

**IN THE COURT OF APPEALS OF IOWA**

No. 1-890 / 11-1258  
Filed November 23, 2011

**IN THE INTEREST OF V.P. and B.P.,  
Minor Children,**

**C.P., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Linn County, Susan Flaherty,  
Associate Juvenile Judge.

A mother appeals the district court's ruling terminating her parental rights  
to her two children. **AFFIRMED.**

Robin L. Miller, Marion, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Jerry Vander Sanden, County Attorney, and Kelly J. Kaufman,  
Assistant County Attorney, for appellee State.

Cory Goldensoph of Cory Goldensoph, P.C., Cedar Rapids, for appellee  
father.

Michael M. Lindeman of Lindeman Law, Cedar Rapids, attorney and  
guardian ad litem for minor children.

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

**VOGEL, J.**

C.P. appeals the termination of her parental rights under Iowa Code section 232.116(1)(f) as to V.P., born 2004, and under section 232.116(1)(h) as to B.P., born 2008.<sup>1</sup> She claims there was not clear and convincing evidence the children cannot be returned to her custody and that termination is not in the children's best interests. Our review of termination of parental rights cases is de novo. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). Although we are not bound by the district court's findings of fact, we do give them weight, particularly in assessing witness credibility. *Id.* "On appeal, we may affirm the [district] court's termination order on any ground that we find supported by clear and convincing evidence." *Id.* at 707.

The Iowa Department of Human Services (DHS) has been involved with this family off and on since the first allegations of child abuse were made in 2004, after the birth of V.P. Later, when B.P. was born, he tested positive for the presence of marijuana in his system. Both children were removed from C.P.'s care in December 2008, and were adjudicated to be in need of assistance on January 21, 2009. Services to assist with reunification were offered to C.P., including: educating on good parenting skills, home monitoring and safety services, substance abuse treatment, drug testing, mental health services, family support services, family drug court, family team meetings, and various community support services.

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<sup>1</sup> The father was incarcerated throughout most of the CINA and termination proceedings. His rights were also terminated; he does not appeal.

The children were returned to the mother for a trial placement on June 1, 2009, but were removed from her care when they were left unattended in the mother's apartment. Another trial placement was made on October 26, 2009, but ended on January 8, 2010, as the mother placed the children at risk by having inappropriate people around them, and there was considerable alcohol in the apartment contrary to DHS directives for the mother to maintain sobriety and a safe environment for the children. The police had also been called to the home five times in that short time span, due to disturbances the mother had with other individuals.

Although the mother made periodic progress in abstaining from use of illegal substances, she again used marijuana in March 2010. On October 21, 2010, she was charged with public intoxication and interference with official acts.

The Family Safety, Risk, and Permanency worker, Richard Taylor, who had worked with the mother for fourteen months prior to the first day of the termination hearing, testified his primary concern was the mother's inability to be consistent in any progress she has made. He testified,

We've seen a consistent cycle from removal to trial home placement, back to ending the trial home placement, consistent barriers throughout, and again, the case has been opened for quite some time and it could be damaging to the children.

Julie Ishman, a social worker and case manager for DHS, summed up the cycle of behavior that the mother has exhibited:

[T]here have been two unsuccessful trial home placements where [the mother] had not been able to maintain the placement and follow through with the expectations in order to ensure that her children could remain safe in her home. I think the history tells a story here as far as her decision-making skills and her mental health being a barrier to being able to make decisions. . . . She has

a history of the issues regarding safe people, or being around safe people that could be safe for herself or even her children.

The record is also replete with evidence of the mother's resistance to services, which was exhibited by her argumentative demeanor. Further, her mental health problems have impeded her ability to parent the children safely, as she cycles from appropriate to inappropriate behavior. As the district court found, these children need permanency. Having been out of the mother's home since December 2008, with only two short and unsuccessful trial home placements, the children's best interests are to give them permanency.<sup>2</sup> While the mother has demonstrated some progress in her own life, she has not been able to progress such that she can maintain a safe and stable environment for the children. *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J., concurring specially) (stating a child's safety and need for a permanent home are the defining elements in a child's best interests).

The record contained clear and convincing evidence the children could not be returned to her care and termination was in their best interests. We therefore affirm the district court.

**AFFIRMED.**

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<sup>2</sup> The record contained evidence that a relative in Illinois was being considered as a placement and possible adoptive home for the children.