

**IN THE COURT OF APPEALS OF IOWA**

No. 0-377 / 10-0628  
Filed June 16, 2010

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

**W.A.O., Father,  
Appellant.**

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Appeal from the Iowa District Court for Madison County, Kevin Parker,  
District Associate Judge.

A father appeals the modification of a dispositional order. **AFFIRMED.**

Thomas P. Graves of Graves Law Firm, P.C., Clive, for appellant father.

Erica Parkey, Des Moines, for appellee mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney  
General, Julie Forsyth, County Attorney, and Kristin Hanks, Assistant County  
Attorney, for appellee State.

Jane Orlanes, Des Moines, for minor child.

Considered by Vaitheswaran, P.J., and Doyle and Tabor, JJ.

**VAITHESWARAN, P.J.**

William appeals the modification of a dispositional order. He takes issue with the court's decision to transfer custody of his son from his son's mother to the child's maternal grandmother. He specifically maintains that: (1) "[t]here was no material change of circumstances since the dispositional hearing," (2) the "evidence was not sufficient to justify a change in placement," and (3) "[i]t was not in the best interest of [the child] to modify his placement." We will address the first two issues together. Our review is de novo. Iowa R. App. P. 6.907.

***I. Change in Circumstances and Placement***

"Before a dispositional order in a juvenile proceeding can be modified, the party seeking modification must first prove a substantial change in material circumstances . . . ." *In re D.G.*, 704 N.W.2d 454, 458 (Iowa Ct. App. 2005). William contends that "[t]he only changes in circumstances alleged at the modification hearing were insufficient to represent a material and substantial change in circumstances from the time of the dispositional hearing." We disagree.

The record reveals that William physically abused the child's half-sibling and the child's mother. This abuse precipitated the entry of a dispositional order stating that "visits between [the father] and the children shall be supervised. The children shall remain in the custody of their mother." The juvenile court reaffirmed that order in January 2010.

In February 2010, the State moved to modify the placement based on an allegation that William was engaging in unsupervised visits with his son. The service provider who supervised the visits confirmed this allegation, testifying that

on February 16, 2010, one of the children in the mother's care disclosed that he saw William at his mother's apartment "a couple of days ago" and William "spent the weekend." This evidence alone is sufficient to establish a substantial change in material circumstances and is also sufficient to warrant a change of placement.

## ***II. Best Interests***

The State must show that a change is in the best interests of the child. *Id.* William asserts this standard was not met. He specifically contends "it was obviously disruptive to the child to place him away from his mother" because "the child was in the mother's custody from the time of his birth."

As a preliminary matter, we note that a father does "not have standing to assert [an] argument on [the mother's] behalf in an effort to ultimately gain a benefit for himself." *In re K.R.*, 737 N.W.2d 321, 323 (Iowa Ct. App. 2007). We elect to bypass this procedural hurdle and proceed to the merits of William's argument.

William's aggression was the key issue in this child-in-need-of-assistance proceeding. His aggressive tendencies continued despite his participation in the Batterer's Education Program and anger management classes. Several individuals remarked on these tendencies, including the service provider who supervised visits. He testified that William showed "increasingly violent behavior." The service provider and his colleague also noted that the child who reported William's presence in the mother's home, as well as the maternal grandmother with whom the child was placed, feared William. We conclude William's behaviors compromised his son's safety.

Accordingly, the juvenile court order modifying the disposition was in the child's best interests.

**AFFIRMED.**