

**IN THE COURT OF APPEALS OF IOWA**

No. 3-879 / 13-0887  
Filed September 18, 2013

**IN THE INTEREST OF E.M., A.M., AND A.M.,  
Minor Children,**

**S.J., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Audubon County, Susan L. Christensen, District Associate Judge.

A mother appeals from a child in need of assistance review/modification order terminating concurrent jurisdiction and ordering supervised visitation.

**AFFIRMED.**

Andrew J. Knuth of Knuth Law Office, Atlantic, for appellant mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, and Francine O'Brien Andersen, County Attorney, for appellee State.

James Tinker, Audubon, for appellee father.

Karen Mailander, Anita, attorney and guardian ad litem for minor children.

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

**POTTERFIELD, P.J.**

A mother appeals from a child in need of assistance (CINA) review/modification order. She argues the court's decision to continue the CINA proceeding and revoke the previously granted concurrent jurisdiction was improper, and the court should not have ordered supervised visitation with her children. We affirm, finding both parts of the order are in the children's best interests.

**I. Facts and Proceedings.**

The mother's three children were adjudicated CINA in April 2012 due to conflict between the mother and father. The two are no longer a couple but have a highly contentious relationship. The children, ages six to eleven, were placed in the physical care of their father by a district court order and remained there throughout the proceedings. Prior to the CINA adjudication, thirty-eight reports of abuse had been made regarding the children to the department of human services (DHS). At least two of the claims were founded against the mother, including a report of domestic abuse between her and her husband. The rest of the reports were unfounded. The mother also was denied at least two protective orders against the father when the district court dismissed her petitions for a lack of evidence at trial.

At a September 2012 CINA review hearing, the court noted the parents were improving their communication and the children seemed to agree. However, before the January 18, 2013 permanency hearing, the parents' behavior worsened again. The court noted the parents continued to fight and their relationship degraded. The mother requested concurrent jurisdiction to

pursue an action in district court for modification of the dissolution decree regarding custody of the children. The juvenile court granted concurrent jurisdiction but noted the court's CINA orders regarding custody and visitation would continue regardless of any contrary ruling by the district court.

A dispositional review hearing was held May 7, 2013. The mother again had made an unfounded report of abuse against the father with DHS. The mother requested the juvenile court dismiss the CINA proceeding (ending the juvenile court's jurisdiction) in light of the dispute in district court. DHS also recommended dismissal of the CINA proceeding because its services were not resulting in long-term progress. The guardian ad litem disagreed, arguing continuing the CINA proceeding was necessary to protect the children despite the parent's lack of progress and that the children should be placed with neutral third-parties. Finally, the State argued for continuing the CINA proceeding and sole juvenile court jurisdiction to ensure the children would continue to have a guardian ad litem.<sup>1</sup> The court concluded dismissal of the CINA proceeding in juvenile court was against the children's best interests, as the mother's false reports and supervised visitation could be more carefully monitored in juvenile court than in district court.

The court revoked its previous grant of concurrent jurisdiction and ordered the mother's visitation to be supervised to minimize contact between the mother and father. The mother appeals from both of these provisions of the juvenile court order.

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<sup>1</sup> The county attorney disagreed with the recommendation of DHS and advocated for termination of the concurrent jurisdiction order pursuant to Iowa Code section 232.90. DHS did not appeal the ruling, and no response to the petition on appeal was filed.

## II. Analysis.

Our review of CINA proceedings is de novo. *In re R.G.*, 450 N.W.2d 823, 825 (Iowa 1990).

### A. Jurisdiction.

The mother's first argument is that the juvenile court improperly revoked concurrent jurisdiction with the district court instead of dismissing the CINA proceedings as recommended by DHS. "The juvenile court, through district judges, associate judges, and referees, exercises exclusive jurisdiction over proceedings commenced under chapter 232." *R.G.*, 450 N.W.2d at 823. "The juvenile court has the legal discretion to authorize a party to litigate concurrently a specific issue relating to custody, guardianship, or placement of a child who is the subject of a pending juvenile action. Its discretion must be exercised in the best interests of the child." *Id.* at 825 (internal citations omitted); see also Iowa Code § 232.3(2) (2013). "[A] juvenile court is authorized to terminate a dispositional order only if the purposes of the dispositional order have been accomplished and the child is no longer in need of supervision, care, or treatment." *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001) (internal citation and quotation marks omitted). The juvenile court found the parents' bad behavior that led to the CINA dispositional order was continuing; the mother had once again filed a report with DHS that was dismissed. The court gave a detailed explanation of the positions of the parties regarding dismissal in juvenile court and why it ultimately decided to revoke concurrent jurisdiction. It concluded the interests of the children were best protected by placing sole jurisdiction with the juvenile court instead of subjecting the children to even more protracted legal

proceedings and fighting in the district court. We agree with the juvenile court's decision to continue the CINA proceedings and exercise exclusive jurisdiction in this case. See Iowa Code § 232.3(2).

*B. Supervised visitation.*

The mother next argues the court's order that her visits with the children should be supervised was improper. The court ordered supervised visitation due to the ongoing conflict between the mother and father. It reasoned that supervision of visits, including a thirty-minute time period before and after the children are transferred one parent to the other (during which the children are left with DHS staff), would limit the children's exposure to the animosity between the parents. It decided the mother's visits should be supervised because she tended to instigate and escalate the conflicts with the father.

"[T]he nature and extent of visitation is always controlled by the best interests of the child. This standard may warrant limited parental visitation." *In re M.B.*, 553 N.W.2d 343, 345 (Iowa Ct. App. 1996) (internal citations omitted). The mother continued to show animosity towards the father, using the DHS abuse reporting system to harass him. The mother points us to no authority and makes no argument as to why the juvenile court's ruling regarding her visitation is not in the best interests of the children. See Iowa R. App. P. 6.903(2)(g)(3) ("Failure to cite authority in support of an issue may be deemed waiver of that issue."). We affirm the juvenile court's order for supervised visitation.

**AFFIRMED.**