

IN THE COURT OF APPEALS 09/03/96
OF THE
STATE OF MISSISSIPPI
NO. 95-CA-00085 COA

IN THE INTEREST OF A.A. AND J.S., MINORS: APPELLANTS

D.G.A. AND C.A.

v.

C.S. AND J.G.S. APPELLEES

PER CURIAM AFFIRMANCE MEMORANDUM OPINION

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. JOHN C. ROSS, JR.

COURT FROM WHICH APPEALED: YOUTH COURT OF ALCORN COUNTY

ATTORNEY FOR APPELLANTS:

JACQUELINE C. ESTES

ATTORNEY FOR APPELLEES:

GERALD R. MCLEMORE

NATURE OF THE CASE: DOMESTIC RELATIONS - CUSTODY

TRIAL COURT DISPOSITION: CHILD RETURNED TO CUSTODY OF MOTHER

BEFORE BRIDGES, P.J., BARBER, AND McMILLIN, JJ.

PER CURIAM:

THE FACTS

Custody of A.A. and J.S. was transferred to the Department of Human Services due to alleged sexual abuse and injury of A.A. by his stepfather, C.S. (the "stepfather"). A.A. was removed from his home on May 31, 1994, due to the above allegations, and J.S. was later removed for the same reason. There were no independent allegations of abuse to J.S., who is the natural child of J.G.S. (the "mother") and stepfather. The mother is the natural mother of A.A. D.G.A. and C.A., the grandparents of the children (the "grandparents"), the grandparents of the children, were given physical custody of the children and are seeking permanent custody.

The matter was addressed by the Youth Court of Alcorn County, and testimony was heard at numerous times between August and December of 1994 with the custody of J.S. being returned to her parents on December 21, 1994. Numerous experts testified concerning the alleged abuse of A.A. The chancellor was particularly impressed with the testimony of Dr. Gary Mooers. Dr. Mooers testified that he felt that the relationship between A.A. and his stepfather was "good", and that A.A. was visibly pleased to see and be around his mother and stepfather. Dr. Mooers also observed that his grandmother encouraged A.A. to discuss the alleged abuse.

An order was entered on January 12, 1995, returning A.A. to the custody of his mother, from which this appeal arises. Subsequent to the timely perfection of appeal by the grandparents, a divorce was granted to the mother and stepfather on December 11, 1995. Pursuant to the divorce decree, the stepfather has no legal rights to visitation with A.A., who resides permanently with his mother. The grandparents allege in their appeal that the chancellor erred by accepting the testimony and recommendation of Dr. Gary Mooers that A.A. be returned to his mother and stepfather's home.

ARGUMENT AND LAW

Our standard for review in this case dictates that "[i]f the evidence so considered is opposed to the finding of the Youth Court with such force that 'reasonable men' could not have found as the Youth Court did by a preponderance of the evidence, this Court must reverse." *In re A.R.*, 579 So. 2d 1269, 1270 (Miss. 1991). Our review reveals conflicting testimony of the alleged sexual abuse of A.A. We will, therefore, give great deference to the judgment of the chancellor, who heard all of the testimony first hand. In doing so, we find that the testimony along with the facts of this case do not give us reason to remove A.A. from the custody of his natural mother. In light of the foregoing, we affirm the order of the youth court.

**THE ORDER OF THE YOUTH COURT OF ALCORN COUNTY IS HEREBY AFFIRMED.
ALL COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANTS.**

**FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, DIAZ, KING,
McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.**