

IN THE COURT OF APPEALS OF IOWA

No. 0-106 / 10-0029
Filed April 8, 2010

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

**S.B., Minor Child,
Appellant.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

A child appeals from a juvenile court order continuing her placement in family foster care while maintaining a permanency goal of family reunification for an additional six months. **AFFIRMED.**

Ellen R. Ramsey-Kacena, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Harold Denton, County Attorney, and Rebecca Belcher, Assistant County Attorney, for appellee.

Joseph Bertroche Jr. of Bertroche Law Offices, Cedar Rapids, for mother.

Considered by Vogel, P.J., Eisenhauer, J., and Miller, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

MILLER, S.J.

S.B., a fifteen-year-old girl, appeals from a late December 2009 juvenile court child-in-need-of-assistance (CINA) order. The order continues S.B.'s custody with the Iowa Department of Human Services (DHS) for continued family foster care placement while maintaining a permanency goal of family reunification for an additional six months. We affirm.

S.B.'s biological father's whereabouts is unknown. S.B.'s mother is A.J., who considers herself married to J.J. A.J. and J.J. have three younger children, daughters Ri.J. and Ha.J. and son Ar.J., who were respectively six, five, and three years of age at the time of the challenged order.

A.J. and J.J. have reported that S.B. began inappropriate behaviors in about late 2006. In the spring of 2007 Ri.J. was diagnosed with leukemia. Her treatment and care required a great deal of time and attention on the part of her parents. During that time and over the ensuing months' time conflict developed between S.B. and A.J. A.J. felt that for religious reasons S.B. should be with family on Friday evenings and Saturdays. S.B., then thirteen years of age, felt that she should be free to participate in school-related and other activities with her peers at those times. Stress and tension in the home escalated, S.B.'s behaviors worsened, and communication between S.B. and A.J. was strained and difficult.

The DHS received a child abuse intake in mid April 2008 alleging physical abuse of S.B. by A.J. and J.J. The report was "not confirmed." S.B. was

hospitalized for four days due to threats of self harm, spent an additional ten days in shelter care, and returned home in late April.

In late May 2008 S.B. became angry over assigned chores, became verbally and physically aggressive and defiant, and left the family home. She was taken to a youth shelter. Another allegation of physical abuse of S.B. by A.J. was again “not confirmed.” A.J. agreed to S.B.’s placement in foster care and S.B. entered foster care.

S.B. was adjudicated a CINA as to her mother in August 2008 and as to her biological father in February 2009. A late August 2008 dispositional order placed custody of S.B. with the DHS for placement in family foster care, a status that has thereafter continued.

In October and November 2009 the juvenile court conducted a combined dispositional review hearing and permanency hearing. Following hearing the court entered an order continuing S.B. in the custody of the DHS for family foster care, and further ordering that the permanency goal remain family reunification for an additional six months. In doing so the court found it “reasonably likely that [S.B.] could be returned to parental custody within that time.” S.B., through her attorney and guardian ad litem, appeals.

Appellate review of a permanency order is de novo. *In re N.M.*, 528 N.W.2d 94, 96 (Iowa 1995). The best interests of the child control the court’s decision concerning permanency. *Id.* There is a rebuttable presumption that parental custody serves a child’s best interests. *Id.* We give weight to the

juvenile court's findings of fact, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 6.904(3)(g).

S.B. had, through her attorney and guardian ad litem, requested that the juvenile court order another planned permanent living arrangement, as allowed by Iowa Code section 232.104(2)(d)(4) (2009). The court instead entered the order previously described, as allowed by Iowa Code section 232.104(2)(b). S.B. claims:

The court erred in denying the child's request to change the permanency goal to Another Planned Permanent Living Arrangement and by extending the permanency goal for an additional six months without adequate findings that the basis for removal will no longer exist after six additional months, thereby denying the child timely permanency.

As of about August 2009, S.B. was expressing a desire to remain in foster care. The evidence shows that subsequently she has at times been undecided and has vacillated as to whether she wishes to return home. She does get along well with her younger siblings.

A case worker for a service provider, who worked with S.B. to remedy her behaviors and develop coping skills, opined that S.B. could not be returned to her family within the next six months and that reunification was not at present in S.B.'s best interest. It is noteworthy that in forming her opinions she had not discussed S.B.'s situation with S.B.'s and A.J.'s family therapist, with a family advocate who had been working with the family, with the DHS counselor assigned to the case, or with A.J. She testified, however, that in recent months S.B. had greatly increased her social skills, self-esteem, and anger management skills.

Although the family's stress and conflict had existed for a substantial time, family counseling did not begin until July 2009. The family advocate (a different person than the family therapist who worked with the family) saw a substantial improvement in S.B.'s relationship with A.J. during the ensuing three months leading up to the permanency hearing. She observed better communication and at times positive interaction. She believed that A.J. had become more willing to accommodate S.B.'s wishes and to compromise, and that S.B. had begun to recognize that some compromises would be necessary. In the advocate's opinion S.B. and A.J. needed more time to build their relationship but if the progress continued S.B. could be reunited with her family within six months.

The family therapist who worked with S.B. and A.J. had indicated that they were actively participating in therapy, S.B. did well in expressing herself, and S.B. and A.J. had made progress in their relationship and could continue to do so. She believed reconciliation was still in order.

S.B.'s foster mother has a good relationship with S.B. She testified that S.B.'s recent visits with A.J. and her family had mostly gone well. In her opinion, reunification continued to be in S.B.'s long-range best interest. She also recommended continued placement for up to six months while continuing to work toward reunification.

In the opinion of S.B.'s stepfather, J.J., the recent counseling undertaken by S.B. and A.J. had been a very positive experience, S.B. and A.J. had improved their abilities to communicate with each other, S.B. had become more

understanding of parental expectations, and S.B.'s recent home visits had been positive.

A.J. testified that S.B.'s and A.J.'s counseling had been beneficial. She opined that family reunification should remain the permanency goal.

The DHS case worker noted that S.B. and A.J. were actively participating in family therapy, and believed that S.B. was doing well in expressing herself. In the case worker's opinion reunification was possible within four to six months. She opposed another planned permanent living arrangement, believing it was not in S.B.'s best interests. She recommended that S.B. remain in family foster care for the present and that the parties continue to work on reunification, for up to an additional six months if necessary.

Based on the record as summarized above, we agree with the juvenile court that another planned permanent living arrangement, the long-term foster care at some times favored by S.B., was not in her best interests at the time of the October-November 2009 permanency hearing.

We do recognize S.B.'s complaint that the juvenile court did not expressly comply with section 232.104(2)(b)'s requirement that an order continuing placement for an additional six months

enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

However, our review is de novo. Upon our review we find that as shown by the great majority of the evidence presented at the permanency hearing the recent changes summarized above, including S.B.'s and A.J.'s behavioral changes,

their improved communication, their improved relationship, and a resulting decrease in intra-family conflict suggest a strong likelihood that the need for S.B.'s removal will no longer exist at the end of the additional placement of up to six months ordered by the juvenile court.

We agree with and affirm the order of the juvenile court.

AFFIRMED.