

**IN THE COURT OF APPEALS OF IOWA**

No. 0-189 / 09-1525  
Filed April 8, 2010

**IN THE INTEREST OF G.R.P.,  
Minor Child,**

**A.P. and T.P., Guardians,**  
Petitioners,

**M.A.P., Jr., Father,**  
Appellant.

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Appeal from the Iowa District Court for Cedar County, Gary P. Strausser,  
District Associate Judge.

A father appeals from the district court's order terminating his parental  
rights to his daughter. **AFFIRMED.**

Don Schroeder, West Liberty, for appellant father.

Ronald Ricklefs, Cedar Rapids, and Emily Stork of Knuth Law Office,  
Anamosa, for appellees.

Lowell Dendinger, Tipton, for minor child.

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

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

**VOGEL, P.J.**

Marc appeals the termination of his parental rights to his daughter, G.R.P. He claims G.R.P.'s guardians hindered his contact with her, and therefore the court should not have found he abandoned G.R.P. He also asserts termination was not in G.R.P.'s best interests. On our de novo review, we affirm. *In re M.M.S.*, 502 N.W.2d 4, 5 (Iowa 1993).

**I. Background Facts and Proceedings**

G.R.P. was born in December 2002 to Jessica and Marc, who were never married.<sup>1</sup> The couple moved to Texas from Oklahoma shortly after G.R.P.'s birth, but Jessica left two to three weeks after the move, and has since not been a part of G.R.P.'s life.<sup>2</sup> From approximately mid-year 2003 until mid-year 2004, G.R.P. was shuttled back and forth between Marc's mother in Texas and Marc's uncle, Alfred,<sup>3</sup> and his wife, Teresa, who reside in Stanwood, Iowa. Marc testified he did not feel he could financially provide for G.R.P., so in August 2004, he executed a notarized statement granting Alfred and Teresa "full and legal conservatorship," and G.R.P. began to reside with them permanently. On November 4, 2004, Marc filed a petition for the appointment of Alfred and Teresa as guardians and conservators of G.R.P., and on November 24, 2004, Alfred and Teresa were so appointed. Marc moved to Ohio when G.R.P. was very young, where he eventually married and had a son. Prior to trial, Marc and his family moved back to Texas, and were living with his mother.

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<sup>1</sup> Jessica's parental rights were also terminated; she does not appeal.

<sup>2</sup> On November 24, 2004, Jessica relinquished all parental rights of G.R.P. to Marc.

<sup>3</sup> Alfred is also Marc's brother by adoption.

After placing G.R.P. with Alfred and Teresa, Marc had no further contact with her until February 2005, when he traveled to Iowa and requested to take G.R.P. back to Ohio with him. Alfred and Teresa allowed Marc a lengthy visit, but did not think it wise to make an abrupt change in G.R.P.'s caregivers. Alfred also informed Marc that G.R.P. could not be removed without some type of court intervention. See *In re Guardianship of Stewart*, 369 N.W.2d 820, 823 (Iowa 1985) (noting the process of filing an application for termination of a guardianship). Teresa compiled and offered Marc a packet of pictures of G.R.P. but he left the residence without taking the photos with him. Marc's only initiated contact with G.R.P. after that visit was a couple of phone calls in the weeks that followed.

Alfred and Teresa filed a petition to terminate Marc's parental rights in May 2009. After hearing the evidence presented, including the testimony of Marc, Alfred, and Teresa, the court terminated Marc's parental rights on September 30, 2009, under Iowa Code section 600A.8(3)(b) (2009) (abandonment). Marc appeals.

## **II. Abandonment**

Marc first asserts the court should not have found he abandoned G.R.P. A parent is deemed to have abandoned a child unless the parent maintains substantial contact with the child as demonstrated by financially contributing to the support of the child; visiting the child at least monthly when physically and financially able; communicating regularly with the child or the child's custodian; or living with the child for six months within the one-year period immediately preceding the termination of parental rights hearing. Iowa Code § 600A.8(3)(b).

A showing of abandonment does not require total desertion; feeble contacts can also demonstrate abandonment. *M.M.S.*, 502 N.W.2d at 7.

Marc argues that he was discouraged or prevented from either visiting or communicating with G.R.P., and therefore the grounds for abandonment were not met. After Marc placed G.R.P. in Alfred and Teresa's care, he saw her only once. Besides a few phone calls in 2005, Marc made no effort to have any sort of relationship with his daughter. Alfred and Teresa have lived in the same town for over fourteen years, and yet Marc did not even attempt to send his daughter birthday or holiday greetings, or in any way be involved in her life. He was not only physically out of her life, but also provided no emotional or financial support.

The district court found,

There is no evidence that he was ever denied contact with the child. In fact, the opposite is true. On the one occasion when he went to Alfred and Teresa's residence he was allowed to visit with the child. Further, he was allowed contact with the child by phone when she was available.

We agree with the district court that the evidence does not support Marc's allegation that Alfred and Teresa interfered with or denied Marc's access to G.R.P.

Although Marc also claims he just was not financially in a position to regain custody of his daughter, that does not justify his complete absence from her life. "An abandoned child is no less abandoned because the parent can rationalize a reason for the abandonment." *M.M.S.*, 502 N.W.2d at 7.

At the time of trial, G.R.P. was nearly seven years old, and Marc had not made any effort to be a part of her life since a brief visit in 2005. While he may have wanted to "re-establish a relationship" with G.R.P., parental responsibilities

include more than subjectively maintaining an interest in a child. *In re Goettsche*, 311 N.W.2d 104, 106 (Iowa 1981). The concept requires affirmative parenting. *Id.* Although Marc chose to leave G.R.P. with Alfred and Teresa when he was unable to care for her, he can still be found to have abandoned her. *See id.* When Marc failed to maintain meaningful communication and association with G.R.P., he thus relinquished his parental rights and privileges. The district court terminated Marc's parental rights on the ground of abandonment, and we agree with its finding that "he has abandoned the role of a parent."

### **III. Best Interests**

Marc next argues that termination is not in G.R.P.'s best interests. Once we affirm the district court's finding that a ground for termination under Iowa Code section 600A.8 has been established by clear and convincing evidence, we next consider whether termination is in the child's best interests. *In re R.K.B.*, 572 N.W.2d 600, 602 (Iowa 1998). The best interests of the child "shall be the paramount consideration" while also "giving due consideration" to "the interests of the parents." Iowa Code § 600A.1.

G.R.P. is settled and happy in a stable, loving home where her guardians, Alfred and Teresa, have made her an integral part of their family since 2004. G.R.P. knows them as "mom and dad," whereas Marc is a stranger to her. Alfred and Teresa are in a position to adopt G.R.P. Marc and his family live in Texas. While he expressed that he would move to Iowa "if I have to," to transition G.R.P., we agree with the district court that it is not in G.R.P.'s best interests to uproot her from the only home she has known. Marc has not "continuously manifested a desire to maintain a relationship" with G.R.P., and we agree with

the district court that termination of his parental rights is in G.R.P.'s best interests. *Cf. In re Burney*, 259 N.W.2d 322, 324 (Iowa 1977) (stating that in order to prevent termination of parental rights, a parent must continuously manifest a desire to maintain a relationship with the child).

#### **IV. CONCLUSION**

We affirm the termination of Marc's parental rights under Iowa Code section 600A.8(3)(b), and agree with the district court that termination is in G.R.P.'s best interests.

**AFFIRMED.**