

IN THE COURT OF APPEALS OF IOWA

No. 0-476 / 10-0783
Filed July 14, 2010

**IN THE INTEREST OF D.R. and D.R.,
Minor Children,**

**C.R., Grandmother,
Appellant.**

Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, Associate Juvenile Judge.

The paternal grandmother appeals the district court's order continuing placement of her grandsons with the foster parents. **AFFIRMED.**

Douglas Q. Davis, II of Kintzinger Law Firm, P.L.C., Dubuque, for appellant.

Steven Drahozal, Dubuque, for appellee father.

Leslie Blair, Dubuque, for appellee mother.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, Ralph Potter, County Attorney, and Jean Becker, Assistant County Attorney, for appellee State.

Sarah Stork Meyer, Dubuque, for minor children.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ.

VOGEL, P.J.

Charlotte, the paternal grandmother of two boys, appeals the district court's order continuing placement of the boys with the foster parents.

Our scope of review was set forth in *In re E.G.*:

Our review generally is de novo. See *In re K.C.*, 660 N.W.2d 29, 32 (Iowa 2003) (permanency order); *In re J.M.W.*, 492 N.W.2d 686, 689 (Iowa 1992) (adoption dispute); *In re Adoption of Moriarty*, 260 Iowa 1279, 1285, 152 N.W.2d 218, 221 (1967) (adoption-related equitable proceeding). We review both the facts and the law and adjudicate rights anew. *In re H.G.*, 601 N.W.2d 84, 85 (Iowa 1999). Although we give weight to the juvenile court's findings of fact, we are not bound by them. *In re N.M.*, 528 N.W.2d 94, 96 (Iowa 1995).

In re E.G., 738 N.W.2d 653, 654 (Iowa Ct. App. 2007).

The two young boys in the center of this dispute were born in 2006 and 2007. The parental rights of both parents were terminated in January 2010. Following a contested placement hearing, the district court ordered on April 16, "that custody and guardianship of [the boys], shall remain with the Department of Human Services for continued placement and eventual adoption by the [] foster family." On May 6, the court denied Charlotte's motion to reconsider.

On appeal, Charlotte argues: (1) the best interests of the boys would be better served if placed with her, and (2) because she has been recently licensed as a foster care parent, she could provide a safe home for the boys. The district court did not question Charlotte's love for her grandsons, but found several reasons why her home would not be suitable for the long term, best interests of the boys. On our de novo review of the record, we agree.

The district court noted three major areas of concern with placing the boys in Charlotte's care, namely her: (1) lack of compliance with safety rules and guidelines for the boys' protection; (2) lack of insight into the detrimental effects of her son's behavior on the boys; (3) mental health diagnosis, and observed negative personality traits. By comparison, the court noted no concerns with the foster parents, and found

[T]he boys as well as the [foster parents] seem to genuinely be happy and have molded into a real family The boys are currently in a stable and nurturing environment where they are thriving. It appears they are experiencing this for the first time in their lives and their improved demeanor is a direct result.

Charlotte moved the court to reconsider, and introduced evidence that she had become a licensed foster care parent. The district court, re-characterizing the motion as one to reopen the record, determined the issue was not whether Charlotte was now qualified as a foster parent, but whether her home would be a suitable and safe placement for these two children. Because Charlotte exhibited an "unwavering loyalty to her son," which boded unfavorably to the protection, and thus best interests of her grandsons, the court denied her motion. *In re R.J.*, 495 N.W.2d 114, 117 (Iowa Ct. App. 1992) ("It is in the children's best interests to remove them from the detrimental influence of their parents and provide a custodian who is free from the assertion by the parents of their legal rights.").

Iowa Code section 232.117(3) (2009) lists the options for placement of children following termination of parental rights. The juvenile court has the authority to place the children with the Iowa Department of Human Services (DHS), a suitable child-placing agency, or a relative or suitable person. Iowa Code § 232.117(3). There is no statutory preference for a relative. *R.J.*, 495

N.W.2d at 117. As with all aspects of a case involving children, the dominant concern is the best interests of the children, as opposed to satisfying the needs of the other interested parties. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997).

Although Charlotte had frequently cared for the boys, they had been out of her home for six months prior to the hearing in March 2010. When the boys were in her care, DHS's primary concerns were Charlotte's inability to set boundaries for the boys, and her divided loyalty to support her son, at the expense of protecting her grandsons. This produced negative behaviors in the boys, as noted by Carrie Merrick, the boys' mental health counselor. When the boys were removed from Charlotte's home, Merrick noticed a marked improvement, particularly in the older boy's behavior. Due to demonstrated behavior issues when the boys were in Charlotte's care, Merrick did not recommend the boys be placed with Charlotte. She did, however, see value in Charlotte being able to maintain a grandparent relationship with the boys.

The district court found that it is in the boys' best interests for them to remain with the foster parents, allowing the boys to be on track for their eventual adoption, and we agree.¹

We affirm the decision of the district court.

AFFIRMED.

¹ Termination of parental rights severs all familial ties. See, e.g., *In Interest of J.P.*, 499 N.W.2d 334, 340 (Iowa Ct. App. 1993) citing 2 Am. Jur. 2d Adoption § 85 (1962) ("Public policy requires severing all family ties with respect to a child whose parents have had their parental rights terminated."). Nonetheless, it appears the best interests of the children in this case would support some level of continuing contact between Charlotte and the boys. We express no opinion as to how or whether this may be accomplished.