FILED
SEP 29 1992
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-353 / 91-1680

IN THE INTEREST OF N.L.H., J.H., and J.L., Minor Children, 191

C.L.H., Mother,

Appellant.

Appeal from the Iowa District Court for Lucas County, William Joy, Judge.

The mother appeals from a juvenile court order keeping N.H. and J.H. in foster care, but placing J.L. with his natural father. **AFFIRMED.**

Robert W. Conrad, Knoxville, for appellant.

Monty W. Franklin, Humeston, as guardian ad litem for the children.

William L. Shelton of Shelton Law Firm, Chariton, for appellee father.

Bonnie J. Campbell, Attorney General; John M. Parmeter, Special Assistant Attorney General; and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee State.

Considered by Donielson, P.J., and Sackett and Habhab, JJ.

DONIELSON, P.J.

Cindy[1] and Henry[2] were married in April 1984. Cindy had two children prior to the marriage: James, born in 1980, and Nancy, born in 1982.[3] John[4] was born to Cindy and Henry in October 1984. The fathers of James and Nancy are not involved in this appeal.

In April 1985, a founded child abuse report was made regarding Henry and his stepdaughter, Nancy, and a child in need of assistance (CHINA) petition was subsequently filed. Henry adamantly denied the allegations. Eventually, any and all CHINA and criminal proceedings were either dismissed or closed.

In October 1985, the marriage of Cindy and Henry was dissolved. Cindy was given custody of John, and Henry was given supervised visits. Visits continued over the next two and one-half years, but ended when John's maternal grandmother and Cindy would not make John available for the visits with Henry.

In November 1989, Cindy was hospitalized for a mental illness and a CHINA petition was filed in the interest of

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1. The mother's initials are C.H. Cindy is not her given name.

2. The father's initials are H.L. Henry is not his given name.

3. The children's initials are J.H. and N.H. James and Nancy are not their given names.

4. The child's initials are J.L. John is not his given name.

her three children. As a result, the children were placed in foster care. Since 1989, Cindy has been hospitalized for treatment on several occasions and the children have remained in foster care. After learning the children had been placed in foster care, Henry arranged for and has since continued to have unsupervised visits with John.

In September 1991, a review hearing was held. The Department of Human Services recommended Cindy's parental rights be terminated, Nancy and James be adopted, and John be placed with Henry. Following a hearing, the juvenile court declined to terminate Cindy's parental rights and ordered Nancy and James to remain in foster care and John to be placed in the custody of his father, Henry. Cindy now appeals.

In CHINA proceedings, we review the evidence de novo. In re J.R.H., 358 N.W.2d 311, 317 (Iowa 1984). Of paramount concern is the welfare and best interests of the child. In re D.L., 401 N.W.2d 201, 202 (Iowa App. 1986). Although we are not bound by the findings of the juvenile court, we give weight to the juvenile court's findings of fact because that court has had the unique opportunity to hear and observe the witnesses first hand. In re S.V., 395 N.W.2d 666, 668 (Iowa App. 1986).

Cindy challenges the juvenile court's placement of John with Henry. Specifically, she asserts John should not be separated from his brother and sister. She also contends John should not have been placed with his father,

because Henry was an "un-treated, founded, child sexual abuser." On our review, we affirm the juvenile court's placement of John with Henry.

In CHINA and adoption proceedings, keeping siblings together has been an important factor. See In re L.B.T., 318 N.W.2d 200, 202 (Iowa 1982); In re Miller Children, 228 N.W.2d 60, 63 (Iowa 1975). However, where a separation from siblings may better promote the long-range interests of the child, such a separation is warranted. In re Marriage of Kurth, 438 N.W.2d 852, 854 (Iowa App. 1989). In addition, the courts have recognized a strong preference for placement of children with their natural parent. In re Chad, 318 N.W.2d 213, 218 (Iowa 1982).

Here, the presumption against separating John from his siblings and the presumption in favor of placing John with his natural father squarely conflict with each other. However, we agree John's best interests will be better served with his natural father than in foster care, despite being separated from his siblings. At the hearing, Henry demonstrated a definite interest in having the opportunity to raise John and the home study presented found Henry would be an appropriate parent. We agree with the juvenile court's findings:

> With one parent standing ready, willing and able to parent [John], while the other one has yet to control that disability which adversely affects her parenting skills, the court should not deny [John] the opportunity to be raised by one parent, so that he can remain with his brother and sister for what may be the remainder of his minority.

We do not agree with Cindy's contention that John should not be placed with Henry because of the past allegations of sexual abuse with his stepdaughter, Nancy. While the report was founded, Henry has consistently denied any and all allegations. In addition, the report involved alleged abuse which was directed solely at Nancy and which occurred almost seven years ago. There has been no evidence of any other complaints or reports regarding Henry's behavior since that report in 1985.

We believe it is in John's best interests to be placed with his father. For all the reasons stated, we affirm the juvenile court.

The costs of this appeal are taxed to Cindy.

AFFIRMED.