

IN THE COURT OF APPEALS OF IOWA

No. 2-613 / 12-1050
Filed September 6, 2012

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

**K.B., Mother,
Appellant.**

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

A mother appeals the denial of her motion for modification of the dispositional order, contending (1) the juvenile court should have ordered immediate reunification and (2) the State did not make reasonable efforts to facilitate reunification. **AFFIRMED.**

Francis J. Cleary, Sioux City, for appellant mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Patrick Jennings, County Attorney, and Dewey P. Sloan, Assistant County Attorney, for appellee State.

Douglas L. Roehrich of Roehrich Law Office, L.L.C., Sioux City, for appellee father.

Craig H. Lane, Sioux City, for grandparent.

Joseph W. Kertels, Sioux City, attorney and guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Potterfield and Bower, JJ.

VAITHESWARAN, P.J.

A mother has three children. The oldest, R.B., is the subject of this appeal.¹ R.B., born in 2004, was adjudicated in need of assistance after an Iowa Department of Human Services investigation revealed that she was sexually abused by her mother's live-in boyfriend, Cory. She was placed with her paternal grandparents. A no-contact order was entered between the mother and Cory and between Cory and R.B.

In a dispositional order, the juvenile court found "overwhelming evidence in support of" the child's allegations. Despite this evidence, the mother expressed a belief that Cory was not the perpetrator of the abuse. As a result, the juvenile court concluded she could not reunify with R.B. The court explained,

At this time [the mother] does not support [R.B.'s] statements of abuse by Cory. If [R.B.] is questioned at all about the abuse, there is a strong likelihood that it would harm her emotionally. As noted by [R.B.'s] therapist, [the mother] cannot keep [R.B.] safe if she does not believe Cory abused her. Hopefully, with additional therapeutic sessions and another viewing of her daughter's [child advocacy center] interview, [the mother] will come to understand that her daughter's "reality" is in fact very real.

The court continued R.B.'s placement with her paternal grandparents.

The mother subsequently sought a modification of the dispositional order. She asserted that she was willing and able to affirm the child's belief concerning sexual abuse by Cory, even if she did not share that belief, and she requested a transfer of R.B. to her care.

¹ The proceedings with respect to the other two children, K.R. and C.R., were bifurcated and they are the subject of a separate appeal and a separate opinion filed on this date. K.R. was also the subject of a prior appeal. See *In re K.R. and R.B.*, No. 11-1748, 2012 WL 299958 (Iowa Ct. App. Feb. 1, 2012). Although R.B. was listed in the caption of that prior appeal, the appeal only involved K.R.

The juvenile court denied the request. The court found that the mother still believed she could

validate her daughter's feelings by telling the [child] that she believes "[the child's] reality" when in fact she does not. [The mother] continues to be of the belief that [the child] was abused by someone else or that [the child] has been coached into making up the allegations against Cory.

The court cited a report of the child's therapist in which the therapist expressed alarm that the mother "continues to discredit her own daughter's story while [R.B.] is trying to heal from the horrific abuse that she has undergone." The court stated, "Without honest and sincere validation [R.B.] could be revictimized, not report the abuse, could suffer from depression and/or could suffer from anxiety." The court concluded "[n]othing has changed."

Nonetheless, the court did not foreclose the possibility of reunification in the future. To that end, the court ordered additional reunification services geared toward assisting the mother in honestly validating her daughter's sexual abuse by Cory.

On appeal, the mother contends (1) the juvenile court should have ordered immediate reunification and (2) the State did not make reasonable efforts to facilitate reunification. Reviewing the record on de novo review, we disagree on both counts. See *In re K.B.*, 753 N.W.2d 14, 15 (Iowa 2008) (setting forth the standard of review).

The child's therapist testified that she met with R.B. every week for over a year and, during that time, the child "consistently identified" Cory as "being unsafe." She stated that, just two weeks before the disposition modification hearing, R.B. expressed fear as to whether her mother would keep her safe from

Cory and whether her mother still loved Cory. The child believed her mother was choosing Cory over her, and, during a joint therapy session, she questioned her mother as to whether she truly believed her. R.B.'s concern was based on the mother's reaction when she first disclosed Cory's abuse. According to R.B., "Cory confronted [her] and said she was lying, and her mother didn't protect her or disagree with Cory." Based on this reaction, the therapist stated, "[R.B. is], again, wondering if her mom validates her feelings." The therapist opined that there was a "[s]trong possibility" the child would not disclose future abuse to her mother because "[s]he does not feel that her mother believed her the first time and" would question "if her mother believes her this time." The therapist felt "strongly that [R.B.] needs to remain with her paternal grandparents." She noted,

They have been and continue to fully validate [R.B.'s] feelings. They consistently provide her with an environment where she does not have any threats of being victimized. [R.B.] deserves to be given normal child opportunities and not repeatedly questioned about the details of the horrific abuse that she experienced without any fault of her own.

The therapist's concerns were seconded by R.B.'s teacher. She testified that R.B. was generally "a happy kid" but, on an occasion three months earlier, the child suddenly "began to cry" in class. When the teacher took her aside and asked her why she was crying, the child "said that she was worried that the same thing was going to happen to her sister [K.R.] that had happened to her." The teacher understood that R.B. was referring to sex abuse, as the child had earlier disclosed what happened to her.

A care coordinator who supervised visits between the mother and child also alluded to R.B.'s anxiety. She testified that R.B. "made statements in a few

of the visits that would lead me to believe that she is still concerned that [the mother] would be involved with Cory.” While no one saw the mother with Cory following the entry of the no-contact order and the mother vehemently denied she had any contact with him after that point, the care coordinator’s testimony is further evidence of the child’s fear that her mother would not protect her from Cory.

We recognize that, despite this fear, the child shared a close bond with her mother and expressed a desire to be reunified with her. We also acknowledge the absence of any evidence that the mother jeopardized the child’s safety following the entry of the dispositional order. As noted, she abided by the no-contact order with Cory, acknowledged that the child benefitted from the services of a therapist, paid for those services, and actively participated in supervised visits with the child. But, at the time of the dispositional modification hearing, she remained unwilling to affirm that Cory was “a physical threat” to the child. She testified there “was no physical evidence” of sexual abuse, and she reiterated “I do not believe that [Cory] did it.” Given the child’s grounded fear that her mother would not support her if it came to a choice between believing her or Cory, we are not persuaded that the mother’s many positive efforts militated in favor of reunification as of the date of the modification hearing.

We turn to the mother’s contention that the department did not engage in reasonable reunification efforts. See *In re C.B.*, 611 N.W.2d. 489, 493 (Iowa 2000) (setting forth the standard that the department must follow in making reasonable efforts toward reunification of children with their parents after removal). The record belies this assertion. The department afforded the mother

regular, supervised visits with the child. While the mother desired unsupervised, overnight visits, the child's therapist recommended against any such expansion.

Notably, at the conclusion of the disposition modification hearing, the juvenile court asked the parties to comment on any additional services that would be needed to facilitate reunification. With the parties' recommendations in hand, the court ordered several therapeutic services for the mother. We conclude the department afforded the mother reasonable reunification services.

We affirm the juvenile court's refusal to modify the dispositional order that placed R.B. with her paternal grandparents.

AFFIRMED.