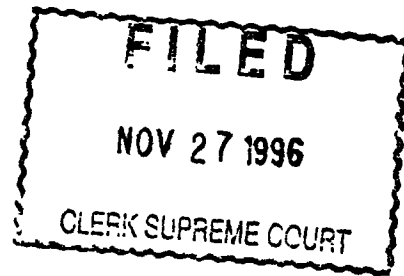


IN THE COURT OF APPEALS OF IOWA

No. 6-554 / 96-0479



IN THE INTEREST OF A.H., A Minor Child,

R.H., Mother,

Appellant.

Appeal from the Iowa District Court for Jasper County, Thomas W. Mott, Judge.

A mother appeals from a district court order in a child-in-need-of-assistance case directing out-of-home placement for her child. **AFFIRMED.**

Gerald B. Feuerhelm, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney General, and John Heinecke, Assistant County Attorney, for appellee State.

Lee M. Walker and John Billingsley of Walker, Knopf & Billingsley, Newton, for appellee father.

David Arthur Adams, Juvenile Defender's Office, Des Moines, guardian ad litem and attorney for minor child.

Heard by Cady, P.J., and Huitink and Streit, JJ.

--STREIT, J.

Mother appeals from a district court order in a child-in-need-of-assistance (CINA) case directing out-of-home placement for her five year old child. She argues the court erred in refusing to leave the child in her care.

Anna H. was born September 6, 1991, to Rhonda and Ron H. In August, 1992, Anna H. was adjudicated a child-in-need-of-assistance by stipulation of the parties. She was removed from the home and placed in foster care after bruises were observed on her cheek and buttock. At a disposition hearing in September 1992, again by stipulation, Anna was continued in foster family care, and the parents were ordered to obtain a psychological and parenting evaluation and attend child abuse prevention classes and all other counseling that was recommended.

In March 1994, the county attorney filed a petition to terminate parental rights of both parents. Within that same month, the court entered an interim order that loosened limitations on visitation between Rhonda and Anna. Three months later, Rhonda filed a motion to modify the dispositional order and have Anna returned to her physical care. The court entered an order, pursuant to the parties' stipulation. The order returned Anna to her mother's care under Department of Human Services' (DHS) supervision and required in-home counseling. The county attorney then dismissed the termination of parental rights petition that had been filed.

Less than one year later, DHS sought to remove Anna from Rhonda's care due to unexplained bruising on Anna's face. The court found the bruising was

nonaccidental, concluding that Rhonda's boyfriend was the perpetrator. The court continued placement of Anna with her mother because Anna appeared happy in Rhonda's care and no further abuse had occurred between the time it had been reported and when a hearing was held. DHS then received another report of bruising on Anna's forehead, chin, and lower back in January 1996. The State filed an application for modification of dispositional order. Following a hearing, the court entered an order for out-of-home placement.

Rhonda appeals. She contends she has provided "more than adequate care" for Anna and Anna has thrived in her care. She argues it is in Anna's best interest to be returned to her care.

This case arises out of a CINA proceeding in juvenile court pursuant to Iowa Code section 232.2(6) (1995). Appellate review of an order for out of home placement entered in a CINA proceeding is de novo. Iowa R. App. P. 4. While we give weight to the juvenile court's findings of fact, we are not bound by them. Iowa R. App. P. 14(f)(7); *In Interest of S.V.*, 395 N.W.2d 666, 668 (Iowa App. 1986). As always in our consideration of these matters, the welfare and best interests of the child are paramount. *In Interest of D.S.*, 437 N.W.2d 587, 588 (Iowa App. 1989).

When a parent seeks return of a child removed as the result of a CINA adjudication, the parent has the burden of proving by a preponderance of evidence that the child will not suffer harm if returned to the home. *In Interest of Welcher*, 243 N.W.2d 841, 844 (Iowa 1976). Our review of the evidence does not convince us that

Rhonda has met her burden of proof. Anna has repeatedly shown up with unexplained bruises on her body since the age of one.

In all respects, Rhonda has failed to protect Anna. Furthermore, Rhonda has denied that Anna has been hit and bruised and has even manipulated Anna to lie about her bruises. The risk in returning Anna to Rhonda's home is too great in relation to the harm Anna has suffered in the past while in her mother's care. We affirm the juvenile court's order for out of home placement.

AFFIRMED.