

**IN THE COURT OF APPEALS OF IOWA**

No. 1-166 / 10-1487  
Filed April 27, 2011

**IN THE INTEREST OF O.R.K.,  
Minor Child,**

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

**C.D.R., Father,**  
Appellee.

---

Appeal from the Iowa District Court for Des Moines County, Mark Kruse,  
District Associate Judge.

A mother appeals from the district court's order denying her petition to  
terminate the parental rights of her son's father. **AFFIRMED.**

Michael D. Clark of Swanson, Engler, Gordon, Benne & Clark, L.L.L.P.,  
Burlington, for appellant mother.

Todd E. Chelf of Cray, Goddard, Miller, Taylor & Chelf, L.L.P., Burlington,  
for appellee father.

Scott E. Schroeder of Schroeder Law Office, Burlington, attorney and  
guardian ad litem for minor child.

Considered by Vogel, P.J., and Doyle and Tabor, JJ.

**VOGEL, P.J.**

Lindsey and Carlo, who were never married, are the parents of O.K. (born in September 2008). On February 11, 2010, Lindsey filed a petition seeking the termination of Carlo's parental rights pursuant to Iowa Code chapter 600A, alleging that Carlo had abandoned O.K. Iowa Code section 600A.8(3) (2009) sets forth the grounds for terminating parental rights, including abandonment. It provides in relevant part,

3. The parent has abandoned the child. For the purposes of this subsection, a parent is deemed to have abandoned a child as follows:

.....

b. If the child is six months of age or older when the termination hearing is held, a parent is deemed to have abandoned the child unless the parent maintains substantial and continuous or repeated contact with the child as demonstrated by contribution toward support of the child of a reasonable amount, according to the parent's means, and as demonstrated by any of the following:

(1) Visiting the child at least monthly when physically and financially able to do so and when not prevented from doing so by the person having lawful custody of the child.

(2) Regular communication with the child or with the person having the care or custody of the child, when physically and financially unable to visit the child or when prevented from visiting the child by the person having lawful custody of the child.

(3) Openly living with the child for a period of six months within the one-year period immediately preceding the termination of parental rights hearing and during that period openly holding himself or herself out to be the parent of the child.

Iowa Code § 600A.8. The phrase "to abandon a minor child" means that a parent rejects the duties imposed by the parent-child relationship while being able to do so and makes no provision or only a marginal effort to provide for the support of the child or to communicate with the child. Iowa Code § 600A.2(19); *In re C.A.V.*, 787 N.W.2d 96, 101 (Iowa Ct. App. 2010).

A trial was held, with evidence being received over a span of nearly four months, on April 5, June 16, and July 20, 2010. On August 26, 2010, the district court issued its ruling, finding that Carlo did not maintain substantial and continuous or repeated contact with O.K., but that Lindsey did not meet her burden to prove Carlo abandoned O.K. and termination would not be in O.K.'s best interests. Lindsey appeals.

We review private termination proceedings de novo. *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998). The grounds to terminate parental rights under Iowa Code chapter 600A must be proved by clear and convincing evidence. Iowa Code § 600A.8. Although we are not bound by them, we give weight to the district court's findings of fact and determinations of the credibility of witnesses. *R.K.B.*, 572 N.W.2d at 601.

Lindsey challenges the district court's findings that she did not prove Carlo abandoned O.K. and that termination was not in O.K.'s best interests. See *C.A.V.*, 787 N.W.2d at 101 ("Two elements are necessary to show abandonment: the conduct of the parent in giving up parental rights and responsibilities and the parent's intent to do so."). The district court accurately reflected the evidence from the record in its ruling and made detailed findings of fact. The court acknowledged that Carlo's contact with O.K. ended when Carlo and Lindsey's relationship ended. However, the court credited Carlo's testimony that he desired to visit his son and support him, along with Carlo's attempts to contact Lindsey and her mother by phone. The court was not very sympathetic to Carlo's weak attempts to maintain contact with O.K. and total failure to provide any financial support to his son. However, the court also discussed the strained

relationship between Carlo and Lindsey and her parents, finding that Carlo did not go to the home because he knew he was not welcome and the police would be called if he did, which was confirmed by Lindsey and her parents' testimony. Giving neither Lindsey nor Carlo much credit for their behavior, ultimately the district court concluded it would not be in O.K.'s best interests to terminate Carlo's parental rights. On our de novo review of the record, and giving deference to the district court's credibility assessments, we affirm pursuant to Iowa Court Rule 21.29(1)(c), (d), and (e).

**AFFIRMED.**