

IN THE COURT OF APPEALS OF IOWA

No. 9-372 / 89-39

FILED

OCT 05 1989

CLERK SUPREME COURT

IN THE INTEREST OF J.C.,
A Child,

L.T., Mother,

Appellant.

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Appeal from the Iowa District (Juvenile) Court for Lee
County, Gary E. Noneman, District Associate Judge.

Mother of a child appeals a CINA adjudication and
subsequent dispositional order. **AFFIRMED.**

Gary L. Hoyer of Saunders, Humphrey, Johnson & Hoyer,
Fort Madison, for appellant mother.

Thomas J. Miller, Attorney General of Iowa, and Charles
K. Phillips, Assistant Attorney General, for appellee
State.

David U. Sallen, Fort Madison, guardian ad litem for
the child.

Considered by Donielson, P.J., and Schlegel and Hayden,
JJ.

PER CURIAM

Our review of this case is de novo. In the Interest of J.R.H., 358 N.W.2d 311, 317 (Iowa 1984). While we give weight to the juvenile court's findings of fact because the juvenile court has had the unique opportunity to hear and observe the witnesses firsthand, we are not bound by them. In the Interest of S.V., 395 N.W.2d 666, 668-69 (Iowa App. 1986). Of paramount concern is the welfare and best interest of the child. In the Interest of D.L., 401 N.W.2d 201, 202 (Iowa App. 1986).

The child is a girl born in June 1981. Prior to 1988 she lived with her mother and stepfather.

In November 1988 she was adjudicated a child in need of assistance due to evidence of physical and sexual abuse by the stepfather, coupled with evidence the mother had failed to protect the child from this abuse. In a December 1988 dispositional order, the child was formally placed in foster care. The mother and stepfather were required to meet numerous conditions before the child could be returned to their home.

The mother has appealed from these juvenile court orders. She challenges the sufficiency of the evidence that physical abuse occurred. With respect to sexual abuse, she argues the evidence was insufficient to establish the stepfather as perpetrator of the abuse.

The mother also challenges several of the requirements imposed upon her and the stepfather as conditions for regaining custody. She argues because there was allegedly insufficient evidence to identify the stepfather as the perpetrator of any abuse, the juvenile court abused its discretion by directing the stepfather to have no contact with the child and by requiring both the mother and stepfather to complete counseling programs. In addition, she contends the juvenile court abused its discretion by requiring the stepfather to find and maintain employment, or to submit weekly proof of personal contacts in search of employment.

We affirm the trial court in its adjudication of J.C. as a child in need of assistance and its subsequent dispositional order. There is sufficient evidence in the record to support the finding of physical abuse and the imminence of additional abuse. There was a facial injury, seen by both a teacher and an experienced child abuse investigator, which J.C. said was caused by her stepfather. There was also testimony by eyewitnesses to physical violence by the stepfather and well-documented incidents, including testimony and reports of cruel or unusual disciplinary practices.

The allegations of sexual abuse were supported by the findings of three of the four doctors who examined J.C. The three doctors who performed a pelvic examination,

including an expert in the medical diagnosis of sexual abuse, found evidence of sexual abuse through penetration by an adult finger. We find these factors, combined with the court's reasoned rejection of other possible perpetrators, constitute clear and convincing evidence necessary to support a child in need of assistance adjudication based on sexual abuse. Because we affirm this finding, we find no abuse of discretion by the trial court in its dispositional order which requires the stepfather to find and maintain employment and requires both stepfather and mother to attend and complete counseling programs.

AFFIRMED.