IN THE COURT OF APPEALS OF IOWA

No. 6-273 / 95-1793

FILED
MAY 31 1996
CLERK SUPREME COURT

**IN THE INTEREST OF J.W., Minor Child,**

**C.G., Mother,**

Appellant.

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Appeal from the Iowa District Court for Monroe County, Gene W. Glenn, Associate Juvenile Judge.

The mother of a child adjudicated in need of assistance appeals the juvenile court's review order which changed placement of the child from foster care to a residential treatment facility and provided she would be limited to supervised visitation. **AFFIRMED.**

Thomas J Miller Attorney General, Kathrine S Miller-Todd, Assistant Attorney General, and William S Owens, County Attorney, for appellee State

R T Starken and Kevin Maughan of Pabst Law Firm, Albia, guardians ad litem for minor child

Heard by Sackett, P J , and Huitink and Streit, JJ. Vogel, J., takes no part

**HUITINK, J.**

Chris G. appeals the juvenile court's review order changing placement of her minor child, Jody W., from foster care to a residential treatment facility. We affirm.

Chris G. is the mother of Jody W., born November 3, 1980. Chris contacted the Iowa Department of Human Services in December 1990 and requested services citing her inability to control her daughter. Jody was later diagnosed with having posttraumatic stress disorder, oppositional defiant disorder, and a parent/child problem. Jody was placed in a psychiatric facility due to her depressive symptoms and violent behavior.

The State filed a child in need of assistance petition on January 3, 1991. The petition was dismissed without prejudice the following month due to Chris's cooperation, but was refiled on August 31, 1992. Jody was subsequently adjudicated CINA and placed in foster care. She remained in foster care until January 1993, at which time she was returned to Chris's home under DHS protective supervision. On June 2, 1994, the court again placed Jody in foster care due to her behavior problems in Chris's home. Jody objected to this placement and threatened to harm herself.

Jody's defiant and violent behavior in her foster home led the court to order counseling for Jody and placement in a residential facility. After Jody ran away from the facility, she was again placed in family foster care. Following a July 1995 review hearing, the court found Jody was doing well and ordered her to participate in skill

development programming and individual counseling. The court also ordered Chris to participate in parent skill development services and family counseling.

In August 1995 Jody again began to exhibit aggressive and violent behavior in her foster home leading the DHS to request a psychiatric evaluation. Jody's behavior escalated when she was placed in shelter care, and the court ordered her to be evaluated at Mercy Hospital. Chris's stability also declined during this period as reflected by her drug use, rapid weight loss, medical problems, and frequent violent threats toward DHS service providers.

Following the State's motion for a change of disposition, the juvenile court found Jody's conduct posed a danger to staff and peers at placement facilities and determined Chris was not a viable placement option. The court ordered placement at Hillcrest residential treatment facility, a Psychiatric Mental Health Institute for Children (PMIC) in Dubuque, and required any visitation between Chris and Jody be supervised Chris appeals

Review of an order arising out of CINA proceedings is de novo *In re Blackledge*, 304 N W 2d 209 210 (Iowa 1981) We give weight to the juvenile court's findings of fact, especially when considering the credibility of witnesses, but we are not bound by them Iowa R App P 14(f)(7) Of paramount concern is the welfare and best interest of the child *In re D L.*, 401 N.W.2d 201, 202 (Iowa App. 1986). In determining what is in the best interest of the child, the court necessarily looks at the

present conditions and past performance of the parents "for that performance may be indicative of the quality of the future care that parent is capable of providing." *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981); *see also In re Loeffelholz*, 162 N.W.2d 415, 419 (Iowa 1968).

In determining appropriate placement for a child in need of assistance, the juvenile court should permit the child to remain at home with the child's parent whenever possible. Iowa Code § 232.102(5) (1995). Before the juvenile court may order removal of a child from the parent's home, the State must make reasonable efforts to eliminate the need for such removal Iowa Code § 232.102(5)(b). If the court orders placement of a child in foster group care, the department of human services must make every reasonable effort to place the child in the least restrictive setting available and in close proximity to the parent's home consistent with the child's best interest and special needs Iowa Code § 232.102(7)

We find the district court correctly determined Jody's best interests require placement at Hillcrest residential facility Jody has exhibited severe behavioral problems for many years which Chris has been unable to control She has posed a significant danger to her foster families necessitating placement in a PMIC level residential facility Jody's social worker testified that she contacted three PMIC facilities prior to recommending placement at Hillcrest and that Hillcrest was the only facility with an opening and willingness to accept Jody. Although Chris, who lives in

Marshalltown, contends Hillcrest's Dubuque location is geographically restrictive, we find nothing in the record indicating any facility closer to Chris's home could provide the structure and treatment Jody needs.

Despite Chris's contentions to the contrary, we do not believe placement of Jody with her mother is a viable option at this time. While Chris has taken steps toward making herself an appropriate caretaker for Jody, we do not believe she is currently equipped to minister to Jody's special needs. Jody has demonstrated that she can be violent to her family, her care providers, and to herself. Chris's drug problems and demonstrated inability to cooperate with services lead us to conclude that placing Jody with Chirs at this time would only impede Jody's progress and could cause considerable harm to both mother and child We believe that before Jody can be returned to her mother's care, both she and Chris need to show improvement. Accordingly, we affirm the juvenile court's placement of Jody at Hillcrest residential facility

AFFIRMED.