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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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IN THE INTEREST OF C.V. AND M.P., Children,	)	Filed November 26, 1985
O.J.P., Father,	)	5-475 85-189
Appellant.	)	

Appeal from the Iowa District Court (Juvenile) for Pottawattamie County, Gordon C. Abel, District Associate Judge.

The children in question were previously found to be children in need of assistance. The father has appealed from the court's finding he sexually abused the children and his visitation should be restricted. **AFFIRMED.**

Timothy O'Grady of Over, Over & Over, P.C., Council Bluffs, for the appellant-father.

Thomas J. Miller, Attorney General, Gordon E. Allen, Special Assistant Attorney General, and E. A. Westfall, Assistant Pottawattamie County Attorney, for the appellee-State.

Heard by Oxberger, C.J., Donielson, and Sackett, JJ.

The appellant is the father of one child involved in this action and the stepfather of the other child. In the course of an order restricting the parents' visitation, the juvenile court found that the father had sexually abused the children. He has appealed from that order, contending there was a lack of clear and convincing evidence that he is the perpetrator of abuse. We affirm.

A child in need of assistance petition was filed October 1983 on behalf of the two children, C.V., born February 15, 1980, and M.P., born May 29, 1981. The adjudication hearing took place November 22, 1983, and the court found the parents had failed to exercise reasonable care of the children. The parents admitted the legal basis of the petition, and the children were placed in their parents' care under the supervision of the Department of Human Services. On May 15 the mother, D.V., took the children and did not tell the father where she was going. Ten days later she and the two girls were found in a motel in Nebraska, where they were staying with a truck driver. The police took the children into protective custody and they were placed in foster care May 25, 1984.

The foster mother reported that C. V. had a red and swollen genital area although she did not take the child to the doctor. The child also masturbated frequently. An investigation was commenced of suspected sexual abuse of the child. In a hearing on December 20, 1984, the court reviewed the evidence and concluded the father perpetrated the sexual abuse.

The father, O.J.P., presents two issues on appeal. He first argues that we should not consider the statements of the two children made about the abuse, because, as a matter of law, such out-of-court statements are insufficient to establish clear and convincing evidence of sexual abuse by him. Second, he disputes the fact finding that he was the perpetrator of the abuse, asserting it is not supported by clear and convincing evidence.

The court in its order based its decision to limit visitation on two findings. One was that the father had sexually abused the children. The second was that the children had been exposed to drug abuse. It is important to the father to challenge the finding he abused the children, he explains, because he will now be required to enter therapy programs in which he must admit his culpability. Without such an admission, the children cannot be returned. Therefore, he points out, it is his ability to have the children returned which is at stake.

Appellant does not dispute the court's finding regarding drug abuse and this issue is not contested on appeal. Neither does he seek a change in the court's dispositional order to continue placement outside the home and to restrict visitation. Rather he attacks the finding he abused the children, for the reasons stated above.

The result the court reached is not disputed, and for this court to overrule the fact finding but reach the same result as the court below would essentially be an advisory opinion on our part. We are obligated to affirm the trial court's ruling, even if support for its decision is based on a holding different from that reached by the trial court. Midwest Management Corporation v. Stephens, 353 N.W.2d 76, 78 (Iowa 1984); Fankell v. Schober, 350 N.W.2d 219, 221, 223 (Iowa Ct. App. 1984). Even where no findings of fact are made we affirm the judgment if any proper ground appears in the record to support the order. H & S Ltd. v. Andreola, 363 N.W.2d 592, 595 (Iowa Ct. App. 1984).

The father does not contest the finding of drug abuse, and in any event we find more than enough evidence to support the court's holding. The evidence shows that not only did the three- and four-year-old girls smoke marijuana with their parents, but the mother would hold the marijuana cigarette for the youngest child while she inhaled. The parents taught the children how to smoke the drug properly, and they were witness to a number of drug transactions.

Both children were well versed in the terms and conditions of the sale of marijuana. This is ample support for the court's order.

We also note that the court ordered a case plan prepared, and did not order that the appellant be directed into any particular program. If there are portions of the case plan or a later court order which the appellant contends are improper, it is at that time he may seek review.

AFFIRMED.