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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF B.W.G., A Child,	)	Filed September 30, 1987
C.S.G., Natural Mother,	)	102
Appellant.	)	7-235 86-1372

Appeal from the Iowa District Court for Clay County (1043), Cameron B. Arnold, Associate Judge.

The natural mother of a child appeals the district court's affirmance on review and rehearing of a change in custody of the child to the father ordered by a county juvenile referee. **AFFIRMED.**

Griff Wodtke of Barrett & Trott, Des Moines, for the natural mother-appellant.

Thomas J. Miller, Attorney General of Iowa, and Valencia Voyd McCown, Assistant Attorney General, for the State.

Bradley Howe of Sackett, Sackett, Hemphill & Howe, Spencer, as guardian ad litem for the child.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

SCHLEGEL, J.

The natural mother of a child appeals the district court's affirmance on review and rehearing of a change in custody of the child to the father ordered by a county juvenile referee. We affirm.

The appellant raises three issues on appeal: (1) whether the court had statutory authorization to return the child to the custody of his natural father; (2) whether there were sufficient grounds for modification of custody of the child; and (3) whether the court's order regarding custody of the child was contrary to the statutory requirement that every effort be made to return the child to his home a quickly as possible.

I. Procedural Background. The child, B.G., was adjudicated a child in need of assistance on October 2, 1984. Following a hearing, his mother, C.S.G., retained custody of B.G., with services. B.G. was removed from C.S.G.'s custody on August 29, 1985, on grounds that she had left the jurisdiction contrary to an order of the court and was being detained in Missouri on a criminal charge. On October 17, 1985, B.G. was placed in the custody of the Department of Human Services for foster care placement. An order was filed by a juvenile court referee on July 29, 1986 (following a July 18 hearing), returning custody of B.G. to W.G., the child's natural father. On August 25, 1986, the district court affirmed the order and this appeal followed. Our scope of review is de novo. In re Blackledge, 304 N.W.2d 209, 210 (Iowa 1981).

II. Authorization to Transfer Custody. Appellant argues that the proceeding granting W.G. custody of B.G. was only a review hearing pursuant to section 232.102(6) (1985) and therefore, the transfer of custody to the father was unauthorized. The State counters by arguing that the proceeding transferring custody of the child was a hearing to modify the original dispositional order rather than a review hearing. We find the State's position sound. The record

indicates that at the review hearing held on June 24, 1986, the juvenile court stated that a "custody hearing" would be held in the very near future to determine whether B.G. should be returned to the custody of his father, his mother, some other suitable placement, or remain in foster care. We find that the hearing on July 18, 1986, was a modification hearing pursuant to section 232.103 of the Iowa Code (1985), held for the purpose of transferring custody of B.G. to his father. Section 232.103(3) requires that notice and hearing be given with respect to the modification of a dispositional order. Notice of the hearing transferring custody was filed with the district court on July 10, 1986. Therefore, we find the proceeding transferring custody of B.G. to W.G. was statutorily authorized.

III. The Merits of the Custody Modification. A modification of custody or placement of a juvenile requires a material and substantial change in circumstances. In re J.F., 386 N.W.2d 149, 152 (Iowa App. 1986). After carefully reviewing the record, we find this standard to have been met. W.G. has provided evidence showing that he is capable of providing B.G. with a stable and good home environment. Such facts were not available at the dispositional hearing and thus, their subsequent discovery justifies modification of the original order.

IV. Effort to Return Child to His Home. Appellant argues that the court's order regarding custody was contrary to the provision in section 232.102(5) of the Iowa Code (1985) that when a child is transferred to the department of human services for placement, every effort shall be made to return the child to the child's home as quickly as possible. We disagree. Of paramount importance is what is in the child's best interest. In re Leehey, 317 N.W.2d 513, 516 (Iowa App. 1982). We believe the record shows that appellant is not ready to provide B.G. with a stable home environment. We base our conclusion on the reports of social workers familiar with appellant. In light of W.G.'s ability to care for

B.G. in a safe and stable environment, we conclude that it is in B.G.'s best interest to be placed with his father.

AFFIRMED.