FILED
MAY 25 1982
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF L. W.,
A child, D.O.B. 10-20-76,

D. L., Natural Mother,

Appellant.

Filed May 25, 1982

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3-67276

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Appeal From Linn District Court, Juvenile Division, Brent G. Harstad, District Associate Judge.

The mother of a five-year-old boy appeals from the trial court orders finding that her son is a Child in Need of Assistance and transferring custody to the Department of Social Services for placement with the paternal grandmother.

AFFIRMED.

Elizabeth A. Brown of Crawford, Sullivan & Read, Cedar Rapids, for appellant-mother.

Thomas J. Miller, Attorney General, and Brent Hege, Assistant Attorney General, for appellee-State

John Patchett, Cedar Rapids, for the child.

David Good and Randall Nazette, Cedar Rapids, for the natural father.

Heard en banc.

PER CURIAM

The mother of a five-year-old boy appeals from the trial court orders finding that her son is a child in need of assistance and transferring custody to the Department of Social Services for placement with the paternal grandmother. We affirm.

The mother and father of L. W. received a marriage dissolution in 1978 from an Iowa court. Custody of L. W. was granted to the mother.

I. Jurisdiction.

The mother argues that the juvenile court had no jurisdiction under § 598.A.3 to adjudicate her son a child in need of assistance. She bases this argument on the fact that she and the child lived in Minnesota from 1978 to 1980, and moved to Chicago, traveled to Wisconsin, and then to Cedar Rapids in the latter half of 1980. She argues that the child's home state was Minnesota and further that the child began residing in Iowa in November 1980 and therefore had not lived in the state for six months prior to the filing of the CHINA petition. Therefore, under 598A.3(1)(a), Iowa did not have jurisdiction. She also argues that it was not in the child's best interest to have Iowa determine custody under 598A.3(1)(b) because they had lived in Minnesota for two years. She argues that since there was no finding by the trial court that Iowa had more significant evidence concerning the child than Minnesota, 598A.3(1)(b) could not confer jurisdiction.

We find that the juvenile court had jurisdiction under sections 598A.3(1)(b),(c), and (d). Prior to moving to Minnesota in 1978, all parties lived in Cedar Rapids. The child and his mother came back to Iowa in November 1980. They had been traveling between states since July 1980. They returned to Iowa to visit relatives and it was unclear when and if they would return to Minnesota. The Department of Social Services made an investigation in Iowa, which substantiated the claim of neglect. The child's father and paternal grandmother live in Cedar Rapids. Thus there is a significant connection with Iowa and substantial evidence

exists here concerning the child's welfare, such that it is in the child's best interest that Iowa assume jurisdiction.

II. Ex-parte Order.

The mother argues that the trial court erred by entering an ex-parte order removing the child from the mother's custody on January 15, 1981. Section 232.78 permits such an order if the "child's immediate removal is necessary to avoid imminent danger to the child's life or health." The evidence showed the child had been neglected. The mother needed assistance from the Department of Social Services in learning to provide adequately for her child's needs. The evidence showed the mother had been moving from state to state for the past six months. There was no indication the mother had any ties to Cedar Rapids that would prevent her from picking up and leaving with the child at any time. It appeared that if she left, no other state would have jurisdiction over the child. The child's health would have been in danger from neglect if the mother left. In this situation, the trial court was justified in entering an ex-parte order under § 232.78, The Code 1981.

III. The Evidence.

The mother argues that the State failed to prove by clear and convincing evidence that the child was a child in need of assistance. We have examined the evidence and conclude it met the test.

IV. The dispositional order.

The mother argues that the court erred in leaving custody with the Department of Social Services for placement with the paternal grandmother. We find said temporary placement is warranted.

During the pendency of this appeal, the children's attorney requested the supreme court grant a limited remand for the purpose of reviewing the child's placement. We have not delayed this appeal pending receipt of transcript and briefs regarding the hearing, so we make no ruling on the merits of the ruling of said hearing. See Interest of Long, 313 N.W.2d 473, 427.

AFFIRMED.