
LEGAL UPDATE

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IOWA SUPREME COURT DECISION — PARENTAL PREFERENCE WHEN TERMINATING A GUARDIANSHIP FOR A MINOR

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

In the Matter of the Guardianship of L.Y.
Filed January 14, 2022, as amended March 21, 2022
No. 20-1034

www.iowacourts.gov/courtcases/12947/embed/SupremeCourtOpinion

Factual and Procedural Background. L.Y.'s parents were in need of a temporary guardianship for their minor child, L.Y., to allow L.Y. to be placed on her paternal grandparents' health insurance and to allow L.Y.'s mother (Mother) and father (Father) to more easily finalize their divorce. L.Y.'s parents and paternal grandparents agreed to file for a temporary guardianship for L.Y. naming the paternal grandparents as co-guardians. The guardianship was granted, and L.Y.'s parents finalized their divorce. The divorce decree only contained two sentences regarding custody and visitation of L.Y. that said, "...each party desires that the guardianship be continued at the present time. The guardianship shall continue."

After the divorce, Mother obtained a job as a 911 dispatcher and contacted L.Y. through phone calls, weekend visits, and a weeklong visit during the summer. Since 2017, Mother had lived in the same single-family home with her boyfriend where there is an extra bedroom for L.Y., so Mother believed she was ready and able to parent L.Y. In June 2020, Mother obtained financial assistance and retained legal counsel to initiate termination proceedings for the guardianship in juvenile court.

At a hearing, Mother testified she believed the guardianship was temporary and was repeatedly told it was when Mother was asked to sign the paperwork to create the guardianship. Mother further stated that visitation with L.Y. was difficult, and that because of L.Y.'s commitments and weekend plans arranged by the guardians, she was unable to attend school conferences or medical appointments because the guardians failed to inform her about these events and she felt intimidated by the guardians to the point where she felt it was difficult to voice her concerns or wishes for L.Y. to the guardians.

The court visitor for the case interviewed Mother, the guardians, L.Y., and L.Y.'s therapist, and recommended the guardianship continue because L.Y. wanted the guardianship to continue, the guardians had been L.Y.'s caregivers for most of L.Y.'s 11 years of life, and the guardianship provides L.Y. with a sense of stability. Mother and Father acknowledged L.Y. has a strong bond with the guardians, and Father testified that L.Y. should remain under the guardianship where her situation is stable. L.Y. testified in private that she did not want to live with Mother because it meant not seeing the guardians as often, moving to a new school, and making new friends. L.Y.'s therapist recommended against terminating the guardianship because doing so would be "pretty rocky and pretty rough" and L.Y. might not get the attention she needs if she were in distress. The guardians testified the guardians would sometimes deny parental visits with L.Y. if L.Y. had other plans, and the reason they did not notify Mother of appointments was because, at the beginning of the guardianship, Mother would often not attend the appointments.

The juvenile court relied on the preponderance of the evidence standard used in civil cases as a default for movants to obtain requested relief. The juvenile court ultimately believed that Mother and L.Y. were the most credible witnesses, but gave more weight to Mother's testimony due to L.Y.'s lack of maturity and L.Y.'s conflicting feelings toward her family. Due to this finding, the juvenile court concluded that Mother proved by a preponderance of the evidence that the guardianship should be terminated because the basis for the guardianship is not currently satisfied since Mother is capable of caring for L.Y., continuation of the guardianship created an unstable environment for L.Y., and that when a parent is safe and stable, a parent's fundamental right to parenthood should be vindicated.

Upon appeal by the grandparents, the Iowa Court of Appeals reversed the juvenile court's termination on the grounds that termination of the guardianship would be harmful to L.Y., and since new Iowa Code chapter 232D, effective January 1, 2020, controlling minor guardianships does not include a written, statutory preference for parents, the best interests of the child prevails over a parent's fundamental interest in parenting.

Mother then appealed to the Iowa Supreme Court (Court).

Issues on Appeal.

1. Which party has the burden of proof under the Iowa Minor Guardianship Proceedings Act (Guardianship Act), codified at Iowa Code chapter 232D, to show whether a minor guardianship established with parental consent should continue.
2. What is the applicable burden of proof in proceedings to terminate a guardianship established under Iowa Code section 232D.203(1)(a) (guardianships established with parental consent).

