

**IN THE COURT OF APPEALS OF IOWA**

No. 9-516 / 09-0783  
Filed July 22, 2009

**IN THE INTEREST OF A.H., F.H., and G.H.,  
Minor Children,**

**D.R.H., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Joe E. Smith, District Associate Judge.

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

Andrea Flanagan of Sporer & Flanagan, 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 Jennifer Galloway, Assistant County Attorney, for appellee State.

Jesse Macro, West Des Moines, for intervenor K.D.

Rob Goedicke of Burdette Law Firm, P.C., Clive, for intervenor M.H.

Kimberly Ayotte of Youth Law Center, Des Moines, for minor children.

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

**VOGEL, J.**

Dawn appeals the termination of her parental rights to her three children, A.H. born 1994, F.H. born 1999, and G.H. born 2001.<sup>1</sup> The district court terminated Dawn'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); (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child); and (f) (child CINA, parent has substance abuse problem, child cannot be returned within a reasonable time). 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).

Dawn claims the State failed to prove by clear and convincing evidence that her rights should be terminated, and asserts that termination was not in the children's best interests. In 2005, Dawn and her former husband, Doug, divorced. Doug was granted physical care of the children, and Dawn was granted supervised visitation. Following Doug's death in 2008, the children continued living with Doug's widow, Michelle, who by all reports has provided a safe and loving home for the children.

Dawn has struggled with severe alcohol abuse for years and has only recently made some progress while participating in an in-jail treatment program. While she participated in other sobriety treatment programs in the past, she was not able to complete the programs or successfully maintain sobriety. "Where the parent has been unable to rise above the addiction and experience sustained

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<sup>1</sup> G.H. was diagnosed as being terminally ill; his current status is not part of this record.

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 338, 341 (Iowa Ct. App. 1998). As a result, and in consideration of other facts, the district court found, “[I]t is far too soon to tell if Dawn will ever be able to parent her children safely and successfully.” Moreover, her contact with the children has been almost nonexistent since her incarceration in October 2008. Her incarceration resulted from a probation violation following a guilty plea to assault causing injury (to A.H.). We, like the district court, conclude clear and convincing evidence supports termination under section 232.116(1)(d), (e) and (l) (2009).

Even when the evidence supports termination, we still consider whether termination is in the children’s best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). The children’s therapist reported

[the children] have been subjected to being afraid that they would be removed from the only place they report feeling safe. . . . Although the children do love their mother and have had hopes in the past that she would be in a position to parent them, both F.H. and A.H. have identified they no longer have this hope and communicate significant anxiety about being the possibility of living with or seeing their mother.

As the district court concluded, termination is in the best interests of the children and allows them to continue to be in a safe and stable home. *In re J.E.*, 723 N.W.2d 793, 802 (Iowa 2006) (Cady, J., concurring specially) (stating children’s safety and their need for a permanent home are the defining elements in a child’s best interests). We affirm the district court.

**AFFIRMED.**