

IN THE COURT OF APPEALS OF IOWA

No. 0-342 / 10-0510
Filed May 26, 2010

**IN THE INTEREST OF D.S., A.S., P.F., and R.F.,
Minor Children,**

A.L.S., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Colin J. Witt, District Associate Judge.

Alicia appeals the district court's permanency order. **AFFIRMED.**

Erin M. Carr of Carr & Wright, P.L.C., Des Moines, for appellant mother.

Chira Corwin, Des Moines, for appellee father of A.S.

Mark Reed, Des Moines, for appellee father of P.F. and R.F.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, John P. Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellee State.

John Jellineck of Public Defender's Office, Des Moines, for minor children.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ.

VOGEL, P.J.

Alicia appeals the district court's permanency order entered March 15, 2010.¹ Alicia has four children whose interests were addressed during the hearing: D.S. (born March 1995), P.F. (born February 1999), R.F. (born March 2000), and A.S. (born January 2007).² She asserts clear and convincing evidence was not presented to show that P.F. and R.F. could not be returned to her care; she should have been given additional time to work towards reunification with R.F. and P.F.; and the permanency order was not in R.F. and P.F.'s best interests. She further asserts that reasonable services were not offered to her to achieve reunification with her four children.

We review permanency orders de novo. *In re N.M.*, 528 N.W.2d 94, 96 (Iowa 1995).

The children were removed from Alicia's custody in March 2009 following an investigation arising out of alleged physical abuse of the children. The Iowa Department of Human Services (DHS) reported that Alicia was easily frustrated with the children, which resulted in founded physical abuse, with Alicia as the perpetrator. Alicia had a "controlling and directive parenting style," where the safety of the children was not her primary concern. Subsequently, the children were adjudicated children in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(c)(2) (2009).³ In the months immediately preceding the permanency hearing, Alicia began to address her aggression issues and

¹ Brad, the father of R.F. and P.F., joins the State's argument on appeal.

² The fathers of D.S. and A.S. do not appeal this order.

³ The CINA adjudication was stipulated to as to D.S. and A.S., but Brad contested the adjudication as to R.F. and P.F.

appeared to be making progress. At the time of the hearing, D.S. was living in family foster care, R.F. and P.F. with their father, Brad, and A.S. with his father. The court made a finding pursuant to Iowa Code section 232.104(3)(a) that “termination of the Mother-Child relationship is not in the best interest” of P.F. and R.F., granted sole custody of P.F. and R.F. to Brad, pursuant to Iowa Code section 232.104(2)(d)(2),⁴ and gave the district court concurrent jurisdiction allowing Brad to seek appropriate child support and visitation orders. Placement of D.S. pursuant to Iowa Code section 232.201(2)(b) remained with DHS, and placement of A.S. remained with his father; however, the court granted Alicia a six-month continuance with respect to D.S. and A.S., at which time it would consider modification of the permanency order.

Alicia first asserts an absence of clear and convincing evidence to show that P.F. and R.F. could not be returned to her care. She argues she was not allowed sufficient visitation opportunities to demonstrate her ability to effectively parent. However, the psychologist who evaluated Alicia and prepared a psycho-social evaluation did not recommend unsupervised visitation “until Alicia is able to more further address what this writer considers mental health issues that may be impacting her ability to reunify her family and appropriately parent them without using abusive techniques.” The evaluation further revealed “concern[] with the unsupervised contact that Alicia currently has with her children as it does in treatment appear from other professionals that Alicia has made minimal progress to date.” Although Alicia asserts her visitation schedule was changed

⁴ While the district court order reads Iowa Code section 232.104(d)(2), rather than 232.104(2)(d)(2), the order remains the same.

solely based upon this evaluation, she provides no support for this argument, and the record reveals the children have been put at risk by Alicia's aggressive behavior. We find the psycho-social evaluation summarized Alicia's ongoing struggles to safely parent her children and highlighted reasons DHS restricted visitation based on her demonstrated behavior. As the DHS worker testified, "[physical or verbal violence] is an ongoing concern that it was for the first eleven months of the case" and although Alicia made progress in the past, she has "then reverted back to old behaviors."

Alicia also claims it was not in P.F. and R.F.'s best interests to enter a permanency order that continued their placement with their father. She asserts the court should have granted her an additional six months to work towards reunification before entering the permanency order. However, at the time of the permanency hearing, P.F. and R.F. had been in the care of Brad for nearly the entire school year and as the district court found, were in need of permanency. While we recognize Alicia's recent improvement, it does not demonstrate the necessary pattern of stability such that P.F. and R.F.'s permanency should be delayed. The district court found "[T]he mother just has not proven capable of providing the right discipline and structure for their healthy development and maturation." "[G]iven [P.F. and R.F.'s] age, and the fact they will soon be entering junior high/middle school years, we don't have six more months to wait to make decisions for them." From our review of the record, we agree with the district court that a permanency order, rather than a six-month extension, was in P.F. and R.F.'s best interests.

Finally, Alicia contends reasonable services were not offered to her to achieve reunification with her four children. Alicia was offered family therapy, individual therapy, substance abuse evaluation and treatment, parenting classes, and a psycho-social evaluation. The district court recognized Alicia's progress, particularly in her interactions with D.S., but found that overall Alicia had been uncooperative with service providers. We find DHS made reasonable efforts to reunify Alicia with her children and affirm the district court's permanency order.

AFFIRMED.