

IN THE COURT OF APPEALS OF IOWA

No. 8-050 / 07-2129
Filed February 13, 2008

**IN THE INTEREST OF C.M., C.M., C.M.
and C.M.,
Minor Children,**

**C.P.C., Mother,
Appellant.**

Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, Associate Juvenile Judge.

A mother appeals a disposition modification order in a child-in-need-of-assistance action. **AFFIRMED.**

Jamie Splinter of Splinter Law office, Dubuque, for appellant mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Ralph Potter, County Attorney, and Jean Becker, Assistant County Attorney, for appellee State.

Leslie Blair of Blair & Fitzsimmons, P.C., Dubuque, for appellee father.

Sarah Stork Meyer of Clemens, Walters, Conlon & Meyer, P.C., Dubuque, for minor children.

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

VAITHESWARAN, J.

A mother appeals a disposition modification order in a child-in-need-of-assistance action. We affirm.

I. Background Facts and Proceedings

C.C. has four children between the ages of two and ten. In June 2007, allegations surfaced that C.C. was using marijuana while caring for the children. On questioning, she admitted to using the drug. She subsequently tested positive for marijuana in her system and for exposure to cocaine. The State initiated this child-in-need-of-assistance action.

C.C. initially cooperated with rehabilitation services. In light of her cooperation, the Department of Human Services recommended suspending any adjudication of the children as children in need of assistance. The juvenile court agreed with the recommendation and suspended adjudication. The court ordered that care, custody, and control of the children remain with C.C.

Meanwhile, a service provider contacted C.C. to pursue individualized addiction therapy. C.C. did not respond. Random drug testing continued to detect marijuana in her system. Months after this action was filed, a service provider saw C.C. with a bag of marijuana. C.C. said she intended to sell the bag to make ends meet.

C.C. also did not deliver her children to prescribed counseling sessions. Those sessions were designed to address trauma the children experienced after witnessing their father attack their mother.

On being presented with this post-suspension evidence, the juvenile court decided to adjudicate the children in need of assistance. However, the court left care, custody, and control of the children with their mother.

Less than a month after this order was entered, C.C. placed the children with her mother and left for Florida. Although she notified a service provider, she did not indicate when she intended to reunite with the children.

The Department sought a modification of the prior order. C.C. did not appear at the modification hearing. Following the hearing, the juvenile court transferred custody of the children to the Department, for formal placement with their grandmother. C.C. appeals.

II. Analysis

Iowa Code section 232.103 (2007) authorizes the modification of dispositional orders. One of the circumstances justifying a modification is if “[t]he purposes of the order cannot reasonably be accomplished.” Iowa Code § 232.103(4)(b). A modification of custody or placement requires a material and substantial change of circumstances. *In re R.F.*, 471 N.W.2d 821, 824 (Iowa 1991).

On our de novo review, we are convinced these standards were satisfied. As a result of C.C.’s move to Florida, she was in no position to maintain care, custody, and control of the children. As the purpose of the prior order could not reasonably be accomplished, the district court acted appropriately in modifying it. We further agree that, given the prior adjudication of the children as children in need of assistance and the mother’s absence from the state, the juvenile court

acted appropriately in ordering placement of the children through the Department rather than by way of an informal agreement between C.C. and her mother.

AFFIRMED.