FILED
AUG 23 1998
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 8-433 / 98-0091

IN THE INTEREST OF A.F., A Child,

W.F. and J.F.,
Intervenors-Appellants.

D.S.,
Intervenor-Appellee.

Appeal from the Iowa District Court for Polk County, Constance Cohen, Associate Juvenile Judge.

Grandparents appeal the juvenile court order denying their motion to modify custody. **AFFIRMED.**

Katherine C. Spencer, Des Moines, and Jeanne K. Johnson, Des Moines, for appellants.

Mike Bandstra of Harrison, Dietz-Kilen and Bandstra, Des Moines, for appellee-D.S.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Cory McClure, Assistant County Attorney, for appellee-State.

Jane E. Rosien of Harding, Harding, Griffin, Rosien & Hobbs, Des Moines, guardian ad litem for minor child.

Considered by Cady, C.J., and Vogel and Mahan, JJ.

PER CURIAM.

In this case, the juvenile court faced the task of deciding whether a one-year-old baby should remain in the care of the foster mother or be placed in the custody of the maternal grandfather and his wife. After weighing many factors, the court determined it was in the best interests of the child to remain in the custody of his foster mother. We agree.

Background facts. Andrew F. was born on November 14, 1996, to Dawn F. and Duane B. Before Andrew was born, Dawn told her father, Warren F., and his wife, Joanne, that she planned to put her baby up for adoption. Warren and Joanne, who live in California, supported her decision. However, soon after Andrew's birth, Dawn changed her mind and decided to raise Andrew herself. Dawn, who had a history of emotional problems, was hospitalized twice for suicide attempts in late 1996. After the second attempt, Dawn consented to Andrew being placed in foster care. The department of human services (DHS) contacted Warren and Joanne concerning placement of Andrew with a relative, and they indicated a willingness to care for Andrew but not Dawn. DHS informed Warren and Joanne of the necessary procedures they would need to follow to allow Andrew to be placed with them. However, because Warren and Joanne did not comply with all of the DHS requirements and showed a lack support for a reunification between Dawn and Andrew, DHS was unable to recommend placement of Andrew with them.

Andrew was placed in foster care with Deb S. at the age of four weeks. Dawn made some initial progress through treatment, but eventually the State filed a petition to terminate parental rights. Although Warren and Joanne remained in contact with Dawn and DHS, they did not come to Iowa to see Dawn or Andrew until August 1997. It was at that time that Warren and Joanne intervened in the termination proceedings. On August 29, 1997, Dawn and Duane consented to termination of parental rights, and the court transferred custody and guardianship of Andrew to DHS for purposes of adoption.

Warren and Joanne then filed a motion to modify custody and guardianship. Deb, who was supported by DHS in her desire to adopt Andrew, was allowed by the court to intervene. Following a hearing, the court denied the motion to modify. Warren and Joanne appeal.

Scope of review. Our review of juvenile matters is de novo. *In re N.W.E.*, 564 N.W.2d 451, 453 (Iowa App. 1997). We accord weight to the findings of the trial court, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7).

Upon the termination of parental rights, the juvenile court has the authority to place the children with DHS, a suitable child-placing agency, or a relative or suitable person. Iowa Code § 232.117(3) (1997); *In re R.J.*, 495 N.W.2d 114, 117 (Iowa App. 1992). However, there is no statutory preference for a relative. *R.J.*, 495 N.W.2d at

117. The paramount concern is the best interest of the children. *Id.* In determining the best interests, we generally consider a number of factors. *See generally In re Rice*, 236 N.W.2d 40, 43 (Iowa 1975); *In re Marriage of Winter*, 223 N.W.2d 165, 166 (Iowa 1974) (factors to consider for parental fitness include such characteristics as age, character, stability, mental and physical health, the capacity and interest of the parent to provide for the emotional, social, moral, material, and educational needs of the child, and the stability and wholesomeness of the environment offered by the parent). In addition, determination of parenting ability must necessarily be based on what is likely to occur in the future not only because of present conditions but also because of what has occurred in the past. *In re J.M.W.*, 492 N.W.2d 686, 690 (Iowa 1992); *Stafford v. Taylor*, 158 N.W.2d 621, 624 (Iowa 1968).

Because Andrew had lived with Deb since shortly after his birth, Warren and Joanne contend that the court placed too much emphasis on the bonding and attachment that had developed between Andrew and Deb in reaching its decision. However, we find the court considered a number of other factors. While the court found the parties were fairly equally possessed of many of the characteristics and abilities relevant to Andrew's best interests, the court noted certain factors that weighed in Deb's favor, including: Warren and Joanne's demonstrated lack of past support for Dawn and delay in attempting to foster a relationship with Andrew; Warren and Joanne's questionable ability to care for Andrew due in part to Joanne's

apparent poor health; Andrew's flourishing development in the care of Deb; and expert testimony favoring Deb's demonstrated ability to be an excellent parent to Andrew. While both parties set forth numerous reasons why they were the preferable home for the long-term best interests of the child, the juvenile court was in the best position to judge both the credibility and character of the parties. We find the juvenile court gave thoughtful consideration to a variety of factors and affirm.

The juvenile court urged Deb to support an ongoing relationship with his biological grandparents; we echo that recommendation.

Having considered all other arguments properly before us on appeal, we hereby affirm the juvenile court.

AFFIRMED.