

SUPREME COURT OF IOWA

In the Interest of T.R.

705 N.W.2d 6 (Iowa 2005) · Decided October 14, 2005

SUMMARY

The Iowa Supreme Court considered whether a child-in-need-of-assistance permanency order changing physical custody and directing the county attorney to initiate termination-of-parental-rights proceedings was a final appealable order. The court held that both provisions were interlocutory because custody remained dependent on the subsequent termination proceedings and final placement determination. The court denied permission for an interlocutory appeal and dismissed the appeal.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Lavorato, Chief Justice
JURISDICTION	Iowa
DECIDED	October 14, 2005
DISPOSITION	dismissed
PROCEDURAL POSTURE	The mother appealed from a juvenile court permanency order that transferred physical custody of the child to the paternal grandparents and directed the county attorney to initiate termination-of-parental-rights proceedings. The State moved to dismiss on the ground that the order was interlocutory and that the requirements for an interlocutory appeal were not satisfied.
STANDARD OF REVIEW	The court reviewed whether the permanency order was final and appealable as a matter of right and whether the requirements for granting an interlocutory appeal under Iowa Rule of Appellate Procedure 6.2 were satisfied.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential.
PARTIES	Laura, mother v. State of Iowa

TOPICS

- appellate procedure
- final judgment rule
- interlocutory appeal
- family law procedure
- termination of parental rights

PRACTICE AREAS

appellate procedure

family law

juvenile law

termination of parental rights

QUESTIONS PRESENTED

1. Whether the juvenile court permanency order directing the county attorney to file a termination-of-parental-rights petition was a final appealable order.
2. Whether the permanency order's change-of-custody provision was final and independently appealable.
3. Whether the appeal should be treated as an application for interlocutory appeal and granted under Iowa Rule of Appellate Procedure 6.2.

HOLDINGS

1. An order directing the county attorney to initiate termination-of-parental-rights proceedings is interlocutory, not a final appealable judgment.
2. The change-of-custody provision was not final because it was temporary, dependent upon, and intertwined with the termination proceeding and would be subsumed in the final termination order.
3. The court denied permission for an interlocutory appeal because the custody order would not materially affect the final decision and review before the termination proceeding would not better serve the interests of justice.

KEY QUOTATIONS

“A final order or judgment is “one that finally adjudicates the rights of the parties, and it must put it beyond the power of the .court which made it to place the parties in their original positions. It is a determination which may be enforced by execution or in some similar manner.”” (at 10)

“Clearly, then, the portion of the permanency order at issue here directing the county attorney to institute termination proceedings is not a final appealable order.” (at 11)

“In sum, we conclude that the order here was interlocutory and that we should deny permission to appeal from it. We therefore grant the State’s motion to dismiss the appeal.” (at 13)

FACTUAL BACKGROUND

T.R.'s father died in October 2000 after previously assuming substantial responsibility for T.R.'s care because of the mother's mental-health and substance-abuse problems. After the father's death, T.R. lived with his maternal grandparents. In 2002, the State petitioned to adjudicate T.R. a child in need of assistance, and the juvenile court later placed temporary custody jointly with the maternal and paternal grandparents. At a 2005 review and permanency hearing, the court transferred physical custody to the paternal grandparents and directed the county attorney to initiate termination-of-parental-rights proceedings.

PROCEDURAL HISTORY

The juvenile court adjudicated T.R. a child in need of assistance and entered a permanency order transferring physical custody to the paternal grandparents while directing the county attorney to file a termination petition.

The mother appealed as of right and alternatively requested that the appeal be treated as an application for interlocutory appeal. The Iowa Supreme Court held that the permanency order was interlocutory, declined to permit an interlocutory appeal, and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- In re W.D., 562 N.W.2d 183 (Iowa 1997)
- IBP, Inc. v. Al-Gharib, 604 N.W.2d 621 (Iowa 2000)
- In re C.S., 516 N.W.2d 851 (Iowa 1994)
- In re Long, 313 N.W.2d 473 (Iowa 1981)
- Johnson v. Iowa State Highway Comm'n, 257 Iowa 810, 134 N.W.2d 916 (1965)
- Bennett v. Ida County, 203 N.W.2d 228 (Iowa 1972)
- Stockburger v. Robinson, 270 N.W.2d 453 (Iowa 1978)
- In re A.C., 443 N.W.2d 732 (Iowa Ct. App. 1989)
- In re Marriage of Denly, 590 N.W.2d 48 (Iowa 1999)
- In re C.M., 652 N.W.2d 204 (Iowa 2002)