

IN THE COURT OF APPEALS OF IOWA

No. 9-1031 / 09-1654
Filed January 22, 2010

**IN THE INTEREST OF L.F. and E.L.,
Minor Children,**

**V.L.L., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Karla J. Fultz,
Associate Juvenile Judge.

A mother appeals the termination of her parental rights. **AFFIRMED.**

Edward W. Bull of Bull Law Office, P.C., Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Christina M. Gonzalez,
Assistant County Attorney, for appellee State.

Nicole Garbis Nolan of Youth Law Center, Des Moines, for minor children.

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

POTTERFIELD, J.

V.L. is the mother of E.L. and L.F., whose ages at the time of trial were three years and nine months respectively. This family came to the attention of the Iowa Department of Human Services (DHS) following an incident of domestic violence between V.L. and L.F.'s father on January 5, 2009. It was alleged that V.L. had assaulted L.F.'s father while holding L.F. and that V.L. used methamphetamines and alcohol.

A temporary removal order was entered removing the children from V.L.'s care on March 27, 2009. E.L. was placed with her father and L.F. was placed in foster care. The children remain in their respective placements where they have thrived. On April 23, 2009, the children were adjudicated children in need of assistance (CINA).

On May 20, 2009, V.L.'s probation was revoked, and she was incarcerated. She will not see the parole board until December 2010. Following a hearing on July 7, 2009, the court sustained the State's motion to waive reasonable efforts, finding V.L. had unresolved substance abuse issues, would be unavailable to her children because of her incarceration, and had been unsuccessful in gaining the insight to parent her children safely.

On August 10, 2009, the State filed an application to terminate V.L.'s parental rights to E.L. and L.F.¹ After a hearing, the juvenile court terminated V.L.'s parental rights to E.L. and L.F. pursuant to Iowa Code section 232.116(1)(b), (d), (e), (g), (h), and (j) (2009). V.L. appeals, arguing termination

¹ V.L.'s parental rights to E.L. and L.F. are the only rights at issue on appeal.

of her parental rights is not in the children's best interests and requesting that if her rights are terminated, her children be placed with her mother.

The primary concern in termination proceedings is the best interests of the children. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa Ct. App. 1995). Upon our de novo review, we agree with the juvenile court that termination of V.L.'s parental rights is in the children's best interests. V.L. did not testify at the termination hearing, but she submitted a letter in which she acknowledged that she was not currently able to care for her children because of her incarceration. The record establishes that she will not be released from prison in the near future. Further, V.L.'s incarceration rendered her unavailable to participate in DHS services throughout the majority of this case, and V.L. has continuing issues with drug dependency. "The future can be gleaned from evidence of the parents' past performance and motivations." *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). Because V.L. will not be able to parent her children in the near future, we find a termination of her parental rights to be in her children's best interests.

We decline to place V.L.'s children with her mother, who has adopted two of V.L.'s other children. The children have been in their current homes for over one year, and they are doing well in these homes. They deserve stability and permanency. "A child's safety and the need for a permanent home are now the primary concerns when determining a child's best interests." *In re J.E.*, 723 N.W.2d 793, 801 (Cady, J., concurring specially).

AFFIRMED.