v. BERRYMAN

AFFIRMED.

Appeal from the Iowa District Court for Scott County, Joel W. Barrows, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (3 pages)

Emmanuel Berryman appeals the sentences imposed following his pleas

of guilty to possession of a controlled substance and failure to affix a drug-tax stamp, in violation of Iowa Code sections 124.401(5) and 453B.12 (2016). **OPINION HOLDS:** Because we see nothing in the record that indicates the sentences were based on clearly untenable or unreasonable grounds, we affirm.

No. 17-2046

STATE v. LEE

AFFIRMED.

Appeal from the Iowa District Court for Monona County, Jeffrey L. Poulson, Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (4 pages)

Zachary Lee appeals the sentence he received for his conviction for theft in the second degree—a term of incarceration not to exceed five years. He maintains the district court failed to adequately state its reasons on the record for the sentence it imposed. **OPINION HOLDS:** Because the district court’s recitation of reasons establishes that the court considered facts and circumstances specific to Lee and then exercised its discretion in determining what sentence to impose, we affirm.

No. 17-2101

STATE v. DOE

**REVERSED AND
REMANDED.**

Appeal from the Iowa District Court for Winnebago County, Karen Kaufman Salic, District Associate Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Potterfield, J. (7 pages)

John Doe appeals the district court’s denial of his second application to expunge the record of a criminal case. Doe maintains the court should have granted his second application because a recent decision by our supreme court, *State v. Doe*, 903 N.W.2d 347, 351 (Iowa 2017), establishes that the district court’s denial of his first application was in error. **OPINION HOLDS:** Based on the foregoing, the district court erred in its determination that Doe failed to meet the requirements for expungement of record OWCR*****. We reverse the ruling of the district court and remand for further proceedings consistent with this opinion.

No. 18-0228

IN RE A.P.

**ORDERS AFFIRMED IN
PART AND VACATED IN
PART.**

Appeal from the Iowa District Court for Polk County, Louise M. Jacobs, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (7 pages)

Intervenors Greg and Lisa appeal from the juvenile court’s order denying their motion to modify placement of A.P. after the termination of the father’s parental rights. They contend, among other things, they should have been appointed guardians rather than the Iowa Department of Human Services and the juvenile court lacked the authority to direct placement of the child contrary to the guardian’s expressed preference. **OPINION HOLDS:** We affirm the juvenile court’s orders transferring guardianship and custody of A.P. to IDHS. However, we find the juvenile court lacked the authority to grant guardianship of the child to IDHS but simultaneously control physical placement of the child. For these reasons, we affirm the orders in part and vacate in part.

No. 18-0233

IN RE D.R.

AFFIRMED.

Appeal from the Iowa District Court for Johnson County, Deborah Farmer Minot, District Associate Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Vaitheswaran, P.J. (6 pages)

A mother appeals an order adjudicating her children in need of assistance, contending (1) the district court unduly delayed a temporary removal hearing and (2) the record lacks clear and convincing evidence to support the adjudication.

OPINION HOLDS: The mother's first claim is moot. The district court's adjudication of the children as children in need of assistance under section 232.2(6)(d) and (c)(2) (2017) is supported by clear and convincing evidence. We affirm.

No. 18-0238

IN RE B.S.

AFFIRMED ON BOTH APPEALS.

Appeal from the Iowa District Court for Polk County, Susan C. Cox, District Associate Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Vaitheswaran, P.J. (5 pages)

A father and mother appeal an order adjudicating their three children as children in need of assistance, contending the State failed to prove the grounds for adjudication by clear and convincing evidence. **OPINION HOLDS:** The district court's adjudication of the children as children in need of assistance under section 232.2(6)(c)(2) and (d) (2017) is supported by clear and convincing evidence. We affirm.

No. 18-0349

IN RE A.L.

AFFIRMED.

Appeal from the Iowa District Court for Polk County, Susan C. Cox, District Associate Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (7 pages)

A mother appeals the termination of her parental rights to her daughter, asserting the State failed to prove the grounds for termination and termination was not in the best interests of the child. **OPINION HOLDS:** Because the mother was incarcerated and she did not attend to her substance abuse and other issues, the child could not be returned to her care at the time of the termination hearing. Also, because termination is in the child's best interests and there are no impediments to termination, we affirm.

No. 18-0363

IN RE R.T.

AFFIRMED.

