

**IN THE COURT OF APPEALS OF IOWA**

No. 7-453 / 07-0905  
Filed August 8, 2007

**IN THE INTEREST OF T.A. and S.A.,  
Minor Children,**

**N.M., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Clayton County, Alan D. Allbee,  
Associate Juvenile Judge.

A mother appeals from a permanency order continuing two of her children  
in foster care. **AFFIRMED.**

Kevin E. Schoeberl of Story & Schoeberl Law Firm, Cresco, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney  
General, Kevin H. Clefisch, County Attorney, and Stephen D. Saunders,  
Assistant County Attorney, for appellee.

Kimberly S. Lange of Kimberly S. Lange Law Office, Edgewood, for R.T.  
Sr.

David Baumgartner, Strawberry Point, for minor children.

John Compton, Strawberry Point, guardian ad litem for minor children.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

**SACKETT, C.J.**

Nancy, the mother of sixteen-year-old Terri and ten-year-old Sandra, appeals from a juvenile court permanency review order. She contends the record shows she and her husband R.T. Sr., the stepfather of the two children at issue, have substantially met the requirements set forth in an earlier permanency review order and the children should be returned home. We affirm.

Five of Nancy's children<sup>1</sup> were found to be in need of assistance in March of 2005, but remained in her home with supervision by the Department of Human Services. In October of 2005 all five children were removed and placed in foster care. In its October 12, 2006, permanency order, the juvenile court continued the foster care placement, gave Nancy and R.T. Sr.<sup>2</sup> an additional six months to work toward reunification, and set forth specific factors, conditions, and necessary changes that would form the basis for determining removal was no longer needed. See Iowa Code § 232.104(2)(b) (2005). Permanency review orders in early 2007 provided for the return of the three youngest children to the home.

Following hearings in April of 2007, the court issued the permanency review order at issue in this appeal on May 1, 2007. The court found Nancy and R.T. Sr. had made progress, but "all of the conditions have not been met sufficiently to allow the court to determine the children in interest can safely return home." The court also found termination of parental rights was not in the children's best interest "given their ages, objection to termination, and desire for continued contact with their biological family." Terri's expressed desire not to

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<sup>1</sup> Nancy's two oldest children are adults and do not live at home.

<sup>2</sup> R.T. Sr. is the father of Nancy's two youngest children.

return home was given weight. The court concluded compelling reasons existed not to enter a permanency order under Iowa Code section 232.104(2)(d)(1)-(3), but an order for another permanent planned living arrangement under section 232.104(2)(d)(4) should be issued instead.

Our review of permanency orders is de novo. We review both the facts and the law and adjudicate rights anew on the issues properly presented. We give weight to the juvenile court's findings, but are not bound by them.

*In re A.A.G.*, 708 N.W.2d 85, 90 (Iowa Ct. App. 2005) (citations omitted).

On appeal, Nancy argues the court erred in placing Terri and Sandra in another permanent planned living arrangement instead of returning them to her care because the conditions and factors the court specified in the October 12, 2006 order have been sufficiently met and the children can safely be returned to her care. The evidence does not support Nancy's argument.

We, like the juvenile court, recognize Nancy and R.T. Sr. have made progress. The parents and children have participated in family-centered services and counseling. Nancy and R.T. Sr. have, with the children, participated in family-centered services and counseling and they have continued with individual counseling. The parents have improved their relationship and ability to communicate.

R.T. Sr treats Terri and Sandra differently than his biological children and disciplines Terri and Sandra more harshly. He continues to struggle with anger management. After an examination of R.T. Sr. in February of 2007, a doctor opined that "despite almost two years of treatment, unfortunately it does not appear as if [R.T. Sr.] is at a place with his wife's children where reunification is a

viable option.” Terri and Sandra would be at risk of physical abuse if they were returned to the home at this time. We affirm the permanency order.

**AFFIRMED.**