

IN THE COURT OF APPEALS OF IOWA

No. 6-718 / 06-0237
Filed September 21, 2006

**IN THE INTEREST OF R.A.W.,
Minor child,**

**C.M.W., Mother,
Petitioner-Appellee,**

**R.R.W., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Karen A. Romano,
Judge.

A father appeals the termination of his parental rights under Iowa Code
chapter 600A. **AFFIRMED.**

Todd A. Miler of Miler Law Firm, West Des Moines, for appellant.

Jonathan Kramer of Whitfield & Eddy, Des Moines, for appellee.

Suzan Kelsey Brooks, Des Moines, for minor child.

Considered by Sackett, C.J., and Vaitheswaran, J., and Robinson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2005).

VAITHESWARAN, J.

This is an appeal from a ruling terminating a father's parental rights to his son.

The key facts are as follows. Richard married Crystal. They had a son, R.A.W., born in 2001. Also living with the couple was Crystal's teenage daughter from a prior relationship. In 2004, Richard was convicted of three counts of assault and one count of assault with intent to commit sexual abuse against Crystal's daughter. He was imprisoned and released later that year but, under the terms of a no contact order entered in the criminal case, did not see his son. The same year, Crystal sought a divorce from Richard. The district court dissolved the marriage and granted Crystal sole legal custody and physical care of R.A.W. The court denied Richard visitation, ordered him to pay child support of \$50 per month, and imposed its own order barring him from contacting Crystal or R.A.W.

Several months after the dissolution decree was entered, Crystal petitioned to terminate Richard's parental rights to R.A.W. See Iowa Code chapter 600A. The petition alleged two grounds for termination: (1) section 600A.8(4) (2005), based on Richard's failure to pay court-ordered child support, and (2) section 600A.8(9), based on Richard's imprisonment for a crime against R.A.W.'s half-sister. Following a hearing, the district court granted Crystal's petition and terminated Richard's parental rights to R.A.W. This appeal followed.

Richard raises several issues on appeal, only one of which has been preserved for our review: whether termination of Richard's parental rights was in

R.A.W.'s best interests.¹ See *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998).

On this question, the district court stated:

It is clear that Richard has not and will not in the near future be able to affirmatively assume the duties encompassed by the role of being a parent. Richard has not seen this child for over two years and the child is only four years old. Richard's ability to support R.A., financially or emotionally, in the future is questionable at best. Richard has done nothing to indicate an ongoing interest in the well-being of this child.

The court finds that the best interest of this young child is served by granting the petition to terminate parental rights. Reintroduction of Richard into R.A.'s life after this extended absence poses great risks for R.A., emotionally and physically. Richard has failed to take action towards his own rehabilitation over the past two years.

Reviewing the record de novo, we discern extensive evidentiary support for the cited findings of the court. The court's "best interests" analysis is also supported by Crystal's testimony that Richard "may have attacked" R.A.W. Her testimony, in turn, is bolstered by indications that the Department of Human Services investigated Richard for sexually abusing R.A.W. and issued a report confirming this abuse.

Like the district court, we conclude termination of Richard's parental rights to R.A.W. was in the child's best interests.

AFFIRMED.

¹ Richard challenges the evidence supporting termination under Iowa Code section 600A.8(4). He also contends Iowa Code section 600A.8(9) was retroactively applied. At the termination hearing, Richard's attorney advised the district court, "We are stipulating today to the two grounds alleged for termination, Iowa Code section 600A.8(4) and Iowa Code section [600A.8(9)]. However, we are wishing to litigate on the issue of whether termination is in the best interest of the minor child in interest in this matter." Additionally, Richard did not argue that section 600A.8(9) was applied retroactively.