FILED
AUG 04 1994
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 4-269 / 93-1835

IN THE INTEREST OF C.L.F., A Minor Child,

P.F., Father,

Appellant.

Appeal from the Iowa District Court for Clinton County, James A. Weaver, District Associate Judge.

P.F., the father, appeals an order transferring custody of his child, C.L.F., to the maternal grandmother. **AFFIRMED.**

J. David Zimmerman of Pillers, Pillers & Zimmerman, P.C., Clinton, for appellant-father.

Paul Macek of Dircks, Ridenour, Norman & Macek, Davenport, for appellants-paternal grandparents.

Bonnie J. Campbell, Attorney General, John M. Parmeter, Special Assistant Attorney General, Judy A. Sheirbon, Assistant Attorney General, and Ross Barlow, Assistant County Attorney, for appellee-State.

Kenneth F. Schoenauer of Kenneth F. Schoenauer, P.C., Clinton, for appellee-mother.

Gary J. Rolfes of Mayer, Mayer, Lonergan & Rolfes, Clinton, for appellee-maternal grandmother.

Thomas R. Mayer, Clinton, appellee-guardian ad litem for minor child.

Considered by Hayden, P.J., and Sackett and Cady, JJ.

HAYDEN, P.J.

This is an appeal by the natural father from a trial court decision determining the maternal grandmother of C.L.F. should be awarded custody of the child so C.L.F. would not be separated from her siblings. We determine the maternal grandmother provides a suitable environment for C.L.F. We affirm the trial court's placement of C.L.F. with the maternal grandmother.

P.F., the father, and B.F., the mother, are the parents of C.L.F., born May 12, 1993. At the time of C.L.F.'s birth, the parents were separated. The mother suffers from Huntington Chorea, a degenerative nerve disorder, and felt she was unable to care for C.L.F. The father felt he too was unable to care for C.L.F. and voluntarily placed her in foster care. In August 1993 C.L.F. was found to be CINA pursuant to Iowa Code section 232.2(6)(c-2)(n) (1993).

The paternal grandparents and the maternal grandmother filed petitions seeking to intervene in the juvenile court proceedings, each requesting custody of C.L.F. The paternal grandfather is fifty-five years of age, and the paternal grandmother is forty-eight years of age. They have been married for twenty-six years and have six children. A fourteen year old and an eleven year old still live at home. They live in a three-bedroom home in Clinton County. The maternal grandmother is fifty-three years of age and resides in Washington State. She is an Episcopalian priest and works for a hospice. The maternal

grandmother has custody of C.L.F.'s three siblings. One such placement was affirmed on appeal in In re V.F., 490 N.W.2d 87 (Iowa App. 1992). The grandmother lives in a mobile home on ten acres of land.

At trial, the mother testified she did not want C.L.F. to be placed with the paternal grandparents due to prior founded physical abuse reports against the paternal grandmother concerning her own children. The mother testified she had seen the paternal grandmother physically disciplining two daughters with a switch and one of her daughters was in foster care because of a physical fight between her and the paternal grandmother. The father wanted C.L.F. to live with his parents as he hoped he would be able to parent her within a couple of years. Other evidence reflected both homes of the grandparents would be suitable for placement. A home study stated the paternal grandparents' family dynamics had changed considerably since the abuse incidents.

The district court found each family offered a suitable physical residence and a structured, nurturing environment. However, the maternal grandmother was awarded custody of C.L.F. so the siblings would not be separated. The court awarded visitation to the paternal grandparents.

The father appeals. His appeal is joined by the paternal grandparents. He contends the following special circumstances exist to justify separation of the siblings and placement of C.L.F.'s custody with the paternal

grandparents: the paternal grandparents have regularly exercised visitation with C.L.F. and bonding has taken place; C.L.F. has had no contact with her maternal grandmother or siblings; due to her age, the maternal grandmother may not be able to handle four children; the maternal grandmother's home is smaller than the paternal grandparent's home; concerns have been expressed about the maternal grandmother's emotional stability and frequent change of residence and employment; and the grandmother has previously thwarted the paternal grandparents' attempt to contact C.L.F.'s siblings.

The State, supported by the mother and guardian ad litem and joined by the maternal grandmother, argue the best placement for C.L.F. is with her maternal grandmother and her siblings who are flourishing in their grandmother's care.

For reasons set out below, we affirm the trial court decision awarding custody of C.L.F. to the maternal grandparent, K.C.

We begin by stating our review in cases such as these is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We are not bound by these determinations, however. Id. Prior cases have little precedential value, and we must base our decision on the particular circumstances of the parties presently before us. In re Marriage of Weidner,

338 N.W.2d 351, 356 (Iowa 1983). The reviewing court's concerns lie with the child's welfare and best interests. In re N.M.W., 461 N.W.2d 478 (Iowa App. 1990).

K.C. already has custody of C.L.F.'s siblings. There is a presumption siblings should not be separated. In re Marriage of Will, 489 N.W.2d 394, 398 (Iowa 1992) (citing In re Marriage of Jones, 309 N.W.2d 457, 461 (Iowa 1981)). "We have long recognized that split physical care is generally opposed because it deprives children of the benefits of constant association with one another." Will, 489 N.W.2d at 398. The rule is not ironclad, however, and circumstances may arise which demonstrate separation may better promote the long-range interests of the children. Id. Good and compelling reasons must exist for a departure. Id.

Simply put, good and compelling reasons to separate siblings are not present here. The decision by the trial court allows C.L.F. to grow up knowing her other brothers and sisters in a household determined by the trial court to be a structured, suitable, and nurturing environment.

While concerns were raised regarding the employment stability and mental health difficulties of K.C., the maternal grandparent, the trial court found any difficulties had been appropriately addressed, and K.C. could provide a safe and adequate home for C.L.F. Persons familiar with the care of the siblings of C.L.F. reported the children were well cared for.

K.C.'s household must be contrasted with the paternal grandmother's, K.F. A court may make reasonable predictions about a parent's future performance by looking to her past conduct. In re A.R.S., 480 N.W.2d 888, 890 (Iowa 1992). There was evidence before the trial court K.F. has a volatile temper, was investigated for physical abuse allegations, had not cooperated well with the department of human services, and had her fourteen-year-old daughter placed in foster care only three weeks before the dispositional hearing in the trial court. These past actions lead to reasonable concerns about C.L.F.'s future in such a household.

The presumption against separating siblings should also not be overcome merely so the natural father can be closer to C.L.F. with a greater chance of receiving custody sometime in the future. We note the trial court specifically required, as a condition of receiving custody, K.C. abide by a visitation schedule fixed by the court. Also, while the law demands a full measure of patience with troubled parents who attempt to remedy a lack of parenting skills, children should not have to endlessly await the maturity of their natural parents. In re M.R., 487 N.W.2d 99, 102 (Iowa App. 1992) (citations omitted). "This reasonable limitation is important because patience with parents can quickly translate into intolerable hardship for the children." Id.

Placing C.L.F. with her well-adjusted siblings appears to be in her best interests. There is nothing in the record which causes us to disagree with the placement decision made by the trial court. Therefore, we affirm.

AFFIRMED.