

IN THE COURT OF APPEALS OF IOWA

No. 7-301 / 07-0396
Filed May 9, 2007

**IN THE INTEREST OF T.L.J.,
Minor Child,**

**L.R.J., Mother,
Appellant,**

**J.K., Father,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
District Associate Judge.

A mother and father appeal from the order terminating their parental
rights. **AFFIRMED.**

Timothy J. Tupper, Davenport, for appellant mother.

Neill A. Kroeger, Davenport, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, William E. Davis, County Attorney, and Gerda Lane, Assistant
County Attorney, for appellee State.

Derek G. Jones, Davenport, for minor child.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

HUITINK, P.J.

J.K. (father) and L.J. (mother) appeal from the juvenile court's order terminating their parental rights concerning their twenty-one-month-old son, T.J. Neither challenges the sufficiency of the evidence supporting any of the statutory grounds for termination of parental rights relied on by the juvenile court. Both claim "the Trial Court erred in terminating parental rights where an appropriate relative placement was available and the Department of Human Services failed to comply with its own rules and the Permanency Order requiring family placement to be considered."

Our review of L.J.'s and J.K.'s claims is de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). The primary concern in the termination proceedings is the best interests of the child. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the fact findings of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those findings. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990).

We initially decline to consider the parents' arguments concerning the department's failure to comply with its administrative rules. Neither cites any authority requiring reversal of a termination order on that basis. Iowa R. App. P. 6.14(1)(c).

Placement with relatives is not presumptively preferred over termination of parental rights. *In re L.M.F.*, 490 N.W.2d 66, 67 (Iowa Ct. App. 1992). "Before

the court may enter a permanency order, one condition which must be shown is termination of the parent-child relationship would not be in the best interest of the child.” *Id.* at 67-68.

Contrary to the parents’ claims, termination of parental rights in this case, as opposed to placement with relatives, is in T.J.’s best interests. The trial court’s stated reasons for rejecting the parents’ proposed placement include the following:

The permanency goal of the Department is adoption by the child’s current foster parents. The child is very strongly bonded with these foster parents. The contested issue in this case centers around the desire of both parents that the child should be placed and eventually adopted by a family member, [R.E.]. She is a paternal aunt. She has been rejected as a foster parent because of concerns listed in the notice which is Exhibit 19. Although she appears to be a pleasant, capable, and stable person, the Court defers to the reasons for rejection by the Department of Human Services considered in total. They are reasons for concern. The Court also notes that the proposed caretaker is married to a man with whom she has been estranged over the past seven years. They are not divorced and seem to have no intention of doing so. He has evidenced no interest in adoption of [T.J.] and has not participated in the services necessary to be licensed as a foster parent to prepare him for adoption. Testimony describes Departmental policy against placement of the child in such a relationship. The Court understands good reason for the policy. Based on the bonding of the child with his current foster parents and their commitment to him as adoptive parents, the Court concludes that the child’s best interests are served by continued placement in their home. The Court is satisfied that termination of parental rights for the purposes of adoption planned by the Department is in the best interests of the child. The Court would not find that placement of the child with [R.E.] is in the child’s best interest.

It is sufficient to note that the juvenile court’s findings are abundantly supported by the record, and we adopt them as our own. Like the juvenile court, we

conclude termination of parental rights is in T.J.'s best interests. The juvenile court's order terminating J.K.'s and L.J.'s parental rights is affirmed.

AFFIRMED.