

**IN THE COURT OF APPEALS OF IOWA**

No. 7-243 / 06-1713  
Filed May 9, 2007

**IN THE INTEREST OF B.K.L.,  
Minor Child,**

**A.K.L., Mother,**  
Petitioner-Appellant.

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Appeal from the Iowa District Court for Story County, Victor G. Lathrop,  
Associate Juvenile Judge.

A mother appeals from the order refusing her request to terminate the  
parental rights of the father to their daughter. **REVERSED AND REMANDED  
WITH DIRECTIONS.**

Michael Smith of Craig & Smith, L.L.P., Eldora, for appellant mother.

Kenneth Wiese, Huxley, pro se.

Robert Goodwin, Ames, guardian ad litem for the minor child.

Considered by Zimmer, P.J., and Miller and Baker, JJ.

**BAKER, J.**

A mother appeals from the order refusing her request to terminate the parental rights of the father to their daughter. We reverse and remand with directions.

**Background Facts and Proceedings.**

A.L. is the mother, and K.W., the father, of B.L., who was born in June of 2003. On August 11, 2006, the mother filed a private petition seeking to terminate the father's parental rights based on the father's abandonment and desertion of the child. Attached to the petition was a document signed by the father entitled "Consent to Termination of Parental Rights and Waiver of Notice." In that document, the father "consent[ed] to the entry of a decree terminating the parental-child relationship between himself and [B.L.] without further notice to him."

On September 13, a short hearing was held at which A.L. and K.W., with whom she was living at the time, testified. K.W. did not attend or testify at the hearing. The mother testified as to K.W.'s complete lack of interest in their daughter. She testified that the father does not support B.L. financially and that he only visits his daughter when "summoned." In addition, she related her goal in seeking termination was to protect B.L. in the event of something happening to her that would render her unable to care for B.L. Next, A.L.'s father testified. He addressed his ability and willingness to support A.L. and B.L. financially. He also testified to his willingness to serve as a "stand-by guardian" for B.L.

In addition, the court received a written report from the child's guardian ad litem, in which the guardian ad litem advocated that the court terminate the

father's parental rights. In particular, the guardian ad litem related the father "has no interest in having any contact or involvement with [B.L.]." He further noted that K.W. comes from a dysfunctional family and the mother's concern is that, should she become incapacitated, the father would obtain custody and pass along B.L.'s care to his alcoholic and abusive parents. Finally, the guardian ad litem noted the mother's supportive family and their ability to care for B.L. in the event of the mother's incapacitation.

On September 29, 2006, the court entered an order denying the mother's request to terminate the father's parental rights. The court first acknowledged the father's apparent abandonment of B.L. and his consent to terminate. As such, it recognized the statutory grounds for termination were satisfied. However, after addressing B.L.'s best interests, it refused to terminate the father's parental rights. The court stated "[K.W.] should not be allowed to terminate his parental rights just to avoid the possibility of being required to pay support in the future if [A.L.] ever requests the Court establish an amount of child support." The mother appeals from this ruling.

### **Scope of Review.**

We review private termination proceedings de novo. *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998). Our primary interest in termination proceedings is the best interests of the child. *Id.* at 602. Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to his or her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

**Termination.**

First, upon our de novo review of the record, we find there is absolutely no indication that K.W. was motivated primarily by economic concerns to terminate his potential obligation to pay child support. The court apparently divined this motivation from the circumstances of the case.<sup>1</sup> It is true that in some cases Iowa's courts have held a desire to avoid financial obligations insufficient to justify a termination of parental rights. See *In re D.W.K.*, 365 N.W.2d 32 (Iowa 1985); *In re J.L.W.*, 496 N.W.2d 280 (Iowa Ct. App. 1992); *In re K.J.K.*, 396 N.W.2d 370 (Iowa Ct. App. 1986). However, we find those cases distinguishable.

In *J.L.W.*, 496 N.W.2d at 283, the mother objected to the father's attempt to voluntarily terminate his parental rights. Here the mother affirmatively seeks the father's termination. In *K.J.K.*, 396 N.W.2d at 372, the mother was receiving public assistance while the father made substantial yearly earnings. Here, in contrast, the mother will soon become a nurse and is not receiving any public funds. Finally, in *D.W.K.*, 365 N.W.2d at 33, evidence was presented that the father's "primary motive in terminating this relationship is to . . . free himself from the support obligations previously ordered." As noted above, here there is simply no way to determine from the record that the father's consent to terminate was in any way motivated by his desire to shirk his financial obligations.

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<sup>1</sup> The court stated that "[t]ermination of [K.W.'s] parental rights would deprive [B.L.] of the child support she deserves from her father." We would note, however, that K.W. is not, and has not been, supporting his daughter in any fashion since her birth.

The court here also noted that “[A.L.’s] reasoning for terminating [K.W.’s] parental rights is too speculative to be a basis for termination.” We disagree. Beyond her stated desire to protect her daughter from any future involvement with the father’s parents, A.L. presented un rebutted evidence that K.W. had totally abandoned their daughter and that, despite being employed, he has never provided support for her. These two grounds, abandonment and lack of support, are two statutorily prescribed reasons to terminate. See Iowa Code §§ 600A.8(3) (abandonment) and 600A.8(4) (failure to support financially). As such, they are far from “speculative.” Indeed they are concrete examples of K.W.’s history as a parent and his likelihood of ever playing a meaningful role in B.L.’s life, either emotionally or financially. Furthermore, lack of objection to a petition to terminate is also a ground for granting a petition. See Iowa Code § 600A.8(5).

Finally, if best interests are to be considered the polestar, we find guidance directly in chapter 600A (Termination of Parental Rights) wherein it states that the “best interests of a child requires that each biological parent affirmatively assume the duties by the role of being a parent.” B.L.’s best interests are served by severing the rights of a biological parent who has shown no interest in her life whatsoever, who has provided no support for her, and who has no future intentions of becoming involved with her. See, *e.g. In re M.S.*, 519 N.W.2d 398 401 (Iowa1994). We therefore reverse the order declining the request to terminate the father’s parental rights in this case. We remand with directions for the juvenile court to enter an order terminating the father’s parental rights.

**REVERSED AND REMANDED WITH DIRECTIONS.**