

**IN THE COURT OF APPEALS OF IOWA**

No. 6-932 / 06-1372  
Filed November 30, 2006

**IN THE INTEREST OF J.J.G. and J.K.G.,  
Minor Children,**

**B.G., Mother,**  
Appellant,

**D.G. and D.G., Paternal Grandparents,**  
Appellants,

**R.B. and C.B., Maternal Grandparents,**  
Appellants,

**D.S. and A.S.,**  
Intervenors.

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Appeal from the Iowa District Court for Dickinson County, David C. Larson, District Associate Judge.

Mother and grandparents appeal from order placing children following termination of parental rights. **AFFIRMED.**

Pamela Wingert, Spirit Lake, for appellant-mother.

Scot L. Bauermeister of Fitzgibbons Law Firm, Estherville, for appellants-paternal grandparents.

Abby L. Walleck of Ladegaard, Maahs & Owens, Spirit Lake, for appellants-maternal grandparents.

James C. Hastings, Okoboji, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Rosalise Olson, County Attorney, for appellee-State.

Charles K. Borth of Zenor, Houchins & Borth, Spencer, for intervenors.

Shannon Sandy of Sandy Law Firm, Spirit Lake, for minor children.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

**MAHAN, P.J.**

B.G. is the mother of J.J.G., born in 1999, and J.K.G., born in 2003. B.G. and the children's maternal and paternal grandparents appeal from the juvenile court's order terminating parental rights and placing the children in the custody and guardianship of the Iowa Department of Human Services (DHS) for adoption by their current foster parents, D.S. and A.S., intervenors. We affirm.

**I. Background Facts and Proceedings**

J.J.G. and J.K.G. were removed from their parents' care in November 2004, due to domestic violence and substance abuse issues. The children were initially placed in the custody of their maternal grandparents, R.B. and C.B. In February 2005 the children were removed from the home of R.B. and C.B. after the grandparents allowed unauthorized and unsupervised contact between the children and their parents. The children were placed in foster family care, in the home of D.S. and A.S., where they remained through the termination hearing.

The State filed a petition for termination of parental rights in March 2006. Hearing was held over the course of six days in June and July 2006. The juvenile court heard testimony related to the termination of parental rights and the appropriate placement for the children. The children's maternal grandparents, R.B. and C.B., their paternal grandparents, D.G. and D.G., and their foster parents, D.S. and A.S. each sought placement of the children with them.

The juvenile court filed its order terminating parental rights in August 2006. The court terminated the parental rights of both parents<sup>1</sup> and placed custody and guardianship of the children with DHS for purposes of adoption by D.S. and A.S.

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<sup>1</sup> D.G., the children's father, has not appealed from the termination of his parental rights.

B.G., the maternal grandparents, and the paternal grandparents appeal separately, contending the placement of J.J.G. and J.K.G. with the foster parents is not in the children's best interests. The maternal grandparents and B.G. seek placement with the maternal grandparents, while the paternal grandparents seek placement of the children with them. The foster parents, the State, and the guardian ad litem for the children have all filed briefs asking that we affirm the juvenile court's decision.

## **II. Standard of Review**

Our review is de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). We give weight to the juvenile court's findings of fact, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 6.14(6)(g).

## **III. Mother's Appeal**

B.G.'s sole arguments on appeal relate to the juvenile court's order placing J.J.G. and J.K.G. with the foster parents, rather than with the maternal grandparents. She does not raise any arguments related to the termination of her parental rights.

The termination of B.G.'s parental rights concerning her children "divests her of all privileges, duties, and powers with respect to the children." *In re K.A.*, 516 N.W.2d 35, 38 (Iowa Ct. App. 1994); see Iowa Code § 232.2(56). B.G.'s failure to challenge the termination of her parental rights to the children relinquishes any legally cognizable interest she would have concerning their guardianship or custody. *In re D.B.*, 483 N.W.2d 344, 346 (Iowa Ct. App. 1992). Therefore, B.G. could not have been aggrieved by the juvenile court's placement

order, and she has no right to appeal from it. *In re K.A.*, 516 N.W.2d at 38. Accordingly, we need not address her appeal.

#### **IV. Grandparents' Appeals**

Following the termination of parental rights of the children's parents, Iowa Code section 232.117(3) (2005) requires the court to transfer guardianship and custody of children to either (1) DHS, (2) a facility licensed to receive and provide care for children, or (3) a parent who does not have physical care of the child, a relative, or other suitable person. "There is no statutory preference for a relative" following termination. *In re R.J.*, 495 N.W.2d 114, 119 (Iowa Ct. App. 1992). "The paramount concern is the best interest of the children." *Id.*

It is clear from the record that the three families seeking custody of the children love them. Both the maternal and paternal grandparents have maintained a loving relationship with the children throughout the proceedings. However, the professionals involved in the case and the guardian ad litem expressed concerns regarding placement of the children with either set of grandparents.

A professional conducted home studies of the maternal and paternal grandparents prior to the termination hearing and recommended placement with either set of grandparents be denied, due primarily to concerns over the grandparents' ability to avoid contact between the children and their parents. With regard to the maternal grandparents, the professional concluded, "Because of the past physical and domestic abuse issues that both [the children] have witnessed and the fact that the [maternal grandparents] live so close in proximity to the parents, this worker . . . questions safety for these children with a relative

placement since the parents know where the children will reside.” Similarly, the professional concluded that “due to the close relationship [the paternal grandparents] have with their son and the fact that they feel that [the father] has been a victim in this whole entire process, it would be difficult for [the paternal grandparents] to maintain a no contact order on a permanent basis between their son and their grandchildren.”

The juvenile court agreed with the assessments of the various professionals involved in the case, concluding, “[T]he court believes that ongoing parental contact will occur despite the children’s grandparents’ best intentions.”

The court continued,

The court does not believe that either [the maternal or paternal grandparents] fully understand the emotional and psychological harm that [the children] have suffered, and the court does not believe that either [the maternal or paternal grandparents] have the above average parenting skills that [the children] need.

The record fully supports these conclusions of the juvenile court. The children suffered abuse at the hands of their father and were witnesses to incidents of domestic abuse between their parents. Both parents have a history of substance abuse. The children were described by one DHS worker as “extremely fearful.” Given the circumstances, and the relationship between the grandparents and the parents, we conclude placement with the grandparents is not in the children’s best interests.

In arguing that placement with foster parents is not in the children’s best interests, the grandparents place great emphasis on evidence of injuries sustained by J.K.G. on two occasions while in the care of the foster parents and testimony that the foster parents “swatted” the children on more than one

occasion. The juvenile court considered the surrounding circumstances and concluded it “[did] not believe [J.K.G.’s] injuries indicate poor parental supervision skills.” The court expressed concern with evidence of corporal punishment, but concluded it was “satisfied that the corporal punishment was very limited, was not used in anger, and that corporal punishment is no longer being used by [the foster parents] as a discipline technique.” Upon our de novo review of the record, we agree with the juvenile court’s assessment of this evidence.

At the time of the termination hearing in June and July 2006, the children had been in their foster parents’ care for eighteen months. The children are bonded with the foster parents and have been integrated into their home. The children have stated they feel most safe with their foster parents, and they consider A.S. and D.S. to be their mom and dad. The foster parents have demonstrated a strong commitment to the children and desire to provide a permanent home for them. The children’s best interests are served by placing them in the custody of DHS for adoptive placement with the foster parents. Accordingly, we affirm the juvenile court.

**AFFIRMED.**