

IN THE COURT OF APPEALS OF IOWA

No. 2-952 / 12-1605
Filed October 31, 2012

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

A.N., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Judge.

A mother appeals from the juvenile court's permanency order, which transferred custody of the child to the biological father. **AFFIRMED.**

Christina M. Shriver, Hudson, for appellant.

Thomas J. Miller, Attorney General, Julia S. Kim, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven J. Halbach, Assistant County Attorney, for appellee.

Kelly Smith, Waterloo, for father.

Mary McGee Light, and then Andrew Thalacker, Waterloo, attorneys and guardians ad litem for minor child.

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

DANILSON, J.

The mother appeals from the juvenile court's permanency order placing M.N., born in 2003, in the custody of her biological father. Because M.N. lived a tumultuous life with her mother, and issues that led to the removal remain, we affirm.

The mother of M.N. was involved in a violent domestic relationship with a man who is not M.N.'s father. The Department of Human Services (DHS) became aware of the family's situation when, on September 17, 2010, M.N.'s school contacted DHS with a report of abuse suffered by M.N. M.N. and her sister were placed with maternal grandparents, where they remained until May 2011, when the mother left the home with the children and her abuser and did not return. They were eventually located in Minnesota.

M.N. and her now two siblings (the mother gave birth to a son while away) were removed from the mother's custody. M.N. was placed in the care of her biological father by court order dated June 2, 2011. Her younger siblings were placed in family foster care. The children were adjudicated in need of assistance (CINA) on July 6, 2011. At the time M.N. was placed in the care of her biological father, M.N. was morbidly obese, pre-diabetic, and a year behind in school and attending special education classes.

Since removal, DHS has been providing services to M.N., her mother, and her father. The mother and father receive Family Safety, Risk and Permanency services. The mother has visits with M.N. supervised by the maternal great-grandparents every weekend (alternating between three and twelve hours). M.N.

has been receiving mental health counseling, where she expresses fears and concerns of returning to her mother's home because she does not trust that her mother will keep her safe. The mother has attended some joint sessions with M.N., but she disregarded or invalidated M.N.'s concerns.¹

A permanency hearing concerning M.N. was held in July 2012. DHS workers, M.N.'s guardians ad litem, and M.N.'s therapist all recommended M.N. be placed in the permanent custody of her father. The juvenile court entered a permanency order on August 20, 2012. Pursuant to Iowa Code section 232.104(2)(d)(2) (2011), the court transferred custody of M.N. to her father and ordered continuing services. The court wrote:

With the exception of the last 15 months, the child [M.N.] has experienced a tumultuous life. She has lived with her mother and an abusive man. She has lived with her grandparents and earlier in life lived with her mother and grandparents.

This last year she has been in a safe environment where she has experienced success. That success expresses itself in improved performance at school and in improved physical health.

[M.N.'s] mental health needs have been met. She has clearly benefited from her individual counseling.

Unfortunately the efforts of [DHS] at reunification have not been successful. The Department has certainly provided adequate services. All of those services, however, could not bring [the mother] to the point in her recovery from domestic violence that she could actually acknowledge the dangerous situation that she placed herself and ultimately her children in by her relationship with [her abuser]. Those issues have not been fully addressed and this child need wait no longer to find out who is going to be the parent primarily responsible for her care.

We have thoroughly reviewed the record and the mother's complaints that the court erred in finding the child could not be returned to her and that DHS

¹ The mother testified at the permanency hearing that M.N.'s fears are not reasonable.

failed to make reasonable efforts at reunification. We acknowledge that the two youngest children have been returned to the mother's care. However, they do not have the same emotional issues that M.N. has expressed. Unlike the two younger children, M.N. was old enough to observe the domestic violence, and issues such as fear and her mother's ability to protect her have not been fully resolved.

Upon our de novo review, see *In re A.T.*, 799 N.W.2d 148, 150 (Iowa Ct. App. 2011), we affirm the juvenile court's well-grounded ruling. We therefore affirm. See Iowa Ct. R. 21.29(a), (e).

AFFIRMED.