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IN THE COURT OF APPEALS OF IOWA

CLERK SUPREME COURT

IN THE INTERESTS OF)

NANCY PETERS, CAROLYN PETERS,
BECKY PETERS AND RONALD PETERS,)

Filed November 22, 1978

Children,)

GENE A. PETERS,)

630
3-61352

Appellant.)

Appeal from Woodbury District Court - Rodney D. Vellinga, Magistrate.

Father appeals from juvenile court proceeding awarding temporary custody of four children to mother. Affirmed.

John T. O'Brien, of Sioux City, appearing on behalf of Gene A. Peters.

Mayer Kanter, of Sioux City, appearing on behalf of Linda L. Peters.

Bruce G. Thomas, of Sioux City, appearing as Guardian ad litem on behalf of Peters Children.

Heard by Oxberger, C. J., Donielson, Snell and Carter, JJ.

PER CURIAM

Appellant Gene Peters, a Nebraska resident and the father of Nancy, Carolyn, Becky and Ronald Peters, appeals from a trial court order placing the children in the temporary custody of Linda Peters, the children's mother and a resident of Iowa, under the protective supervision of the Iowa Department of Social Services. We affirm.

Gene and Linda were Nebraska residents when Linda was awarded custody of the four minor children in the Nebraska divorce decree filed December 18, 1974. The decree was modified on June 10, 1976, giving supervision of the care and control of the children to the Nebraska probation office. Linda removed the children from Nebraska to Iowa later that month. In an order filed December 14, 1976, the Nebraska court found Linda in contempt of court and modified the 1974 divorce decree by awarding permanent custody of the children to Gene "subject to proper placement in a foster home within the State of Nebraska." Gene is permanently disabled as a result of an automobile accident and is unable to personally care for the children.

Prior to the entry of this modification order, on August 30, 1976 Linda filed a petition in the juvenile court for Woodbury County, Iowa, seeking a declaration that the children were in need of assistance under chapter 232, The Code, and seeking custody of the children. On January 17, 1977, the juvenile referee found that the children were "in need of assistance as defined by the laws of the State of Iowa," and placed them "temporarily in the care, custody and control of their natural mother, Linda Peters, under the protective supervision of the Iowa Department of Social Services." The juvenile referee's decision was upheld after rehearing pursuant to § 231.3, The Code, on October 13, 1977, and this appeal follows.

On appeal, Gene asserts that the Iowa trial court failed to give full faith and credit to the Nebraska decree, and that no change in circumstances occurred which would justify the change in custody. While the juvenile court discussed these issues in its review of the referee's decision, they are not properly before us. Rather, this case involves the exercise by the juvenile court of its exclusive jurisdiction to decide questions relating to children alleged to be in need of assistance under Chapter 232, The Code. Section 232.63, The Code; see *In Interest of Freund*, 216 N.W.2d 366, 368-369 (Iowa 1974). An existing custody decree which was entered in a dissolution of marriage

proceeding, whether in Iowa or a sister state, in no way diminishes the jurisdiction for authority of the juvenile court to act on such matters. **Freund, supra** at 369. The juvenile court in a Chapter 232 proceeding involving children in need of assistance is not modifying a prior custody decree; it is simply acting independently of such decree.

The order of the juvenile court here is a temporary custodial disposition entered incident to its powers under Chapter 232. As stated in **Freund, supra** at 369: "We believe the clear intention of chapter 232 is to provide for the exercise of continuing control, supervision and jurisdiction by the juvenile court over its minor subjects until the cause is dismissed or otherwise terminated." See *In re DeRocher*, 187 N.W.2d 730, 731 (Iowa 1971). As long as the juvenile court continues to exercise this continuing control over Nancy, Carolyn, Becky and Ronald, any modification of custody in the divorce decree has no direct bearing on their adjudication of children in need of assistance.

The issue, then, is whether or not the juvenile court has properly exercised its powers under Chapter 232, and our review is limited to abuse of discretion by the juvenile court. **Freund, supra** at 369. We hold the juvenile judge did not abuse his discretion by entry of the January 17, 1977 order, and the same is affirmed.

AFFIRMED.