

**IN THE COURT OF APPEALS OF IOWA**

No. 6-654 / 06-0947  
Filed September 21, 2006

**IN THE INTEREST OF D.H. and T.N.V.,  
Minor Children,**

**L.B.H., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Linn County, Jane F. Spande,  
District Associate Judge.

A mother appeals from a juvenile court permanency order placing her two  
children in planned permanent living arrangements. **AFFIRMED.**

Barbara H. Liesveld of Tinnes & Liesveld, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney  
General, Harold L. Denton, County Attorney, and Lance Heeren, Assistant  
County Attorney, for appellee.

Stephen Swift, Cedar Rapids, for appellee-intervenor.

Ryan Tang, Cedar Rapids, for appellee-father of T.N.V.

Melody Butz, Cedar Rapids, guardian ad litem for minor children.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

**MILLER, J.**

A mother appeals from the juvenile court permanency order placing her two children in planned permanent living arrangements. We affirm.

Laura is the mother of Devon and Tyler (the children), born in 1998 and 2000 respectively. Coy is Devon's father, and Marcus is Tyler's father.

The children came to the attention of the Iowa Department of Human Services (DHS) in late spring of 2005. Laura had allowed her sister and sister's boyfriend, known to Laura to have a history of drug use, to stay for a period of time in the home shared by Laura and the children. Devon tested positive for cocaine. The State filed a child in need of assistance (CINA) petition. In August 2005 the juvenile court adjudicated the children CINA as defined in Iowa Code section 232.2(6)(c)(2) (2005) (child who has suffered or is imminently likely to suffer harmful effects as a result of the failure of the parent to exercise a reasonable degree of care in supervising the child). In a September 2005 dispositional order the court placed custody of Devon with his paternal grandmother and custody of Tyler with his father, both placements being under the protective supervision of the DHS. The children have thereafter remained in that status.

Following an earlier dispositional review hearing and order and various other proceedings, a combined dispositional review hearing and permanency hearing was held in early June 2006. The juvenile court ordered that custody of Devon remain with his paternal grandmother under protective supervision of the DHS and changed the permanency goal for Devon from reunification with a parent to another planned permanency living arrangement in relative care. It

ordered that custody of Tyler remain with Marcus under protective supervision of the DHS and changed the permanency goal for Tyler from reunification with Laura to reunification with Marcus. Laura appeals.<sup>1</sup>

We review a permanency order do novo. We review both the facts and the law and adjudicate rights anew. Although we give weight to the juvenile court's findings of fact, we are not bound by them. There is a rebuttable presumption that the child's best interests are served by parental custody. The best interests of the child are paramount to our decision.

*In re K.C.*, 660 N.W.2d 29, 32 (Iowa 2003) (citations omitted).

Laura asserts that her request for an additional six months to achieve reunification, made at the June 2006 dispositional review/permanency hearing, should have been granted pursuant to Iowa Code section 232.104(2)(b). For the reasons that follow, we disagree.

The DHS originally became involved with Laura and the children in 2001. In mid-2001 there was a founded child abuse/neglect report with Devon as the victim and Laura as the person responsible, for denial of critical care/lack of appropriate supervision. Laura received services through the DHS. Later in 2001 there was another founded child abuse/neglect report with Tyler as the victim and Laura as a responsible person. Laura again received services. Although the record is not very clear on the point, it appears Laura again received services in mid to late 2002.

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<sup>1</sup> At the June 2006 combined dispositional review and permanency hearing Laura agreed with the State's recommendations that Devon's placement with his paternal grandmother continue, that Tyler's placement with his father continue, and that the permanency goal for Tyler be changed to another planned permanent living arrangement such as placement with his father, Marcus. She has thus not preserved error with respect to the juvenile court's order concerning Tyler. Nevertheless, what we say hereafter applies to Tyler as well as to Devon.

Despite past services for Laura, the children were again at risk in 2005, leading to the present proceeding. Concerns during the case included Laura exposing the children to drug users and drugs, Laura's lack of a high school diploma or GED, Laura's lack of employment and resulting lack of stable housing and adequate food for the children, as well as Laura's possible drug use and emotional problems.

Laura was to acquire a GED. As of the June 2006 hearing she had taken some preliminary tests, but had waited many months to do so, had not made much progress, and had not acquired a GED. In August 2005 Laura had tested positive for cocaine. She was to receive a substance abuse evaluation and remain drug free. After the August 2005 incident Laura tested negative, but by the time of the June 2006 hearing had apparently stopped providing urine specimens for testing. Laura was to acquire and maintain employment. She worked only about one month in late 2005, but then quit the job. She made a job application only two weeks before the June 2006 hearing and did not again become employed until about one week before the then-impending hearing. As of the time of that hearing she had worked a total of only sixteen hours in her new job and had no idea what her schedule would be or how many hours of work she would have.

Devon has asthma. Laura does not smoke in his presence, but exposes him to residue of cigarette smoking by allowing smoking in and near her residence and having smoke on her clothing. Laura is not to associate with persons who abuse substances, but continues to allow family members with drug and alcohol abuse histories into her home. Laura has apparent problems with

self-esteem and depression, but despite being unemployed and having time to engage in counseling for those problems waited until about two weeks before the June 2006 hearing to begin counseling for them. A short time before that hearing Laura did not have adequate food in her home.

Laura testified that after the children were removed from her custody she initially made progress, but then made little progress for some time. She acknowledged that she should have been doing a lot of things she was not doing, and that most of any progress she had made had occurred within the month before the June 2006 hearing.

The juvenile court found, in part, the following:

Even as of the hearing Laura's insight into the protection of her children is limited. She does not perceive the contact others have with her children while in her care to be a problem or potential problem until she is "told differently." . . .

[Laura] has not resumed use of illegal drugs since August 2005. She has not however adequately addressed other chronic issues that place her children at risk in her care. She is not financially stable. She cannot support herself or these children so as to assure stability in housing. She continues to evidence poor judgment in her associations as well as to whom she allows in her home, placing her at risk of relapse as well as jeopardizing the physical and emotional health of these children.

Laura has made progress but that progress is not as significant to these children as it is to Laura. The court finds it unlikely that within six months Laura will have sustained employment to the point she [can] provide stable housing or be able to meet the day to day needs of one or both of these children or that she will appreciate the risk those she allows in her home present[s] to her children.

We agree with and adopt these findings. Laura engaged in abuse/neglect of her children in 2001. She received services then, and perhaps in 2002 as well. Nevertheless she again engaged in abuse/neglect of the children in 2005, leading to their adjudication as CINA and placement in the custody of relatives,

and thereafter made minimal progress toward reunification. Upon our de novo review we agree with the juvenile court that “these children are in need of secure and permanent placement that the children’s mother is unable to provide presently or within the foreseeable future.” We affirm the juvenile court’s permanency order.

**AFFIRMED.**