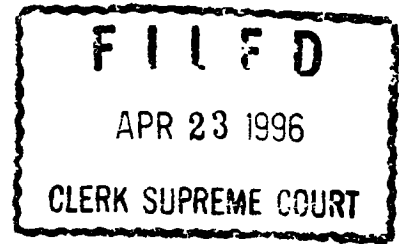


IN THE COURT OF APPEALS OF IOWA

No. 6-111 / 95-1403



000241

IN THE INTEREST OF C.L.S., Minor Child,

C.L.S., Minor Child.

Appellant.

Appeal from the Iowa District Court for Polk County, Larry J. Eisenhower,
Judge.

Appeal from the disposition of a juvenile found to have committed a
delinquent act. **AFFIRMED.**

Barbara J. Diment of Diment Law Office, West Des Moines, for appellant.

Thomas J. Miller, Attorney General; Kathrine S. Miller-Todd, Assistant
Attorney General; John P. Sarcone, County Attorney; and Michelle Chenoweth,
Assistant County Attorney, for appellee.

Heard by Habhab, P.J., Huitink, J., and McCartney, S.J.*

*Senior judge from the Second Judicial District serving on this court by order of the
Iowa Supreme Court.

McCARTNEY, S.J.

This is an appeal from the disposition of a child found to have committed a delinquent act. We find the appeal from the disposition order is untimely and affirm.

Christopher, a thirteen-year-old juvenile, sexually abused a ten-year-old child. Christopher was adjudicated to have committed the delinquent act of sexual abuse in the second degree on December 20, 1995.

A dispositional hearing was held on April 11, 1995, and a Delinquency Disposition Order was filed April 12. The order directed the legal custody of Christopher be placed with the Iowa Department of Human Services (DHS) for placement commensurate with the needs of the child. The order specified the placement would remain in effect for an indeterminate period of time not to exceed the attainment of the age of majority by the child. The order required Christopher to remain in the care of his mother pending placement, and a review hearing was scheduled for July 10, 1995.

A review hearing was held on July 10, and the Delinquency Review Order of July 13, 1995, specified the prior orders of the court were to be continued. On August 14, 1995, Christopher filed a notice of appeal from the July 13, 1995, Delinquency Review Order.

On appeal, Christopher argues the juvenile court could not place him in the custody of the DHS without: specifying the duration and nature of the disposition;

finding the placement was in his best interests: and finding reasonable efforts had been made to prevent or eliminate the need for his removal from his home. He further argues the evidence was not sufficient to support the change of custodial placement.

The State argues the challenge to the dispositional placement has not been preserved for appellate review because Christopher did not appeal from the April 12, 1995, dispositional order. In his brief Christopher argues no “dispositional hearing on the merits” had been held prior to the July 10 hearing, and, as a result, his appeal from the July 13 order is sufficient to challenge the dispositional placement. We disagree.

The record clearly reflects a dispositional hearing, as required by Iowa Code section 232.50, was held on April 11 and a resulting order was filed April 12. Christopher had thirty days to perfect his appeal from the dispositional order. Iowa R. App. P. 5, 101. The filing of a timely appeal is jurisdictional. *See Ahls v. Sherwood Division of Harsco Corp.*, 473 N.W.2d 619, 621 (Iowa 1991). No timely appeal was **taken** from the April 12 dispositional order. This is not surprising given that trial **counsel** for Christopher stated on the record they were in agreement with the recommendation of the State to transfer custody to DHS for placement commensurate with the needs of Christopher.¹

¹ Christopher is represented by different counsel on appeal.

This appeal is untimely, precluding us from reviewing the dispositional order of the juvenile court. In reaching this conclusion, we express no opinion on the issue of whether the dispositional order fully complies with the statutory requirements of Iowa Code section 232.52.

AFFIRMED.