

**IN THE COURT OF APPEALS OF IOWA**

No. 9-994 / 09-1583  
Filed December 17, 2009

**IN THE INTEREST OF D.R.,**  
Minor Child,

**D.C.N., Mother,**  
Appellant.

---

Appeal from the Iowa District Court for Plymouth County, Robert J. Dull,  
District Associate Judge.

A mother appeals from a juvenile court order terminating her parental  
rights to a child. **AFFIRMED.**

Dewey P. Sloan, Jr., of Dewey P. Sloan, Jr., P.C., LeMars, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Darin J. Raymond, County Attorney, and Amy Oetken,  
Assistant County Attorney, for appellee.

Michael Murphy, LeMars, for father.

John C. Polifka, Sioux City, attorney and guardian ad litem for minor child.

Considered by Vogel, P.J., Doyle, J., and Miller, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

**MILLER, S.J.**

The appellant is the mother of a son who will soon be seven years of age (“the child”). She appeals from an October 2009 juvenile court order terminating her parental rights to the child. (The order also terminated the parental rights of the child’s father. He has not appealed.) We affirm.

In January 2005 there were concerns that the mother had physically abused and neglected the child. The child was voluntarily placed in the guardianship of his maternal grandparents. He remained there, with regular visitations by the mother, until disagreements between the mother and her parents in the summer of 2007. The State filed a child in need of assistance (CINA) petition and the child was adjudicated a CINA in August 2007. He has thereafter been in the temporary custody of the maternal grandparents, subject to protective supervision by the Iowa Department of Human Services (DHS); in the temporary custody of the DHS, for relative placement; in the temporary custody of the DHS, for shelter care, on two occasions; in his mother’s home from August 2008 to February 2009; in foster care; and since April 2009 in his maternal grandparents’ home.

In late August 2009 the mother executed a consent to termination of her parental rights to the child, asserting that “the best home and permanent place for [the child] is with [the child’s maternal grandparents]. In late September 2009 the mother made it clear she was no longer interested in reunification services. The State then filed a petition seeking termination of her parental rights. The juvenile court terminated the mother’s parental rights pursuant to Iowa Code

sections 232.116(1)(a) (voluntary and intelligent consent to termination for good cause) and (d) (child adjudicated CINA for abuse or neglect by parent, circumstances continue to exist despite services) (2009). The mother appeals.

We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence.

*In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

On appeal the mother questions whether termination of her parental rights is in the child's best interest, expressing a desire for additional time for reunification.<sup>1</sup> The child, now almost seven years of age, has been placed in the guardianship of his maternal grandparents since shortly after his second birthday. Although he subsequently has at times been in other placements because of behavioral problems and other circumstances, his grandparents have been the one constant in his life. The mother was unable to control or deal with the child's at-home and at-school behaviors when he was returned to her home beginning in August 2008. He has now been in the home of his grandparents again since April 2009. The grandparents have cooperated with services

---

<sup>1</sup> The parties suggest that error may not have been preserved on the best interest issue. We note, however, that even if statutory requirements for termination are met, a decision to terminate must still be in the best interest of a child. See *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). Although the juvenile court made no express finding on this issue, we conclude that a finding that termination of the mother's parental rights is in the child's best interest is implicit in its decision to terminate. We therefore proceed to address the issue.

designed to deal with his problems. The child is doing well in their home and their care. They are ready and willing to adopt him.

Generally, once the statutory grounds for termination exist, termination is in a child's best interest even if the child is placed with a relative. *In re L.M.F.*, 490 N.W.2d 66, 68 (Iowa Ct. App. 1992). The primary concern in a termination of parental rights proceeding is the best interest of the child. Iowa R. App. P. 6.904(3)(o); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa Ct. App. 1995). A child's safety and need for a permanent home are the primary concerns in determining the child's best interests. *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially). Temporary or long-term foster care is not in a child's best interest, especially when the child is adoptable. *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995).

The child has been out of the mother's care, in a variety of settings, for most of his life. He has now been back in his grandparents' home for the last six months, and is doing well there. He needs security and permanency, and needs them now rather than at some indefinite time in the future. We conclude that termination of the mother's parental rights is in the child's best interest.

**AFFIRMED.**