IN THE COURT OF APPEALS OF IOWA

No. 8-448 / 07-1454
Filed June 25, 2008

IN THE MATTER OF THE GUARDIANSHIP OF TAYLOR JADEN FARRIS

DANIEL FARRIS and CHERYL FARRIS,
Petitioners-Appellants.

Appeal from the Iowa District Court for Wright County, Allan L. Goode, Judge.

Daniel and Cheryl Farris appeal from the district court ruling denying their petition for appointment of an involuntary guardian. **AFFIRMED.**

J. Matthew Anderson of Heiny, McManigal, Duffy, Stambaugh & Anderson, P.L.C., Mason City, for appellants.

Samantha Bridges, Dows, pro se.

Considered by Miller, P.J., and Vaitheswaran and Eisenhauer, JJ.

EISENHAUER, J.

Daniel and Cheryl Farris appeal from the district court ruling denying their petition for appointment of an involuntary guardian. They contend the court erred in not appointing them as guardians of their granddaughter, Taylor Farris.

Samantha Bridges and Cody Farris are the never-married parents of Taylor, born in November 2002. In an action to establish paternity, the parents stipulated to Samantha receiving physical care of Taylor with liberal visitation of at least 128 overnight visits being granted to Cody. A September 9, 2004 decree embodies this stipulation.

On August 11, 2006, Cody's parents, Daniel and Cheryl Farris, filed a petition for the appointment of an involuntary guardian, seeking custody of Taylor. Cody consented to the appointment of his parents as co-guardians. Samantha resisted. On February 8, 2007, Samantha's parents, Dan and Diane Bridges, intervened to request they be appointed as guardians in the event the court decided guardianship was necessary.

Trial on the matter was held on June 14, 2007. The district court's July 23, 2007 order denied the petition. It found that although Daniel and Cheryl unquestionably love their granddaughter and could provide her with a good home, they were unable to rebut the presumption in favor of the natural parent.

Actions for the involuntary appointment of guardians and conservators shall be triable in probate as law actions. Iowa Code § 633.33 (2005). In this law case, our review is for correction of errors at law, and findings of fact have the effect of a special verdict. Iowa R. App. P. 6.4. Findings of fact in a law action, which means generally any action triable by ordinary proceedings, are binding

upon the appellate court if supported by substantial evidence. Iowa R. App. P. 6.14(6)(*a*).

There is a rebuttable presumption in favor of the natural parent when someone seeks to obtain guardianship of a child. *Northland v. Starr*, 581 N.W.2d 210, 212 (Iowa Ct. App. 1998). The burden of proof rests with the non-parent to rebut the presumption favoring the parent by establishing the parent is not a suitable parent and the child's best interests require that he remain in the non-parent's care. *Id.* at 213. The determination of a child's best interests must take into account the strong societal interest in preserving the natural parent-child relationship. *Id*. The parents of minor children if qualified and suitable are preferred over all others for appointment as their guardians. *Id.* It is not enough that the non-parental party is an excellent parent to the child. *Id.*

The trial court made extensive fact findings which are supported by substantial evidence. We summarize some of them here. The court found clear evidence that Daniel and Cheryl would be excellent guardians for Taylor. However, it concluded they did not overcome the presumption in favor of Samantha as the girl's natural parent. Samantha has been involved in several incidents that raise concerns, including two OWI convictions in 2006 and smoking around the child.

The court found the most troubling and relevant incident was a founded child abuse report involving Samantha's son when he was five weeks old. Samantha removed him from the hospital against medical advice to have him treated at another hospital. The child's father was pulled over for travelling 90 miles per hour en route to the hospital with the child in the vehicle. In regard to

this incident, the district court found that "it occurred over a year and a half ago, it was an isolated incident, and there have been no recurring problems of that nature."

We find no error in the district court's conclusion. Daniel and Cheryl have not overcome the presumption in favor of Samantha as a natural parent, and the district court did not err in denying their petition for involuntary guardianship. Accordingly, we affirm.

AFFIRMED.