

**IN THE COURT OF APPEALS OF IOWA**

No. 0-571 / 10-0998  
Filed August 25, 2010

**IN THE INTEREST OF M.D., S.D., L.D., and K.D.,  
Minor Children,**

**J.D., Father,**  
Appellant,

**R.S.M., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Scott County, Arlen J. Van Zee,  
Judge.

Father and mother appeal from an order terminating their parental rights to  
their four children. **AFFIRMED.**

Timothy J. Tupper of Tupper Law Firm, Davenport, for appellant-father.

Stephen W. Newport of Newport & Newport, P.L.C., Davenport, for  
appellant-mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Michael Walton, County Attorney, and Julie Walton, Assistant  
County Attorney, for appellee.

Joel Walker, Davenport, attorney and guardian ad litem for minor children.

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

**EISENHAUER, J.**

A mother and father appeal the termination of their parental rights to their children. They do not dispute the State proved the grounds for termination by clear and convincing evidence but instead contend termination is not in the children's best interest. We review their claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The children first came to the attention of the Department of Human Services because of domestic violence between the parents occurring in front of the children. There were also concerns about the mother's abuse of drugs and alcohol and the father's abuse of alcohol. The children were removed from the home and adjudicated in need of assistance after the mother left three of the children with a caretaker who was intoxicated while her whereabouts were unknown. Three of the children were in foster care from the removal in May 2009 until they were placed with relatives in June 2009. They remain with those relatives. The fourth child, now aged two, has lived with her grandmother since she was two months old.

Because neither parent disputes the grounds for termination have been proved, we may affirm on those grounds. See Iowa R. App. P. 6.903(2)(g)(3) ("Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue."); *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) ("When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm."). However, even if a statutory

ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2) (2009). *In re P.L.*, 778 N.W.2d 33, 37 (Iowa 2010). In determining the best interest, this court's primary considerations are "the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child." *Id.*

We conclude termination is in the children's best interest. At the time of termination, neither parent had followed through with substance abuse treatment. Neither had completed the batterer's education program or mental health services. In April 2010, the mother was arrested on domestic abuse and weapons charges after stabbing the father with a knife during an altercation. The father is currently incarcerated for contempt and violation of his probation. The concerns for the children's safety if returned to either parent's care remain dire.

Additionally, the children's long-term nurturing and growth, as well as their physical, mental, and emotional needs, require termination. The children are in the care of relatives who are committed to meeting those long-term goals. The two oldest children exhibit behavioral problems as a result of the years spent in their parents' care. Their behavioral difficulties increased after visits with the mother. None of the children are closely bonded with the parents. Continuing the parent-child relationship would place the parents' needs above those of the children, which is not favored. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) (holding the rights and needs of the child rise above the rights and

needs of the parent at some point), *overruled on other grounds by P.L., 778 N.W.2d at 39-40.*

Because termination is in the children's best interest, we affirm the juvenile court's order terminating the mother and father's parental rights.

**AFFIRMED.**