IN THE COURT OF APPEALS OF IOWA

No. 1-632 / 00-1517
Filed November 16, 2001

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CLERK SUPREME COURT

AIMEE LITTLE,
Plaintiff-Appellee,

vs.

DANIEL LITTLE,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Leo Oxberger, Senior Judge.

The defendant appeals from the district court's entry of a protective order following an adjudication of domestic abuse. **AFFIRMED.**

Robb D. Goedicke, Des Moines, for appellant.

No appearance for appellee.

Considered by Vogel, P.J., and Zimmer and Hecht, JJ.

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ZIMMER, J.

Defendant appeals from the district court's entry of a protective order following an adjudication of domestic abuse. He claims the parties' child should have been placed in his care. He also claims plaintiff failed to prove by a preponderance of the evidence that a permanent protective order should be issued. We affirm.

Aimee and Daniel Little are married. They have one child, Ethan, who was born in February 1998. Aimee also had a child from a previous relationship, Zachery, who lived with the parties.

On June 13, 2000, Aimee filed a petition for relief from domestic abuse, alleging Daniel had pushed her in front of the children, and slammed her head against a wall. She claimed he threatened to take the boys away from her. The district court issued a temporary protective order under Iowa Code section 236.4(2) (1999). The court ordered Daniel to have no contact with Aimee. The court granted Aimee temporary custody of Ethan and Zachery.

A hearing was held on August 3, 2000. Aimee testified that on June 10, 2000, she and Daniel had an argument, and during the argument she hit her head on a wall as Daniel was pulling her from the house. She stated Daniel left her outside in the rain, unconscious, for a period of time, before bringing her inside. Aimee presented a photograph showing facial bruises.

In many ways, Daniel's testimony supports that of Aimee. He testified he was trying to physically remove Aimee from the house, when she flung herself sideways and she hit her head on the wall. He stated she lay outside for a period

of time before he brought her inside. Daniel claimed, however, the argument and Aimee's injuries were the result of her own actions.

The district court entered a protective order on August 4, 2000, which found Daniel had committed a domestic abuse assault against Aimee, and that he represented a credible threat to her physical safety. The court determined the no-contact order should remain in effect until August 4, 2001. The court continued the children in Aimee's temporary custody. Daniel was granted specific visitation time with Ethan and was ordered to pay child support. He appeals.

This case was tried in the district court as a law action. We note the court ruled on objections as they were made. Therefore, our review is at law. *See Bacon v. Bacon,* 567 N.W.2d 414, 417 (Iowa 1997).

Daniel claims it was not in Ethan's best interests to be placed with Aimee. He asserts he should have been granted custody of the child. He also claims Aimee failed to prove a protective order should be issued under the facts in this case. He contends Aimee's testimony was based on her desire to get him out of the house.

Under section 236.4 allegations of domestic abuse must be established by a preponderance of the evidence. In this law action, we are bound by the district court's findings of fact. *Id.* at 418.

Daniel does not dispute that the parties had an argument and Aimee was injured. The photograph clearly shows Aimee had facial bruising. The question then is which party is more credible in describing how Aimee came to be injured. The district court found Aimee to be more credible. We concur in the district

court's assessment. As noted above, Daniel's testimony about the incident supported Aimee's testimony in many ways. Daniel admitted he was attempting to physically remove Aimee from the home when she hit her head on a wall. We find there is more than sufficient evidence to support the district court's ruling.

We affirm the decision of the district court.

AFFIRMED.