

IN THE COURT OF APPEALS OF IOWA

No. 7-675 / 07-1229
Filed October 12, 2007

**IN THE INTEREST OF B.J., a/k/a 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 from the permanency order placing her children in a
relative's custody. **AFFIRMED.**

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

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

Douglas Eichholz, Indianola, for appellee-father.

Christine Milligan-Ciha, Clive, guardian ad litem for minor children.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

EISENHAUER, J.

A mother appeals from the juvenile court permanency order placing her children in a relative's custody. She contends the court erred in finding a relative placement in the children's best interest, in granting concurrent jurisdiction to permit the paternal grandmother to seek guardianship, and in waiving the reasonable efforts requirement. We review these claims de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

In February 2006, the children were removed from the father's care and in May 2006 were adjudicated in need of assistance pursuant to Iowa Code sections 232.2(6)(b) and (n) (2005). The children were initially returned to the father's custody, but in October 2006 custody was transferred to the Department of Human Services (DHS). The children were placed with a woman who had formerly been married to the brother of the paternal grandmother. The placement was in Indianola where the parents lived.

On June 27, 2007, a permanency hearing was held. On the date of the hearing, the children's father was in jail and the mother was having supervised visits with the children. The children's paternal grandmother, who lives in Davenport, requested the children be placed with her. In its July 3, 2007 order, the court ordered the children be placed with the paternal grandmother and ordered the grandmother to begin guardianship proceedings. Concurrent jurisdiction was granted for this purpose.

On appeal, the mother first contends the court erred in placing the children with the paternal grandmother. She argues the placement will limit the amount of

contact she has with the children due to the distance. She claims this is not in the best interest of the children.

At a permanency hearing, the court may transfer guardianship and custody of the child to a suitable person providing the following conditions are met:

- a. A termination of the parent-child relationship would not be in the best interest of the child.
- b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.
- c. The child cannot be returned to the child's home.

Iowa Code § 232.104(2)(d)(1), 232.104(3). The first and governing consideration of the court is the best interest of the children. Iowa R. App. P. 6.14(6)(o).

We conclude transferring placement of the children to the paternal grandmother is in the children's best interest. The grandmother is able to provide the stability the children need. The children had lived in the grandmother's home before and attended school in Davenport. Although the children were doing well in their current placement, long term stability is in the custody of their grandmother. The grandmother offers a permanent, safe home. Safety and the need for a permanent home are paramount in determining an appropriate placement by the juvenile court. *In re J.E.*, 723 N.W.2d 773, 801 (Iowa 2006).

The mother next contends the court erred in authorizing concurrent jurisdiction without a motion having been filed and without giving her an opportunity to be heard. The mother did not raise this issue in a post-ruling motion to enlarge and therefore error is not preserved. See *In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003) ("Even issues implicating constitutional rights must be

presented to and ruled upon by the district court in order to preserve error for appeal.”).

Finally, the mother contends the court abused its discretion in allowing the State to waive reasonable efforts to reunify the mother with the children. She bases this claim on the failure of the DHS to authorize unsupervised visits between her and the children. The juvenile court never addressed this issue and mother argues this constitutes a “de facto” court approval of the failure to provide unsupervised visits. A challenge to the sufficiency of such services should be raised when the services are offered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). The mother failed to raise this issue before the permanency hearing, and therefore, we will not address it.

AFFIRMED.