Appeal from the Iowa District Court for Appanoose County, William S. Owens, Associate Juvenile Judge. Considered by Vaitheswaran, P.J., and Potterfield and Tabor, JJ. Opinion by Vaitheswaran, P.J. (5 pages)

A father appeals the order entered by the juvenile court terminating his parental rights to his children, (1) challenging "the circumstances which caused the removal" and "the court's rationale for continued removal"; (2) challenging the ground for termination cited by the juvenile court and contending the department of human services failed to make reasonable efforts toward reunification; (3) arguing he should have been granted additional time to facilitate reunification; and (4) contending a guardianship, rather than termination of parental rights, was in the best interests of the children. **OPINION HOLDS:** We affirm the termination of the father's parental rights to these two children.

No. 18-0466

IN RE A.W.

AFFIRMED.

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

A father appeals the termination of his parental rights to his two children. He challenges the statutory basis for termination and argues termination should be precluded because the children remain in their mother's care. **OPINION HOLDS:** There is sufficient evidence supporting the statutory basis for termination. Due to the specific circumstances supporting termination, it should not be precluded because the children remain in the mother's care.

No. 18-0478

AFFIRMED ON BOTH APPEALS.

IN RE S.E.

Appeal from the Iowa District Court for Woodbury County, Mary L. Timko, Associate Juvenile Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by McDonald, J. (6 pages)

A mother and father appeal the termination of their parental rights pursuant to Iowa Code chapter 232 (2017). Both parents challenge the sufficiency of the evidence supporting the statutory grounds authorizing the termination of their respective parental rights. In addition, the mother contends termination of her parental rights was not in the children's best interest. **OPINION HOLDS:** On our de novo review, we conclude there is clear and convincing evidence supporting the ground authorizing the termination of parental rights and that termination was in the best interest of the children.

No. 18-0480

AFFIRMED.

IN RE E.P.

Appeal from the Iowa District Court for Clinton County, Phillip J. Tabor, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Opinion by Danilson, C.J. Tabor, J., takes no part. (3 pages)

A mother consented to the termination of her parental rights but now appeals, contending termination of her parental rights was not in the child's best interests due to the closeness of her bond with the child. **OPINION HOLDS:** Because the mother consented to termination and termination is in the child's best interests, we affirm.

No. 18-0486

AFFIRMED.

IN RE E.B.

Appeal from the Iowa District Court for Clinton County, Philip J. Tabor, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Tabor, J., takes no part. Opinion by Mullins, J. (7 pages)

A father appeals the termination of his parental rights to his child. He challenges the grounds for termination of his parental rights and contends the juvenile court erred in refusing to consider his motion to modify placement prior to termination. **OPINION HOLDS:** We affirm the juvenile court.

No. 18-0496

AFFIRMED ON ALL APPEALS.

IN RE A.G.

Appeal from the Iowa District Court for Page County, Amy L. Zacharias, District Associate Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Opinion by Vogel, P.J. (10 pages)

The mother of R.G., born in 2014, and A.G., born in 2016, appeals the termination of her parental rights. R.G.'s father appeals the termination of his parental rights to R.G., and A.G.'s father appeals the termination of his parental rights to A.G. **OPINION HOLDS:** Because the State proved by clear and convincing evidence the children could not be returned to their parents at the time of the termination hearing, the children are doing well in their placement, and there are no barriers to termination, we affirm.

No. 18-0497

AFFIRMED.

IN RE J.M.

Appeal from the Iowa District Court for Poweshiek County, Rose Anne Mefford, District Associate 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:** Clear and convincing evidence shows termination is

appropriate under Iowa Code section 232.116(1)(h) (2017) and is in the child's best interests because the mother is unable to protect the child from the harm posed by her extended family.

No. 18-0582

IN RE M.L.

AFFIRMED.

Appeal from the Iowa District Court for Scott County, Nancy S. Tabor, Judge. Considered by Vogel, P.J., and Doyle and Bower, JJ. Tabor, J., takes no part. Opinion by Doyle, J. (6 pages)

A mother appeals the termination of her parental rights to her child. **OPINION HOLDS:** Because clear and convincing evidence establishes the grounds for termination under Iowa Code section 232.116(1)(f) (2017) and termination is in the child's best interests, we affirm the order terminating the biological mother's parental rights.

No. 18-0592

IN RE C.R.

AFFIRMED.

Appeal from the Iowa District Court for Clinton County, Phillip J. Tabor, District Associate Judge. Considered by Danilson, C.J., and Mullins and McDonald, JJ. Tabor, J., takes no part. Opinion by Mullins, J. (7 pages)

A father appeals the termination of his parental rights to his child, challenging the grounds for termination of his parental rights and contending the juvenile court erred in refusing to consider his motion to modify placement prior to termination. **OPINION HOLDS:** We affirm the juvenile court.