

IN THE COURT OF APPEALS OF IOWA

No. 1-113 / 10-1628
Filed February 23, 2011

**IN THE INTEREST OF S.K.,
Minor Child,**

STATE OF IOWA,
Appellant,

S.K., Minor Child,
Appellant.

Appeal from the Iowa District Court for Polk County, Joe E. Smith, District Associate Judge.

The State and the guardian ad litem appeal from the juvenile court's permanency review order. **APPEAL DISMISSED.**

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, John P. Sarcone, County Attorney, and Christina M. Gonzalez, Assistant County Attorney, for appellant.

M. Kathryn Miller of Juvenile Public Defender, Des Moines, attorney and guardian ad litem for appellant minor child.

Jared Harmon of Carr & Wright Law Firm, Des Moines, for appellee father.

Considered by Sackett, C.J., and Potterfield and Mansfield, JJ.

POTTERFIELD, J.

The State and guardian ad litem (GAL) appeal from a September 20, 2010 permanency review order involving the father's efforts to be awarded custody of his one-year-old child. The case was transferred to the court of appeals on February 7, 2011, after the next scheduled review hearing, and may now be moot. We dismiss the appeal since it was not taken from a final order.

Shayne has been under juvenile court jurisdiction since his removal from his mother on September 8, 2009. On September 15, 2009, the juvenile court directed paternity testing to be conducted on Steven and one other individual identified as a possible biological father of Shayne. Shayne's mother named Steven as the biological father, but she did not know where he lived. The Iowa Department of Human Services (DHS) was told Steven lived in North Carolina but did not contact him. The State published notice to Steven that Shayne was alleged to be a child in need of assistance (CINA). On October 13, 2009, Shayne was adjudicated CINA. The case proceeded to a petition for termination of parental rights of Shayne's mother and Steven.

On July 26, 2010, Steven filed a motion to continue the trial on the termination of his parental rights. He asserted he had been served notice of the hearing on June 23, 2010, and had completed a paternity test on July 19, 2010.

On August 2, 2010, the juvenile court conducted a hearing on permanency and on the petition for termination of parental rights and filed a "permanency order" that established unification with Steven as the primary permanency goal for Shayne if the paternity test confirmed that Steven was Shayne's father. The

court went on to find DHS's efforts to locate Steven were insufficient.¹ The court stated, "Should paternity be confirmed with [Steven] and a satisfactory report received on the home study and GAL visit, the State or GAL may approach the undersigned for an order transferring custody to [Steven]" The court continued legal custody of Shayne with DHS and set a review hearing for September 20, 2010. The State did not appeal from the August 2 permanency order.²

On August 5, 2010, the juvenile court dismissed the State's petition to terminate Steven's parental rights, stating his relationship with the court and DHS would be governed by the August 2 permanency order. Shayne's mother's parental rights were terminated and are not at issue on appeal.

At the review hearing, the juvenile court reviewed the requirements set out for Steven in the August order. Neither the State nor the GAL moved for a change in the permanency order. The court entered a review order that continued the requirements of the August 2 order and set the matter for another review on January 18, 2011.

The State and GAL appeal from the September 20 review order, asserting the juvenile court erred in refusing to establish a new permanency goal for Shayne in that order.

¹ The juvenile court faced a dilemma created when CINA proceedings are initiated against one parent with a later inclusion of a second parent. Time limits have passed and the second parent faces a "permanency hearing" before he or she has an opportunity to demonstrate parenting abilities.

² The guardian ad litem appealed from the August 2 permanency order but voluntarily dismissed the appeal.

Final orders are appealable as a matter of right. Iowa R. App. P. 6.101(1). In contrast, if the ruling or decision is interlocutory, we lack jurisdiction unless permission to appeal is granted. *In re T.R.*, 705 N.W.2d 6, 10 (2005). A final order is one that conclusively adjudicates the rights of the parties. *Rowen v. LeMars Mut. Inc.*, 357 N.W.2d 579, 581 (Iowa 1984). “A ruling is not final when the trial court intends to do something further to signify its final adjudication of the case. Furthermore, a juvenile court order is not final unless it disposes of all the issues.” *T.R.*, 705 N.W.2d at 10 (quoting *In re C.S.*, 516 N.W.2d 851, 857 (Iowa 1994)). “[A]n interlocutory order is one that ‘directs an inquiry into a matter of fact preparatory to a final decision.’” *Id.* (quoting *In re Long*, 313 N.W.2d 473, 476 (Iowa 1981)).

We conclude the permanency review order at issue is not a final order. The order does not dispose of the issues in this case; it essentially maintains the status quo and sets the matter for further review at a later date, giving the court time to inquire into the fitness of Steven’s home. This lack of finality renders the permanency review order an interlocutory order, which may be appealed only after a final judgment or after the grant of an application for interlocutory review of the order.

We also decline to grant interlocutory review from the permanency order.³ Refusing to allow this appeal as interlocutory promotes judicial economy and efficiency, gives our court the benefit of the juvenile court’s careful consideration

³ Pursuant to Iowa Rule of Appellate Procedure 6.108, we treat the appeal from an interlocutory order as an application for interlocutory appeal.

of the issues, and saves the children from being subjected to the uncertainties of piecemeal litigation. *See id.* at 12.

APPEAL DISMISSED.