

IN THE COURT OF APPEALS OF IOWA

No. 1-246 / 11-0307
Filed April 27, 2011

**IN THE INTEREST OF T.M.,
Minor Child,**

**J.M.M., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Constance Cohen,
Associate Juvenile Judge.

A mother appeals the juvenile court's modification order in a child in need
of assistance (CINA) proceeding. **AFFIRMED.**

Bridget M. Bott of Nelissen & Juckette, P.C., Des Moines, for appellant
mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, John P. Sarcone, County Attorney, and Andrea Vitzthum, Assistant
County Attorney, for appellant State.

Susan R. Stockdale, Des Moines, for appellee father.

John P. Jellineck, Des Moines, attorney and guardian ad litem for minor
child.

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

VOGEL, P.J.

Josephine appeals the juvenile court's modification order in a child in need of assistance (CINA) proceeding. She asserts that although T.M. (born 2009), was returned to her care, the court abused its discretion in ordering, "Father's contact shall remain at DHS [Department of Human Services] discretion." We review child in need of assistance claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

T.M. had been removed from Josephine's care, adjudicated CINA under Iowa Code section 232.2(6)(c)(2) and (n) (2009), and placed with T.M.'s father for four months. However, on Josephine's motion for modification, the juvenile court found the home had stabilized such that T.M. could be returned to his mother's care, provided Josephine reside with the maternal grandmother. The court also found T.M. "should have liberal contact" with his father. Therefore the court ordered, "Custody of the child is placed with Josephine [] under DHS supervision. They will reside with the maternal grandmother absent further order. . . . Father's contact shall remain at DHS discretion."

The juvenile court is given exclusive jurisdiction over CINA proceedings. Iowa Code § 232.61; *In re K.R.*, 537 N.W.2d 774, 777 (Iowa 1995). The power of the juvenile court in CINA proceedings includes the determination of visitation rights of parents. *K.R.*, 537 N.W.2d at 777. The ultimate goal of CINA proceedings is for the child to receive "the care, guidance and control that will best serve the child's welfare." Iowa Code § 232.1; *K.R.*, 537 N.W.2d at 777.

The juvenile court found,

The parents were unable to agree about the visitation schedule and DHS needed to step in to resolve the scheduling conflicts.

Without DHS oversight of the contact schedule, [T.M.] is at risk of being put in the middle of the parents' disagreements and the family will incur unnecessary stress. It is also a stressful time because of concurrent jurisdiction proceedings, wherein there is already the propensity for jockeying for advantage in District Court proceedings. Since the last hearing, there has been a shared custody arrangement engineered by DHS. It is in [T.M.'s] best interest that [Christopher's] contact should continue at DHS discretion and afford [T.M.] maximum contact with both parents.

We give weight to the juvenile court's findings. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). Although Josephine asserts that giving DHS discretion to manage the contact between T.M. and his father undermines the court's decision to place T.M. back in her care, we find no merit in her argument. While T.M. remains a child in need of assistance, the court has the authority to craft orders to serve the best interests of the child. The Iowa Code vests the decision to modify a dispositional order within the discretion of the juvenile court. See Iowa Code § 232.103(1) ("At any time prior to expiration of a dispositional order and upon the motion of any authorized party or upon its own motion . . . , the court may . . . modify the order . . ."). On our de novo review, we find the juvenile court's modification order appropriate under the circumstances and affirm.

AFFIRMED.