

**IN THE COURT OF APPEALS OF IOWA**

No. 1-978 / 11-1870  
Filed January 19, 2012

**IN THE INTEREST OF N.C. and C.C.,  
Minor Children,**

**C.C., Father,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Louise Jacobs,  
District Associate Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Yvonne Naanep, Des Moines, for appellant father.

Marc Elcock, Osceola, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Christine Gonzales,  
Assistant County Attorney, for appellee State.

Charles Fuson of the Youth Law Center, Des Moines, for minor children.

Considered by Vogel, P.J., Eisenhauer, J., and Sackett, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

**EISENHAUER, J.**

A father appeals the termination of his parental rights to his children. He does not dispute the State proved the grounds for termination by clear and convincing evidence. Instead, he contends termination was not appropriate because the children are in the care of a relative. We review his claim de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The children, ages five and nine, were adjudicated in need of assistance in December 2009 due to the parents' substance abuse, domestic violence, and failure to properly supervise the children. The father was in prison for all but three months in 2010. In November 2010, the children were removed from the mother's care and placed with their maternal grandmother, where they remain.

The father is currently serving two, consecutive five-year terms of incarceration. At the time of the termination hearing in October 2011, he hoped to be paroled to Fort Des Moines correctional facility for work release by December. For the last nine years, the father has been in and out of prison. He has not had regular visitation with the children and has not contributed significantly to their financial support. He has not had contact with or provided support for the children since March 2010.

The father does not seek to have the children returned to his care. Rather, he asks his parental rights be maintained so the children may know him. Iowa Code section 232.116(3)(a) (2011) provides, "The court need not terminate the relationship between the parent and child if the court finds . . . [a] relative has legal custody of the child." However, a "determination to terminate a parent-child relationship is not to be countermanded by the ability and willingness of a family

member to take the child.” *In re C.K.*, 558 N.W.2d 170, 174 (Iowa 1997). We still give primary consideration to “the child’s safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child.” *P.L.*, 778 N.W.2d at 40. Here, the State has met its burden of proving the children’s best interests are served by terminating the father’s parental rights. The father does not have a relationship established with his children. He has a long history of criminal activity and has been imprisoned the majority of the children’s lives. He has not contributed substantially to the children’s physical, mental, or emotional support. The father has not even had contact with the children in over eighteen months. The children cannot be asked to continue in a relationship with a father whose deficiencies as a parent are so obvious and not likely to improve. Termination of the father’s parental rights allows for adoption and the permanency the children require.

Accordingly, we affirm.

**AFFIRMED.**