IN THE COURT OF APPEALS OF IOWA

No. 1999-604 (9-865) / 99-0959
Filed March 15, 2000

FILED
MAR 15 2000
CLERK SUPREME COURT

IN THE INTEREST OF J.H. AND C.H.,
Minor Children,

D.H., Father,
Appellant.

Appeal from the Iowa District Court for Muscatine County, James A. Weaver, District Associate Judge.

Father appeals a district court dispositional review order regarding visitation with his son. **AFFIRMED.**

Paul Bouska of Law Offices of John Wunder, Muscatine, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Teresa Stoeckel, Assistant County Attorney, for appellee.

Douglas E. Johnston, Muscatine, guardian ad litem for minor children.

Considered by Sackett, C.J., and Vogel and Hecht, JJ.

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VOGEL, J.

Doug, father of Clinton and Jennifer, appeals a district court dispositional review order denying visitation with his son. Upon our de novo review, we affirm.

Background facts. Doug and Patricia have two adopted children that are now in foster care. The children were removed from the family residence due to allegations of physical abuse suffered by both children and sexual abuse perpetrated on Jennifer. The allegations, which were founded by the Department of Human Services, named Doug as the offender. The children were adjudicated in need of assistance, which was affirmed on appeal. *In re J.H.,* No. 98-1188 (Iowa App. Feb. 24, 1999). The history of this family includes dominance and control by Doug and physical abuse against both Patricia and the children. Initially, Patricia left Doug and obtained a no contact order for herself and the children. Since then, the children were placed in foster care. Patricia has had periodic visitation with the children. Most recently, she has decided to voluntarily terminate her parental rights and is not part of this appeal. The children are placed in separate foster homes due to the higher level of attention needed by Jennifer in overcoming her problems. To preserve the sibling relationship, Jennifer and Clinton have regular visitation with each other.

Scope of review. The standard of review in a CINA proceeding is de novo. *In re Blackledge,* 304 N.W.2d 209, 210 (Iowa 1981); *see also In re Welcher,* 243 N.W.2d 841, 843 (Iowa 1976); Iowa R. App. P. 4. The most important concern for the court is providing for the best interests of the child. *In re N.M.W.,* 461 N.W.2d 478, 480 (Iowa App. 1990); *see also In re Rice,* 236 N.W.2d 40, 43 (Iowa 1975). The reviewing court gives weight to the facts found

by the trial court, although we are not bound by such findings. *In re J.S.*, 427 N.W.2d 162, 163 (Iowa 1988); Iowa R. App. P. 14(f)(7). The determination of future performance by the parents may be measured by present conditions and past occurrences. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981); *see also In re Ponx*, 276 N.W.2d 425, 433 (Iowa 1979).

Visitation. Doug contends the court erred in denying him visitation with Clinton. He correctly argues that visitation between a parent and child is an important step to the goal of family reunification. *In re M.B.*, 553 N.W.2d 343, 345 (Iowa App. 1996). The best interests of the child, however, are central to this type of determination. *See In re C.G.*, 444 N.W.2d 518, 520 (Iowa App. 1989); *see also In re N.H.*, 383 N.W.2d 570, 574 (Iowa 1986) (further contact may be detrimental to the children).

Doug alleges that he has completed all of the DHS case plan requirements except the sexual offenders program. He refuses to complete this requirement, maintaining that he did not sexually abuse his daughter. The services he did participate in included a batterer's education program, substance abuse treatment, AA attendance, a psychiatric evaluation, individual therapy and parenting classes. Doug contends the harm which caused the removal of Clinton has been eliminated by his completion of the suggested programs, classes and therapy offered through DHS. He feels his completion of the assigned programs should remove the no contact order, allowing him visitation rights. Doug has refused to complete the sex offenders program but alleges that it is not necessary in regard to Clinton as he was not adjudicated to be a child in need of assistance under the sexual abuse portion of the statute. Doug asserts the child

must be in imminent danger of being sexually molested before the state can refuse visitation for failure to complete a sex offenders program.

Upon reviewing the evidence in the record before us, we find the requirement for Doug to participate in sexual offenders therapy prior to visitation with his children has been in place since the original adjudication hearing on January 14, 1998. Doug has long been aware of the actions required by him before he can regain contact with his children. This is evidenced by his compliance with the other required programs. The sexual offenders therapy was approved by the adjudication court and upheld on appeal. Therefore, it is not an unreasonable expectation for Doug to comply with this requirement before he is granted visitation rights with both his children. Our modification of this expectation would require the substitution of our assessment of the needs of the children for that of various experts who were appointed or employed to protect these children following both physical and sexual abuse by Doug. We decline to do so. Furthermore, there was evidence in the record that Doug has gone through the motions of complying with the batters education program and other therapy without accepting responsibility for his behaviors or expressing the necessary motivation to change his abusive ways. He continues to feel that he is the victim rather than the children. Having reviewed the testimony and record on appeal, we find the court properly denied visitation until Doug complies with the case plan.

AFFIRMED.