

FILED

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IN THE COURT OF APPEALS OF IOWA MAR 24 1981

CLERK SUPREME COURT

~~Filed March 24, 1981~~

IN THE INTEREST OF

SHAWN DAVID YOUNGBEAR

1-006
3-63889

Appeal from Linn District Court - Brent G. Harstad, Judge.

Natural father appeals, pursuant to § 232.133, The Code, from dispositional order of juvenile court following child in need of assistance adjudication. **AFFIRMED.**

John C. Platt, Chipokas, Platt, Maher & Forte, Cedar Rapids, Iowa, for father-appellant.

J. R. Norris, Cedar Rapids, Iowa, for mother-appellee.

H. Nick Gloe of Faches, Gloe & Quint, Cedar Rapids, Iowa, for Shawn Youngbear.

Thomas J. Miller, Attorney General of Iowa; and Francis C. Hoyt, Jr., Assistant Attorney General; for the State of Iowa.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Natural father appeals, pursuant to section 232.133, The Code, from dispositional order of the juvenile court placing child with his natural mother during pendency of child in need of assistance status under ch. 232, The Code. Our review is *de novo*. In Interest of Miller Children, 228 N.W.2d 60, 62 (Iowa 1975). We affirm.

On October 24, 1978, a petition authorized by the Linn County Attorney was filed, alleging that Shawn David Youngbear was a child in need of assistance under sections 232.2(13)(g) and (h), The Code 1977. Under a stipulation entered into by all concerned parties, an order was filed December 28, 1978, declaring Shawn to be a child in need of assistance. The dispositional hearing was held at various times throughout the first half of 1979. The juvenile court's decree was issued on July 6, 1979 placing custody of Shawn with Karen, his mother, subject to continued supervision by the Department of Social Services.¹ The appellant father was granted rights of visitation during the pendency of the CHINA status.

Initially, in his appeal David, the father of Shawn, asked that the child be placed with him. Apparently as a result of his subsequent incarceration in the state penitentiary on a robbery conviction, he has altered this request so as to now urge only that Shawn be placed with someone other than Karen. In resolving the issues on appeal we do not view the juvenile court's decree as a final order affecting David and Karen's custodial rights inter se. Rather, it is a temporary order of placement during the continuation of the CHINA status placed upon Shawn by prior adjudication. As so construed the order was well within the court's discretion given the record of Karen's present home environment and the preference which the law accords to placement with a parent. Section 232.102(3), The Code. The decree of the juvenile court is affirmed.

AFFIRMED.

¹ Prior to this dispositional order the Department of Social Services had taken custody of the child by agreement of both parents. During the time the department had custody, the marriage of the parties was dissolved but the decree made no adjudication as to child custody between the parents.