

**IN THE COURT OF APPEALS OF IOWA**

No. 9-127 / 09-0097  
Filed March 11, 2009

**IN THE INTEREST OF D.P.,  
Minor Child,**

**B.L.P., Father,  
Appellant.**

---

Appeal from the Iowa District Court for Polk County, Karla J. Fultz,  
Associate Juvenile Judge.

A father appeals the juvenile court order terminating his parental rights.

**AFFIRMED.**

Francis Hurley of Phil Watson, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John Sarcone, County Attorney, and Annette Taylor, Assistant  
County Attorney, for appellee State.

Nancy Pietz, Des Moines, for mother.

Andrea Flanagan of Sporer & Flanagan, P.C., Des Moines, guardian ad  
litem for minor child, and Edward Bull of Bull Law Office, Des Moines, attorney  
for child.

Considered by Sackett, C.J., and Potterfield and Mansfield, JJ.

**PER CURIAM**

Brad and Amber are the parents of Destiny, who was born in 1998. Brad has been in prison throughout most of Destiny's life. He began a three-year prison term in 2000 on a charge of willful injury. In 2003 he was sentenced to twenty years in prison on two counts of third-degree sexual abuse. The victim of the sexual abuse was his younger brother. Brad has had problems with substance abuse.

Amber was unable to care for Destiny due to her own substance abuse problems. Destiny was removed from Amber's care in 2006 and placed with the maternal grandmother. Destiny was adjudicated to be a child in need of assistance (CINA) under Iowa Code sections 232.2(6)(b), (c)(2), and (n) (2005).

On August 25, 2008, the guardian ad litem filed a petition seeking to terminate the parental rights of Brad and Amber. At the termination hearing, Brad admitted he had not spoken to Destiny, on the telephone or in person, for "quite a few years." He stated that he sent her birthday cards. Brad expected to be released in 2012. He did not dispute that Destiny should remain in the care of the grandmother, but asked that he be allowed to visit Destiny when he got out of prison.

The juvenile court terminated Brad's parental rights under sections 232.116(1)(b), (d), (e), (h), and (i) (2007).<sup>1</sup> The court found placing Destiny in a guardianship with her grandmother would not be in the child's best interests. The court noted Destiny needed to know who was responsible for her, and who she can trust to be there for her for the rest of her life. The court also found

---

<sup>1</sup> The parental rights of Amber were also terminated. She has not appealed.

termination was in the children's best interests and was less detrimental than continuing the parent-child relationship. Brad appeals the termination of his parental rights.

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008). Our primary concern is the best interests of the child. *In re A.S.*, 743 N.W.2d 865, 867 (Iowa Ct. App. 2007).

Brad asserts that termination of his parental rights is not in Destiny's best interests. He asserts that Destiny should be placed in a guardianship, and that he could assume care of the child after he is released from prison in 2012. He points out that he participated in services that were available to him in prison.

On our review of the record, we determine that termination of Brad's parental rights is in the child's best interests. Brad and Destiny do not have a parent-child relationship because Brad has been in prison for most of Destiny's life. Brad admitted he had not spoken to his child for "quite a few years." There was no evidence Brad would be able to meet Destiny's needs even after he is released from prison, quite a few years in the future. In addition, Destiny should not be required to wait that long for stability in her life.

We affirm the decision of the juvenile court.

**AFFIRMED.**