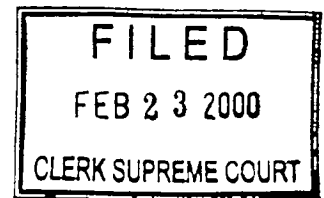


IN THE COURT OF APPEALS OF IOWA

No. 1999-605 (9-866) / 99-964
Filed February 23, 2000



**IN THE INTEREST OF S.T. and A.T.,
Minor Children,**

**T.A., Mother,
Appellant.**

Appeal from the Iowa District Court for Marshall County, Victor G. Lathrop,
Associate Juvenile Judge.

Mother of two minor children appeals a juvenile court order denying her motion to modify the existing dispositional order in a CINA proceeding placing physical care of the children with their paternal grandparents in Georgia.

AFFIRMED.

John J. Haney of Pattie, Hinshaw, Danielson, & Kloberdanz, P.C.,
Marshalltown, for appellant.

Thomas J. Miller, Attorney General, Diane M. Stahle, Special Assistant
Attorney General, Tabitha Gardner, Assistant Attorney General, and James J.
DeTaeye, County Attorney, for appellee State.

John B. Swain, Assistant Public Defender, Marshalltown, guardian ad
litem for ~~minor~~ child.

Kevin M. O'Hare of Johnson, Sudenga, Latham, Peglow & O'Hare, P.L.C.,
Marshalltown, for appellee paternal grandparents.

Considered by Huitink, P.J., and Streit and Miller, JJ.

STREIT, J.

The specter of emotional and developmental pain that haunts children who have suffered abuse at the hands of a parent is not exercised by the mantra that "things have changed." Theresa's children, Stevie and Amanda, are beginning to heal from the abuse of their mother while in the protective care of their grandparents in Georgia. Theresa seeks to expedite the process of reconciliation by requesting the children be moved to foster care in Iowa. The court denied her request, and she appeals. We affirm the trial court finding there has not been a substantial change in circumstances to warrant the modification of the juvenile court's dispositional order. It is in the children's best interests to remain with their grandparents.

1. Background Facts & Proceedings.

Theresa is the mother of three minor children, Stevie, born September 2, 1987; Amanda, born March 1, 1989; and little Theresa, born July 2, 1991. The department of human services (DHS) became involved with the family after a schoolteacher reported Stevie appeared to suffer from severe physical abuse. Initially, Theresa declined to take advantage of offered services, and the children's behavior continued to spiral downward. Stevie was adjudicated to be a child in need of assistance (CINA) due to the physical abuse, and additional services were initiated. Undeterred, Theresa continued to commit crimes, use drugs and have sex in front of the children, and physically abuse them. Theresa's actions soon took their toll as the children began to exhibit violent behavior toward themselves and others. The children were removed from the

home when Theresa was arrested on two drug charges. Amanda and little Theresa were subsequently adjudicated CINA due to their mother's failure to supervise.

After numerous stints in foster homes and Amanda's placement in a number of different psychiatric hospitals, the juvenile court placed Stevie and Amanda with their paternal grandparents in Georgia. Little Theresa remained in foster care and had continued contact with Theresa. Once Stevie and Amanda were safely in the home of their grandparents, the manifestations of their abuse began to markedly subside, and the children were soon doing well in school and participating in athletics. Both children expressed extreme fear at the prospect of being returned to Iowa and voiced their intense desire to remain with their grandparents. In December 1998 Theresa filed a petition to modify the existing dispositional order. She maintained she had complied with virtually all the requirements of her case permanency plan and requested Stevie and Amanda be placed in Iowa foster homes so she could begin seeing them on a regular basis. The juvenile court denied the motion, ruling it was in the children's best interest that they remain with their grandparents. The court found the children were doing remarkably well in Georgia and their behavior only regressed when they had contact with their mother. Theresa appeals.

II. Standard of Review.

The review of a dispositional order arising from a CINA proceeding is de novo. Iowa R. App. P. 4; *In re C.D.*, 509 N.W.2d 509, 511 (Iowa App. 1993). We accord weight to the fact findings of the juvenile court, especially when

considering the credibility of the witnesses whom the court heard and observed firsthand, but we are not bound by those findings. *Long v. Long*, 255 N.W.2d 140, 143 (Iowa 1977).

III. The Merits.

"A party seeking a modification of a prior dispositional order must show the circumstances have so materially and substantially changed that a modification is in the best interest of the child." *In re D.S.*, 563 N.W.2d 12, 14 (Iowa App. 1997) (citation omitted). The best interests of the children are our predominate concern in a proceeding of this nature. *In re C.D.*, 509 N.W.2d at 511. "Part of our focus may be on parental change, but the overwhelming bulk of the focus is on the children and their needs." *In re D.S.*, 563 N.W.2d at 14-15 (citation omitted).

Although Theresa may have shown some modest behavioral changes, the developmental, physical, and emotional injury she caused her children is only now beginning to heal. The children are finally in a safe, stable, and consistent home. They are beginning to show signs of normalcy as their grades improve and they become involved in athletics. Their violent outbursts, nightmares, and hallucinations have greatly subsided since their placement in Georgia. The alarming behaviors previously demonstrated by the children tend only to rear their head after visitation with their mother or when the proposition of returning them to Iowa is discussed. Theresa claims their placement in Georgia defeats the court's stated goal of family reunification; however, that goal will never be achieved if the children cannot first have time to safely heal from their mother's

treatment. Human service professionals in Iowa and Georgia agree the children will suffer further psychological damage if they are returned at this time. The best interests of Stevie and Amanda demand they remain in the safe and stable home of their grandparents. The juvenile court is affirmed.

AFFIRMED.