

NOT DESIGNATED FOR PUBLICATION

No. 104,399

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Matter in the Adoption of
I.H.F.

MEMORANDUM OPINION

Appeal from Butler District Court; CHARLES M. HART, judge. Opinion filed October 29, 2010.
Affirmed.

Joshua S. Andrews, of Cami R. Baker & Associates, P.A., of Augusta, for appellant.

Richard J. Peckham, of Andover, for appellee.

Before RULON, C.J., GREENE, J., and KNUDSON, S.J.

Per Curiam: Natural father of I.H.F., born October 29, 2008, appeals the district court's termination of his parental rights in a third party adoption case, challenging the sufficiency of the evidence and arguing the court erred in relying solely on the best interest of the child. Concluding the evidence was more than sufficient and that the court did not rely solely on the best interest of the child, we affirm the district court.

When a district court terminates a person's parental rights based on factual findings made under K.S.A. 2009 Supp. 59-2136(h)(1), those factual findings will be reviewed on appeal to determine if, after reviewing all the evidence in the light most favorable to the prevailing party, the findings were highly probable, *i.e.*, supported by clear and convincing evidence, that the parent's rights should be terminated. See *In re B.D.-Y.*, 286 Kan. 686, 705-06, 187 P.3d 594 (2008); K.S.A. Supp. 59-2136(h)(1) (findings made under subsection must be based on "clear and convincing evidence").

When determining whether factual findings are supported by clear and convincing evidence, an appellate court does not weigh conflicting evidence, pass on the witnesses' credibility, or redetermine questions of fact. *In re B.D.-Y.*, 286 Kan. at 705.

After an extensive review of the record and considering the evidence in the light most favorable to appellee, we conclude the district court's findings were supported by clear and convincing evidence and there was no sole reliance on the best interest of the child. The district court considered the best interest of the child, but this consideration was expressly stated by the court as "not a stand alone ruling." Indeed, the court also made findings and conclusions as to father's unfitness.

For these reasons, we affirm the district court under Rule 7.042(d) and (e) (2009 Kan. Ct. R. Annot 58).

Affirmed.