

IN THE COURT OF APPEALS OF IOWA

FILED

JAN 29 1986

CLERK SUPREME COURT

Filed January 29, 1986

IN THE INTEREST OF Z.J.P. and
A.N.P., Minor Children;

J.P., Natural Father,

Appellant.

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Appeal from the Iowa District Court for Clinton County - A. J. Van Zee,
Judge.

The natural father of a six-year-old boy and a four-year-old girl appeals from the adjudication of the girl as a child in need of assistance pursuant to Iowa Code section 232.2(5)(d). **AFFIRMED.**

Stephen D. Haufe of Jurgemeyer, Frey & Haufe, Clinton, Iowa, for appellant, J.P.

Ben Rowold, Clinton, Iowa, for appellee R.P., the natural mother.

Robert J. McGee of McGee, Schoenauer & Wolfe, Clinton, Iowa, for the children.

Thomas J. Miller, Attorney General of Iowa and Charles K. Phillips, Assistant Attorney General; G. Wylie Pillers, III, Clinton County Attorney, and Thomas Mayer, Assistant County Attorney; for appellee State of Iowa.

Considered by Oxberger, C.J., Snell, and Hayden, JJ.

The natural father of a six-year-old boy and a four-year-old girl appeals from the adjudication of the girl as a child in need of assistance pursuant to Iowa Code section 232.2(5)(d). He asserts that there is insufficient evidence that he sexually abused the girl. We affirm.

J.P. and R.P. are the natural parents of Z.N.P., a boy born in May 1979, and A.N.P., a girl born in June 1981. In March 1984, the couple's marriage was dissolved; the mother, R.P., was awarded custody of the two children. In December 1984, the State of Iowa filed petitions to adjudicate the children in need of assistance. The petitions alleged that the father, J.P., had sexually abused the children, and that the mother, although aware of the abuse, had allowed J.P. to continue unsupervised visits with the children.

The trial court found that evidence did not support the conclusion that Z.N.P. had been sexually abused. However, it was determined that he had suffered emotional trauma resulting from his parents' divorce, and that his parents had been unwilling or unable to provide the necessary treatment. Based on these findings, the court adjudicated Z.N.P. a child in need of assistance.

The trial court further found that A.N.P. had been sexually abused. The court specifically rejected J.P.'s argument that R.P. had coached the child regarding sexual abuse in order to keep sole custody and end J.P.'s visitation. Based on these findings, the court adjudicated A.N.P. a child in need of assistance. The natural father has appealed from this determination.

In CHINA proceedings we review the evidence de novo. In re Blackledge, 304 N.W.2d 209, 210 (Iowa 1981). The welfare and best interests of the children are paramount. In re Henderson, 199 N.W.2d 111, 120 (Iowa 1972). Our task is to review the record and determine whether clear and convincing evidence

supports a finding of sexual abuse of A.N.P. See Iowa Code § 232.96(2) (Iowa 1983). In doing so, we conclude that this standard has been satisfied.

The district court was presented with considerable evidence that A.N.P. had been sexually abused. At least four child care professionals had an opportunity to interview the child, three of which testified in court: Tolly Points, Judy Muessigmann and Randy Benedict. Their testimony consistently reflects the opinion that A.N.P.'s statements and use of anatomically correct dolls indicated that she had been exposed to sexual abuse. Randy Benedict, a family counselor, stated that he did not believe either child had been coached. He cited several factors which led him to this conclusion: the children's consistency in relating the facts, corroboration by the children's behavior practices, and corroboration with what the children told other people. Susan Lawrence, a social worker for the Department of Human Services, filed a report which indicated that A.N.P.'s comments concerning sexual abuse were unsolicited and spontaneous. In Lawrence's opinion there did not appear to be any pressure or coaching. In fact, it is noteworthy that all the professionals were firmly convinced that there had been no coaching. The record further reflects that at the request of Judy Muessigmann, a social worker, A.N.P. had a physical examination performed by Dr. Torres. His report indicates that there was no physical evidence of inappropriate sexual contact. Additionally, upon being questioned, A.N.P. denied any sexual abuse. However, Dr. Torres did state in his report that "what caught my attention is the degree of resistance of the child to be examined in the perineal area, somewhat unusual for a child of this age."

We find that this evidence supports the district court's finding of sexual abuse. J.P. argues, however, that the child was coached by her mother. He suggests that A.N.P.'s consistent terminology would indicate coaching. He

also emphasizes the fact that A.N.P. never discussed the matter with the mother and denied abuse when questioned by Dr. Torres. Finally, J.P. points out that the mother's periodic allegations of sexual abuse seemed to coincide with times of stress during the often stormy dissolution proceeding. For example, R.P. was enjoined from selling certain property the same day that she turned in an abuse report to the Department of Human Services.

We are not unmindful that this evidence could be viewed as supporting J.P.'s allegations of coaching. Yet the evidence is not necessarily inconsistent with the district court's decision and, in fact, can easily be reconciled with a finding of sexual abuse. For instance, the consistency in A.N.P.'s statements may very well indicate that they were based on fact. In essence, the J.P.'s argument appears to be somewhat speculative. We will not reverse the trial court on such tenuous grounds; the mere fact that one could draw a contrary conclusion from the evidence is not a sufficient basis for reversal.

Based on the record before us, we find that clear and convincing evidence supports a finding of sexual abuse. We therefore affirm the district court.

AFFIRMED.