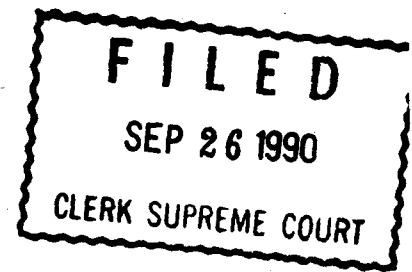


IN THE COURT OF APPEALS OF IOWA

No. 0-523 / 90-391



IN THE INTEREST OF R.S., A Child,
T.R., Mother,
Appellant.

Appeal from the Iowa District Court for Van Buren
County, Gary R. Noneman, District Associate Judge.

Mother appeals CINA adjudication and subsequent
dispositional order. **AFFIRMED.**

Stephan H. Small of Rikard & Small, Fairfield, for
appellant.

Thomas J. Miller, Attorney General; Gordon E. Allen,
Deputy Attorney General; and Judy Sheirbon, Assistant
Attorney General, for appellee.

Considered by Schlegel, P.J., and Sackett and Habhab,
JJ.

HABHAB, J.

The mother, T.R., appeals from a CINA adjudication and a dispositional order placing her daughter, R.S., with the natural father.

The child in question is a girl born in December 1983. She lived with both her parents until their 1986 divorce. Since 1986 she has lived with her mother, subject to visitation with her father.

In October 1989 the child was placed in foster care on an emergency basis after she reported sexual abuse by her mother's live-in boyfriend D.R. In February 1990 she was adjudicated to be a child in need of assistance due to the sexual abuse and the mother's failure to protect her from the sexual abuse. In a March 1990 dispositional order, the child was placed in the home of her father.

The mother challenges the sufficiency of the evidence to establish that her boyfriend sexually abused the child. The mother also challenges the sufficiency of the evidence to establish that she had given the child inadequate supervision by failing to prevent sexual abuse.

The sexual abuse in question was reported by R.S. to her father J.S. while she was riding in a truck with him and her stepbrother C.B. The father and the stepbrother both testified that they were playing an alphabet game and when they reached the letter "p," R.S. stated that "p" was for Pizza Hut and for "pee" and pointed to her genital area and stated that "Danny's sticks way out". Upon further

questioning by her father, R.S. stated that "she had seen it sticking way out and he even let me rub it". She then proceeded to demonstrate the rubbing motion used.

Appellate review of dispositional orders entered after a child has been adjudicated a child in need of assistance is de novo. In Interest of S.R.A., 440 N.W.2d 619,620 (Iowa 1989). Weight is to be given to the juvenile court's fact findings, especially when considering the credibility of witnesses, but the reviewing court is not bound by these findings. Iowa R. App. P. 14(f)(7).

The provisions of Iowa Code Chapter 232 are to be liberally construed to protect the welfare of the child. In Interest of B.B., 440 N.W.2d 594, 596 (Iowa 1989). While there is a parental interest in the integrity of the family unit, this interest is not absolute and may be forfeited by certain parental conduct. In Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981). The paramount consideration in child in need of assistance proceedings is the best interest of the child. In the Interest of D.T., 435 N.W.2d 323, 329 (Iowa 1989).

The issue is whether the State proved by clear and convincing evidence that R.S. was a child in need of assistance as defined by Iowa Code § 232.2(6)(d) and 232.2(6)(c)(2) (1989). Both the mother and her current husband accused of the action deny the incident in question ever occurred. However, after an exhausting review of the evidence, it is the opinion of this court that the trial

judge properly determined that R.S. was a child in need of assistance.

Section 232.2(6)(d) provides that a child is a child in need of assistance if: "The child has been sexually abused by the child's parent, guardian, custodian, or other member of the household in which the child resides." In this respect, the trial judge made a specific finding that the information provided by J.S. and R.S.'s stepbrother, C.B., regarding the incident of sexual abuse, was an accurate indication of what R.S. told them on September 30, 1989. He based this decision on a number of factors. First, he recognized that despite the fact that R.S. had been interviewed by a variety of individuals and at one point was interviewed in a highly questionable manner, R.S. was not subject to suggestion and stuck to her original statements. Although she was prompted by interviewers with alternative accounts of the incident she refused to adopt these alternative stories and stood by her initial statement. Secondly, R.S.'s statement with regard to the incident was consistent on the three separate occasions in which she recounted the story to other individuals. Also, the manner in which R.S. described her contact with D.R. was indicative of her truthfulness. During an interview with a social worker, R.S. correctly identified the male organ on anatomically-correct dolls and gave a rather graphic description of the male sexual organ. She also provided a demonstration of sexual intercourse between two adult dolls.

After reviewing the varied interviews involving R.S. and reviewing the record we find the conclusion reached by the trial judge to be correct.

We also take into consideration the fact that the trial court was in a position to view all of the witnesses and their demeanor. Based upon this opportunity, the trial judge determined that the testimony of R.S., her father, and her stepbrother had greater credibility than that of D.R. And as this court has pointed out, "as usual in cases such as these, the issue of credibility tips the scale." In the Interest of E.W., 434 N.W.2d 898, 901 (Iowa App. 1988).

The second issue raised by appellants is there was inadequate evidence to prove that her mother did not exercise a reasonable degree of care in supervising R.S. In reviewing the evidence, R.S.'s actions indicate a child that has been repeatedly exposed to sexual matters beyond her age and maturity. Further, it has been found that R.S. was sexually abused by a live-in boyfriend whom her mother ultimately married. We affirm the decision of the trial court.

AFFIRMED.