IN THE COURT OF APPEALS OF IOWA

No. 8-597 / 98-0582

FILED
JAN 27 1999
CLERK SUPREME COURT

IN THE INTEREST OF R.A., Minor Child,

D.P., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Jeffrey Harris, District Associate Judge.

Appellant mother appeals a juvenile court dispositional and permanency order in a CINA proceeding placing custody of her minor son, R.A., with his father. **AFFIRMED.**

Kellyann M. Lekar of Robert & Stevens, P.L.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney General, and Steven J. Halbach, Assistant County Attorney, for appellee State.

R. Allen Corzine of Pieters, Pieters & Corzine, Waterloo, for appellee father.

Theodore R. Stone, Cedar Falls, guardian ad litem for minor child.

Considered by Sackett, C.J., and Huitink, Streit, and Vogel, JJ. Mahan and Zimmer, JJ., take no part.

PER CURIAM.

Donna appeals from the juvenile court's dispositional and permanency order in a child in need of assistance proceeding. Donna contends the juvenile court erred in awarding custody of the child to his father. We affirm.

Donna is a thirty-two-year-old mother of four children. She completed tenth grade and has changed employment frequently; at trial, Donna testified she had seven jobs during a nine-month period. She has had difficulty meeting her financial obligations. She has never married and only two of her children were fathered by the same man. Donna has a history of criminal behavior and substance abuse problems; her two youngest sons were born with crack cocaine in their systems.

Roland Sr. is thirty-nine years old and had been living with his grandfather, Leonard. He earned a high school diploma and has been employed at IBP for at least seven years. Roland Sr. has a criminal record; it appears his last conviction was for an OWI in late 1996. He submitted to a substance abuse screening in early 1998 and was assessed as in the middle stages of chemical dependency. Despite denial of a substance abuse problem, Roland Sr. has agreed to undergo treatment. Donna's reports of Roland Sr.'s alleged drunkenness and other deficiencies have not been substantiated.

Roland Jr. was born January 28, 1990. He and his siblings were adjudicated children in need of assistance in November 1994, shortly after the birth of the youngest son. There have been repeated out-of-home placements for the children since then due to Donna's drug use and during periods of in-patient substance abuse

treatment and incarceration. Roland Jr. has been removed from Donna's home five times and has been placed with his father, under the protective supervision of DHS, since July 1996.

Donna, Roland Sr., Leonard, and the family therapist testified at the hearing. After consideration of the testimony and attached reports, the juvenile court entered a dispositional and permanency order in March 1998. Roland Jr. was placed with his father, under the protective supervision of DHS, pursuant to Iowa Code section 232.104. Donna appeals.

I. STANDARD OF REVIEW. Child in need of assistance proceedings are reviewed de novo. *In re J.D.F.*, 553 N.W.2d 585, 587 (Iowa 1996); *In re L.S.K.*, 451 N.W.2d 819, 821 (Iowa 1990). We give weight to the findings of the juvenile court, especially as to the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7). The first and governing consideration of the court is the best interest of the child. Iowa R. App. P. 14(f)(15).

II. PLACEMENT ORDER. The juvenile court found clear and convincing evidence existed to support placing Roland Jr. with his father subject to the protective supervision of the DHS. We agree.

We recognize Donna seems to have made great progress in the past year. Three of the children have been placed back in Donna's home since August 1997, under the protective supervision of DHS. This placement has been recommended to continue. However, Donna has had difficulty controlling Roland Jr. in the past and she cannot give him the kind of attention he receives from Roland Sr. and Leonard,

as the only child in the home. Furthermore, Donna and the other children have remained in meaningful contact with Roland Jr. while he has been in his father's custody.

Roland Sr. has reportedly been developing the necessary skills to effectively parent Roland Jr. He has involved himself with Roland Jr.'s education. The child has a good attendance record and Roland Sr. reviews daily notes at home with him each evening. Roland Sr. appears to be in frequent contact with the school about Roland Jr., whereas Donna scheduled a meeting with the child's teacher but then did not show up or call.

Roland Jr. has been in a special education program at school and his teacher, Mary Beth Kirk, had worked with him for over a year at the time she provided a written update to DHS in November 1997. Kirk stated Roland Jr. "seems to be flourishing in his father's care." She reported Roland Jr. had made progress in managing his behavior and is growing emotionally and academically. Kirk attributed the progress to Roland Jr.'s placement with his father, and his father's ability to provide for the child's physical and emotional needs.

We find the record in this case supports the decision of the juvenile court and that decision is affirmed in its entirety.

AFFIRMED.