

IN THE COURT OF APPEALS OF IOWA

No. 7-424 / 07-0836
Filed July 12, 2007

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

**P.A.P., Mother,
Appellant.**

Appeal from the Iowa District Court for Monona County, Todd A. Hensley,
District Associate Judge.

A mother appeals a permanency order placing her child in Another
Planned Permanent Living Arrangement. **AFFIRMED.**

Peter Goldsmith of Boerner & Goldsmith Law Firm, P.C., Ida Grove, for
appellant mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Michael P. Jensen, County Attorney, and Stephen Allen, Assistant
County Attorney, for appellee State.

Kara Minnihan, Onawa, for appellee father.

Marchelle Denker of Sioux City Juvenile Office, Sioux City, for minor child.

Considered by Huitink, P.J., and Vaitheswaran, J. and Beeghly, S.J.*

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

BEEGHLY, S.J.**I. Background Facts and Proceedings**

Patricia and Rodney are the parents of Robin, who was born in 1995.¹ Patricia has a substantial history of substance abuse. Robin was adjudicated a child in need of assistance (CINA) under Iowa Code section 232.2(6)(b), (c)(2) and (n) (2005), after he was sexually abused by a baby-sitter. In the dispositional order, Robin was placed in foster care.² The juvenile court found Patricia failed to provide adequate care and supervision of the child.

Patricia made progress in maintaining sobriety and obtaining employment. On October 18, 2006, the juvenile court entered an order permitting Patricia an additional six months to pursue reunification, as permitted by section 232.104(2)(b). Patricia was ordered to attend individual therapy, attend therapy with Robin, provide drug tests, attend support groups, and obtain a sponsor.

Patricia requested six more months to pursue reunification. An older son, Matthew (who had been out of the home due to delinquency issues) returned to Patricia's care. Patricia had problems dealing with Matthew's behaviors, such as requiring him to attend school or obtain employment. There were suspicions Matthew was using illegal drugs. Patricia agreed Robin could not be returned to her home while Matthew was there. Matthew was going to turn eighteen in March 2007, and Patricia asked for more time to get Matthew settled elsewhere so Robin could return to her home.

¹ Rodney has not been involved in Robin's life, and is not a party to this appeal.

² The dispositional order was affirmed on appeal. *In re R.H.*, No. 05-1678 (Iowa Ct. App. Nov. 23, 2005).

The State and the attorney for the child recommended Robin be placed in Another Planned Permanent Living Arrangement (APPLA). The parties all agreed termination of Patricia's parental rights would not be appropriate because of the very close bonds between Patricia and Robin. The juvenile court placed Robin in APPLA. The court found it would be contrary to Robin's welfare to return him to his mother's home. Patricia was granted visitation at the discretion of the Department of Human Services and the guardian ad litem. Patricia appeals the permanency order placing Robin in APPLA.

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 child. *In re E.H.*, 578 N.W.2d 243, 248 (Iowa 1998).

III. Merits

Patricia contends the language of section 232.104(2)(b) does not prohibit her from receiving a six-month continuance, although she had already received one continuance. She asserts the juvenile court should have given her more time to deal with Matthew's problems, so she would then be free to turn her attention to Robin. She states that within six months Matthew would have moved out of her home, and Robin could be returned to her care.

The juvenile court did not address the issue of whether it had the authority to grant more than one six-month extension under section 232.104(2)(b). When the juvenile court fails to address an issue properly submitted, a party must file a motion pursuant to Iowa Rule of Civil Procedure 1.904(2) to preserve error. *In re*

N.W.E., 564 N.W.2d 451, 455 (Iowa Ct. App. 1997). Patricia did not file a post-trial motion bringing this issue to the court's attention, and we conclude she has failed to preserve this issue for our review.

Furthermore, the record supports a finding that an extension of reunification efforts would not be in Robin's best interests. In order to grant an extension under section 232.104(2)(b), the court must make a determination the need for removal will no longer exist at the end of the extension. *In re A.A.G.*, 708 N.W.2d 85, 94 (Iowa Ct. App. 2005). In granting an extension, the juvenile court must bear in mind that children should not suffer indefinitely in parentless limbo. *In re R.C.*, 523 N.W.2d 757, 760 (Iowa Ct. App. 1994). The grant of an extension must be in a child's best interests. *Id.*

Robin had been out of the home since September 2005. Despite the receipt of an abundance of services, at the time of the permanency hearing in March 2007, Patricia was not in a position to have Robin returned to her care. Because Patricia cannot control Matthew's conduct, there are serious concerns about whether she can properly supervise Robin. The attorney for the child pointed out that he needed permanency. The parties all agreed termination was not appropriate in this case. Robin was bonded with his mother and his foster parents. Based on the specific evidence in this case, we find the juvenile court properly placed Robin in APPLA.

We affirm the decision of the juvenile court.

AFFIRMED.