IN THE COURT OF APPEALS OF IOWA

No. 4-430 / 93-1674

FILED
MAR 30 1995
CLERK SUPREME COURT

IN THE INTEREST OF B.B. and B.B., Children,

D.B., Father,

Appellant.

Appeal from the Iowa District Court for Adair County, M.J. Streit, Judge.

The father appeals from the district court's ruling denying his motion for writ of replevin which sought the return of pictures of his children. **AFFIRMED.**

D.B., Des Moines, pro se.

Thomas J. Miller, Attorney General, Gordon E. Allen, Deputy Attorney General, and John M. Parmeter, Special Assistant Attorney General, for appellee State.

Considered by Hayden, P.J., and Cady and Huitink, JJ.

PER CURIAM

This case arises from D.B.'s filing of a motion for writ of replevin in a juvenile court proceeding. D.B. asked the State to return some pictures of his children. The juvenile court found a writ of replevin is not permissible in juvenile court proceedings and dismissed the motion. We affirm.

In October 1985, the Adair County sheriff obtained a search warrant for D.B.'s home. As a result of the search, the sheriff obtained eight Polaroid photographs of D.B.'s children. These photographs were held by the State for use in the children in need of assistance hearing for D.B.'s children. After further juvenile court proceedings, D.B.'s parental rights were terminated.

D.B. has sought the return of the photographs. On June 4, 1993, after a hearing in juvenile court, the court found the whereabouts of the photographs were unknown and the State's inability to locate the photographs was inadvertent. The juvenile court entered an order directing the State to return any of the photographs it may have in its possession.

On October 1, 1993, D.B. filed a motion for writ of replevin in the juvenile court case seeking the return of the photographs. The State filed a motion to dismiss. The State claimed the juvenile court did not have jurisdiction to act upon a motion for writ of replevin. The State also claimed D.B. failed to follow the procedures of the State

Tort Claims Act, Iowa Code chapter 669 (1993). Furthermore, the State claimed D.B. failed to state a cause of action because he had failed to follow the requirements for bringing a replevin action found in section 643.1.

The juvenile court denied the motion for writ of replevin on the ground that no such motion is allowed by the rules of civil procedure in a juvenile court proceeding. D.B. appealed.

Under section 643.2, replevin actions are tried as ordinary proceedings. Ankeny Community School District v. Van Gorp, 501 N.W.2d 506, 507 (Iowa 1993). Our review is for the correction of errors at law. Iowa R. App. P. 4.

We determine the juvenile court correctly determined it did not have jurisdiction to consider the motion for writ of replevin. Replevin is an action brought pursuant to chapter 643 for possession of property wrongfully detained by another. Ryan v. Iowa District Court, 329 N.W.2d 658, 660 (Iowa 1983).

Under section 602.7101(1), a juvenile court has the jurisdiction provided in chapter 232. Chapter 232 specifically provides that a juvenile court has jurisdiction over juvenile delinquency proceedings (§232.8), child in need of assistance proceedings (§232.61), termination of parent-child relationship proceedings (§232.109), and family in need of assistance proceedings (§232.122). There is no provision in chapter 232 for a replevin proceeding. We conclude, therefore, a

juvenile court does not have subject matter jurisdiction to consider a writ of replevin.

Where a court lacks subject matter jurisdiction, the case must be dismissed. See Iowa R. Civ. P. 104(a). Under rule 217, a dismissal for lack of jurisdiction is without prejudice. We affirm the dismissal from juvenile court of D.B.'s replevin action. Costs of this appeal are assessed to D.B.

AFFIRMED.