

**IN THE COURT OF APPEALS OF IOWA**

No. 8-505 / 08-0786  
Filed July 16, 2008

**IN THE INTEREST OF I.B., E.B., N.B., M.B., and R.B.,  
Minor Children,**

**M.L.B., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Carol Egly, District Associate Judge.

A mother appeals from the permanency order establishing custody and guardianship of her children with their father. **AFFIRMED.**

Lori Holm, Des Moines, for appellant mother.

Silvia Hansell of Belin Lamson McCormick Zumbach Flynn, P.C., Des Moines, for father.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, John P. Sarcone, County Attorney, and Jon Anderson, Assistant County Attorney, for appellee State.

Jessica Miskimins of the Youth Law Center, Des Moines, for minor child.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

**MAHAN, J.**

Michelle appeals the permanency order establishing custody and guardianship of her five children, Isaac, Emily, Nicholas, Matthew, and Ryan, with their father. She argues the juvenile court erred in refusing to grant her a six-month extension. We affirm.

**I. Background Facts and Proceedings.**

Michelle and Todd are the parents of Ryan (born in July 1993), Matthew (born in February 1995), Nicholas (born in July 1998), Emily (born in March 2001), and Issac (born in November 2003). Michelle and Todd were married in 1994, and Michelle petitioned for dissolution of the marriage in 2005. The parties' August 2006 dissolution decree awarded Michelle primary physical care of the five children.

In March 2007, at the recommendation of the Iowa Department of Human Services (DHS), Michelle voluntarily transferred physical care of the children to Todd. In April 2007 DHS issued child abuse reports stating that Michelle denied critical care for each of the five children. The juvenile court entered a removal order in May 2007 placing the children in the legal custody and physical care of Todd and allowing Michelle supervised visitation. The children were adjudicated children in need of assistance (CINA) in June 2007. At that time, the court continued the children's placement with Todd, finding Michelle's mental health and substance abuse rendered placement in her home contrary to the children's welfare.

Following Michelle's receipt of reunification services, a permanency hearing was held in late April 2008. Michelle requested six additional months to

work toward reunification. DHS recommended the six-month extension. DHS expressed concern, however, that Michelle had only attended mental health therapy consistently for three weeks. DHS further recommended that Michelle address her relationship issues and her abuse and mental health issues. The court determined the State had made reasonable efforts to eliminate the need for removal of the children from her home and refused to grant Michelle's request. It also determined termination of Michelle's parental rights would not be in the children's best interests. The court entered an order pursuant to Iowa Code section 232.104(2)(d) (2007) establishing custody and guardianship of the children with their father. Michelle appeals.

## **II. Scope and Standard of Review.**

Our review of permanency orders is *de novo*. *In re A.A.G.*, 708 N.W.2d 85, 90 (Iowa Ct. App. 2005). We review both the facts and the law and adjudicate rights anew on the issues properly presented. *In re K.C.*, 660 N.W.2d 29, 32 (Iowa 2003). We give weight to the juvenile court's findings, but are not bound by them. *Id.* Our primary concern is the children's best interests. *Id.*

## **III. Merits.**

Michelle argues the juvenile court erred in refusing to grant a six-month extension to the permanency order. She contends such extension should have been entered to allow additional time for reunification. We disagree.

The juvenile court determined it is too late for reunification. While the record clearly shows Michelle loves her children and that she has recently made some improvements, our primary concern is the children's best interests. We are unable to find that the children could likely be returned to Michelle's home within

six months without further adjudicatory harm. The children have been through several years of turmoil and uncertainty. The children need and deserve stability and consistency, which they cannot find with Michelle, and it is unlikely they will be able to find it with her six months from now. It is not in the children's best interests to have the permanency order extended any longer. The district court did not err in refusing to grant Michelle six more months.

**AFFIRMED.**