

**IN THE COURT OF APPEALS OF IOWA**

No. 7-004 / 06-1899  
Filed January 31, 2007

**IN THE INTEREST OF D.B., T.B., and T.B.,  
Minor Children,**

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

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Appeal from the Iowa District Court for Hardin County, Kim M. Riley,  
District Associate Judge.

A grandmother appeals from the juvenile court's ruling denying her  
request for her grandchildren's placement. **AFFIRMED.**

Bethany Currie, Marshalltown, for appellant.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, and Bradley Harris, Acting County Attorney, for appellee

Randal Giannetto, Marshalltown, for minor children.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

**MAHAN, J.**

Cheryl appeals the juvenile court order denying her request for her grandchildren's placement. She argues the court erred in determining the children's best interests. We affirm.

**I. Background Facts and Proceedings**

Cheryl is the paternal grandmother of T.B., born in June 1997; T.B., born in March 2000; and D.B., born in December 2001. Cheryl lived near the children and their parents in DeKalb, Illinois, when the children were young. She visited them at least once a week. She also would baby-sit overnight or for a weekend once a month. In 2003 the children's mother moved to Iowa and took the children with her. The mother did not leave a forwarding address, and Cheryl and the father could not locate them. Due to the mother's parenting deficiencies, children in need of assistance (CINA) proceedings began in December 2004. The father, who resided with Cheryl, received notice of the proceedings. The children were removed from the mother in February 2005. The father was notified, but took no action. The children were adjudicated CINA in April 2005. Again, the father was notified of the CINA proceedings, but failed to appear at the hearing. At that time, the children were placed with their maternal grandparents. Those grandparents, however, were unable to care for the children. The father was notified of a dispositional hearing held in June 2005, but again failed to appear. The children were placed with a foster family in late October 2005.

In December 2005 the juvenile court received a faxed letter from Cheryl inquiring about gaining custody of the children. Beginning in November 2005 and continuing into the spring of 2006, she contacted Iowa Department of Human

Services (DHS), Lutheran Social Services of Illinois (LSSI), Prairie State Legal Aid of Illinois, Iowa Legal Aid, and the children's guardian ad litem to inquire about gaining placement of the children. She completed a home study in February 2006, but she was not approved for all the children due to insufficient space and income.<sup>1</sup> In the meantime, petitions to terminate parental rights were filed. Cheryl filed a notice of intervention in April 2006, requesting to be considered for placement. The mother's and father's parental rights were terminated in May and June 2006, respectively. Cheryl visited with the children after their father's termination hearing in June. Since the termination hearing, Cheryl has taken foster parenting classes and is an approved foster parent.

A hearing to modify placement was held November 14, 2006. After receiving evidence, the juvenile court ordered the children remain placed with their foster family. Cheryl appeals.

## **II. Standard of Review**

We review the juvenile court's placement order de novo. Iowa R. App. P. 6.4; *In re Miller Children*, 228 N.W.2d 60, 62 (Iowa 1975). Our primary concern is the best interests of the children. *In re L.E.H.*, 696 N.W.2d 617, 618 (Iowa Ct. App. 2005). In determining the children's best interests, we look to both long-term and immediate needs. *Id*; see also *In re J.E.*, 723 N.W.2d 729, 798 (Iowa 2006).

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<sup>1</sup> The report stated that Cheryl was approved for either her granddaughter or her two grandsons, due to lack of bedrooms.

### **III. Merits**

The lengths to which Cheryl has gone to gain placement of her grandchildren are commendable. However, we have some concerns about placing the children with her. First, she falsely represented to a service worker in May that her adult son Andrew had moved out of her home, giving her adequate space for all the children. He had still not moved in June. Cheryl then indicated Andrew would move out in August.

Second, a significant amount of time passed between the children's removal from their mother and Cheryl's expression of interest in receiving placement. The children were removed in February 2005, but the court did not receive Cheryl's letter until December 2005. She did not begin the process for a home study until February 2006, nearly a year after the children had been removed from their mother. By that time, the children had already been with their foster family for six months.

Third, the children do not share the memories of Cheryl that Cheryl has of them. When she met with them after their father's termination hearing, the children did not remember her. They showed no signs of sadness or loss when the visit ended. The children's therapist also read to the children letters Cheryl sent. The children reportedly asked no questions and continued playing after the letters were read.

Fourth, the children have been with the same foster family since October 2005. For the first time in a long time the children are experiencing stability, a sense of family, trust, and parental bonding. The family is ready and approved for adoption. The adoption process could be achieved in forty-five to sixty days.

Cheryl, however, has only been approved for foster care. To achieve approval for adoption, the children would have to reside with her for a period of time and she would have to complete another home study. This process could take six to twelve months or more.

“Preserv[ing] family relationships is an important goal in attaining what is best for children born into them.” *In re J.M.W.*, 492 N.W.2d 686, 690 (Iowa 1992). However, Iowa statutory law does not give preference to placement with relatives after parental rights are terminated. *In re R.J.*, 495 N.W.2d 114, 117 (Iowa Ct. App. 1992). Further, “when the rights of natural parents are legally terminated, the rights of natural grandparents likewise end.” *J.M.W.*, 492 N.W.2d at 690. Cheryl’s effort and desire to attain custody of her grandchildren is commendable. To remove them from the safety and emotional stability of their foster family’s care for another lengthy period of uncertainty would be unfair to them. The foster family is ready, willing, and approved to adopt, and these children deserve the security and certainty they would provide. We therefore conclude pre-adoptive placement with their foster family is in the children’s best interests. The juvenile court’s ruling is affirmed.

**AFFIRMED.**