Holding. In a 7-0 decision, the Court reversed the appellate court's ruling and determined that Iowa Code chapter 232D places the burden of proof on a guardian once a parent establishes the grounds for which the guardian was appointed no longer apply. Once the burden of proof has shifted to the guardian, Iowa Code chapter 232D requires the guardian to show by clear and convincing evidence that the child subject to the guardianship faces a real threat of physical harm or significant, long-term emotional harm in order to continue the guardianship.

Analysis. The Court began its analysis by noting that the Guardianship Act became effective January 1, 2020, is applicable in this case, and that this case presents the Court's first interpretation of this new law. The Court then noted two changes to the guardianship statutes at issue: (1) the previous controlling statute had a written preference for parents above all others when appointing a child's guardian while Iowa Code chapter 232D contains no explicit preference, and (2) Iowa Code chapter 232D is silent as to which party has the burden of proof and what the appropriate burden of proof is for terminating a guardianship established with parental consent.

The Court stated that terminations of minor guardianships established with parental consent are governed by Iowa Code section 232D.503(2). In relevant part, Iowa Code section 232D.503(2) states, "[t]he court shall terminate a guardianship established pursuant to section 232D.203 if the court finds that the basis for the guardianship set forth in section 232D.203 is not currently satisfied..." The Court found that the plain meaning of the relevant language requires a court to terminate a guardianship by default once the moving party shows the basis for which the guardianship was established is no longer satisfied. L.Y.'s guardians contended that Iowa Code section 232D.203(1)(b) allows a minor guardianship to be established for good cause shown. However, the Court determined that the good cause provision of Iowa Code section 232D.203 does not extend to guardianships established with parental consent because those are established through Iowa Code section 232D.203(1)(a), and Iowa Code section 232D.203(1)(a) does not contain a good cause provision. As L.Y.'s guardianship was established on the basis of parental consent, once a parent has withdrawn consent, the Court's default became the termination of the guardianship and the burden of proof fell on the party in favor of continuing the guardianship to show "the termination of the guardianship would be harmful to the minor and the minor's interests in continuation of the guardianship outweighs the interests of a parent of the minor in the termination of the guardianship."

L.Y.'s guardians argued that because the Guardianship Act removed the preference for a parent as a child's guardian, the burden of proof under Iowa Code section 232D.503(2) should be on a parent to show the termination of a guardianship would not be harmful to the minor, and the parent's interests in terminating the guardianship outweigh that of the minor.

However, the Court reasoned that a fit parent's interests in the care, custody, and control of the parent's child derives from the United States Constitution as a fundamental liberty interest. As such, a strong preference for a fit parent's custody of a child remains even though the language was removed from the Iowa Code. Due to this parental prefer-

ence, once a fit parent establishes the parent has withdrawn consent from a consented guardianship, by default the burden shifts to the party in favor of continuing the guardianship to show why it should continue. In Mother's case, the Court noted the record contained no concerns about Mother's parenting abilities that would imply she is an unfit parent, so upon Mother's withdrawal of consent to the guardianship, the burden of proof shifted to the guardians.

The guardians argued that even if the burden of proof is on them, they should still be able to prove the guardianship should continue by a preponderance of the evidence. However, the Court stated the parental rights of a fit parent are so interwoven with constitutional rights that only the most demanding standard should be applied: clear and convincing evidence. Therefore, the guardians must prove, without any serious or substantial doubts as to the correctness or conclusions of law, that the guardianship must continue.

The guardians argued that when determining if the guardians established their case by clear and convincing evidence, the Court should apply child custody principles that place a child's best interests as the paramount consideration. However, the Court noted that in child custody cases, both parents attempting to gain custody of a child have equal constitutional rights to the child. In guardianship proceedings, although the best interests of a child are important, they do not automatically overcome the constitutional interests of a parent. Instead, the Court applied a "rigorous harm standard" that requires a non-parent guardian to show that a real threat of either physical harm or significant, long-term emotional harm would result from the termination.

The Court found that because the guardians failed to show by clear and convincing evidence that Mother is an unfit parent or that there is a real threat L.Y. would suffer physical or significant, long-term emotional harm, the guardianship should be terminated and the custody of L.Y. should be returned to Mother.

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