

**IN THE COURT OF APPEALS OF IOWA**

No. 1-169 / 10-1944  
Filed March 21, 2011

**IN THE INTEREST OF J.G., J.G.,  
J.G., J.G., R.G. and M.S.,  
Minor Children,**

**M.G., Mother,**  
Appellant,

**J.G., Father,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A mother and father separately appeal the district court's order terminating their parental rights. **AFFIRMED.**

Nancy L. Pietz of Pietz Law Office, Des Moines, for appellant mother.

Jared C. Harmon of Carr & Wright Law Firm, Des Moines, for appellant father.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin Brownell, Assistant County Attorney, for appellee State.

Kimberly S. Ayotte, attorney and guardian ad litem for minor children, J.G., J.G., J.G., J.G., and R.G.

Nathaniel A. Tagtow, Des Moines, guardian ad litem for minor child, M.S.

Karl Wolle of Juvenile Public Defender's Office, attorney for minor child,  
M.S.

Considered by Vogel, P.J., and Doyle and Tabor, JJ. Mansfield, J., takes  
no part

**VOGEL, P.J.**

Melissa and Juan separately appeal the district court's order terminating their parental rights to six children, J.G., J.G., J.G., J.G., R.G., and M.S., born between 1997 and 2006.<sup>1</sup> The district court terminated Melissa's rights under Iowa Code sections 232.116(1)(d) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services), (f) (child four or older, adjudicated CINA, removed from home for twelve of last eighteen months, and child cannot be returned home), and (h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). The district court terminated Juan's rights under sections (b) (abandonment), (d), (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), (f), and (h). We affirm.

Our review of termination of parental rights cases is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

Although this case involves only J.G., J.G., J.G., J.G., R.G. and M.S., Melissa also has several older children who are not in her custody, most having reached the age of majority. While not directly related to the termination of Melissa's parental rights to her younger children, information regarding her past problems sheds light on her current problems and her inability to learn

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<sup>1</sup> The parental rights of M.S.'s father were also terminated. He does not appeal.

acceptable standards of parenting such that the children would be safe in her care. Case history records are entitled to much probative force when a parent's current performance is being examined. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993).

Melissa claims the State failed to prove by clear and convincing evidence that the children could not be returned to her care. Due to Melissa's relapse of methamphetamine use, the children were removed from her custody in May 2009 and placed in foster care, where they have remained. This is the third time these children have been removed from Melissa's care. Gwen Babberl, a family safety risk and permanency worker for LifeWorks, testified that she does not believe Melissa "fully understands the relapse and addiction process despite having that knowledge." The district court found,

there is nothing in the record to indicate that [Melissa] is able or willing to make the changes necessary to stop exposing her children to continued harm over the long haul . . . she goes through the motions to a point, but never makes the substantial real life changes.

Melissa has been offered numerous services, including rehabilitation from drug use, but continues to abuse methamphetamine. "When the issue is a parent's drug addiction, we must consider the treatment history of the parent to gauge the likelihood that the parent will be in a position to parent the child in the foreseeable future." *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998). Melissa has continually struggled with substance abuse, her mental health needs, and domestic violence, and we agree with the district court that she remains unable to show she can safely parent these children. We conclude clear

and convincing evidence supports termination under section 232.116(1)(f) and (h).

Melissa also argues the court erred by not granting her an additional six months to achieve reunification. The record clearly shows she is not reasonably likely to be able to care for the children in six months. She has not demonstrated the ability to maintain sobriety, which has impacted her ability to maintain a safe home for the children. "Where the parent has been unable to rise above the addiction and experience sustained sobriety in a noncustodial setting, and establish the essential support system to maintain sobriety, there is little hope of success in parenting." *In re N.F.*, 579 N.W.2d at 341. There is no evidence the circumstances would change were Melissa given an additional six months to resolve her many and severe personal problems.

Juan argues the State failed to prove the children could not be returned to his care. Juan was deported to Mexico in May 2006; he is unable to return to the United States. He argues the children should be ordered to live with him in Mexico, as he initiated a home study, and kept weekly phone contact with the children. Melissa and the children moved to Mexico twice since Juan's deportation, both times returning to the United States. The district court found,

The Court does not doubt that if he could legally come to the United States that [Juan] would have done so and involved himself with the children. It is sad that he chose not to maintain his children with him in Mexico as he had the opportunity on several occasions and has demonstrated an ability to parent. . . .

Particularly upsetting to this Court has been that the parents up to the date of the termination of rights hearing had done nothing to prove dual citizenship [and information was provided].

While the district court gave strong consideration to the placement of the children with Juan, it found that it was not in the children's best interests to be moved to Mexico. When Juan and Melissa were together, their relationship was marred by methamphetamine use and physical violence. As the district court found, Juan "showed no appreciation for his own involvement in their neglect." Juan had not seen the children in over three years, and as the district court noted, the change in culture would be yet another disruption in their socialization and education. Iowa Department of Human Services caseworker, Tina Christensen, testified that because Juan had not seen the children for a number of years or participated in services, he was unaware of what their needs were, and how their behaviors and mental health concerns had changed. The court also found Juan was well aware of Melissa's lengthy issues with substance abuse, yet allowed her to assume sole responsibility for the children. We, like the district court, conclude clear and convincing evidence supports termination of Juan's parental rights under 232.116(1)(f) and (h).

Even if a statutory ground for termination is met, a decision to terminate must still be in the best interest of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider "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.* At the time of the hearing, the children had been living with the same foster family off and on since 2004. Babberl reported that the children "continue to do well in the home and the family benefits from support provided through remedial and therapy services." The court found that Melissa

and Juan chose to raise the children in the United States, and to “now place the children with their father in order for the parents to avoid the termination of their rights is not in the children’s best interests.” We agree and conclude termination of Melissa and Juan’s parental rights was in J.G., J.G., J.G., J.G., R.G. and M.S.’s best interests as set forth under the factors in section 232.116(2).

We further find no impediment to termination of Melissa’s parental rights under 232.116(3)(c) as the only “bond” between Melissa and the children established by the evidence was, as the district court noted, a “negative” bond. Such preservation of parental rights would be contrary to the clear intent of section 232.116(3)(c), where termination need not occur if it would be detrimental to the children “due to the closeness of the parent-child relationship.” This record supports just the opposite, enabling the children to feel safe and thrive in the home of their foster parents.

**AFFIRMED.**