

IN THE COURT OF APPEALS OF IOWA

No. 7-423 / 07-0839
Filed July 25, 2007

**IN THE INTEREST OF
B.G., J.J., AND S.J.,**
Minor Children,

S.M.H., Mother,
Appellant.

Appeal from the Iowa District Court for Warren County, Kevin Parker,
District Associate Judge.

A mother appeals an order denying her request for concurrent jurisdiction
in child in need of assistance proceedings. **AFFIRMED.**

Gregory F. Greiner of Greiner Law Office, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Bryan Tingle, County Attorney, and Alyssa Kenville, Assistant County
Attorney, for appellee State.

Doug Eichholz, Indianola, for father.

Chistine Milligan-Ciha, Polk County Juvenile Defender, guardian ad litem
for minor children.

Considered by Sackett, C.J., and Miller, J., and Hendrickson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

HENDRICKSON, S.J.**I. Background Facts & Proceedings**

Susan and Todd are the parents of Shane, born in 1997, Jacklynn, born in 2000, and Brandon, born in 2001.¹ A 2002 Kentucky order placed the children in the “possession” of Todd and determined Susan should have visitation. All of the parties are now living in Iowa. The parents have a history of using illegal substances and engaging in domestic violence.

The children were removed from the parents’ care in February 2006 due to their continued drug use, and were placed with relatives. The children were adjudicated to be children in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b) and (n) (2005). In the dispositional order of August 9, 2006, the children were placed with Todd. The children were removed from Todd’s care in October 2006 and placed with a paternal great-aunt. Susan received supervised visitation at the discretion of the Department of Human Services.

Susan filed a request for unsupervised visitation with the children. She also asked for concurrent jurisdiction in the district court in order to litigate the issue of custody of the children. The juvenile court denied Susan’s requests. The court did not directly address the issue of visitation, but found placement of the children with relatives was in the best interests of the children. The court found:

[T]he parties’ litigation of the issue of custody in the District Court would place more pressure and anxiety upon the children and would cause additional strife between the parents. It would allow

¹ Susan and Todd had another child, Christopher, who was killed by a paramour of Susan’s.

the parents another battlefield in which to attack each other and place the children in further turmoil.

Susan appeals the decision of the juvenile court.

II. Standard of Review

Our scope of review in juvenile court proceedings is de novo. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). Although we give weight to the juvenile court's factual findings, we are not bound by them. *Id.* Our primary concern is the best interests of the children. *In re E.H.*, 578 N.W.2d 243, 248 (Iowa 1998).

III. Merits

A. Susan contends the juvenile court should have granted her request for concurrent jurisdiction. The juvenile court has discretion to authorize concurrent jurisdiction of a specific issue relating to custody, guardianship, or placement of a child subject to juvenile court action. *In re R.G.*, 450 N.W.2d 823, 825 (Iowa 1990). We find no abuse of discretion in the juvenile court's decision denying Susan's request for concurrent jurisdiction. The court was attending to the best interests of the children. As the juvenile court noted, neither parent was in a position to assume care of the children at that time.

B. Susan claims the juvenile court should have modified prior orders to grant her more visitation with the children. The juvenile court did not specifically address the issue of visitation, and we question whether this issue has been preserved. See *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994) (noting we do not address issues which have not been first determined by the juvenile court).

Even if the issue had been preserved, however, the record does not support Susan's claim for modification. At the time of the hearing, Susan was receiving supervised visitation within the discretion of the Department. She was expected to start visitation supervised by the children's therapist in the near future. Susan agreed to follow the recommendations by the children's therapist concerning the extent of visitation. Thus, modification of Susan's visitation would have been premature at the time of the hearing.

We affirm the decision of the juvenile court.

AFFIRMED.