

**IN THE COURT OF APPEALS OF IOWA**

No. 8-958 / 08-1652  
Filed December 17, 2008

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

**V.J.L., Mother,  
Appellant.**

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Appeal from the Iowa District Court for Scott County, John G. Mullen,  
District Associate Judge.

A mother appeals the juvenile court's order that placed custody of her  
child with the child's biological father. **AFFIRMED.**

Rebecca Ruggero, Bettendorf, for appellant mother.

Jean Capdevila and Jack Dusthimer, Davenport, for appellee father.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney  
General, Michael J. Walton, County Attorney, and Gerda Lane, Assistant County  
Attorney, for appellee State.

Benjamin Yeggy of Gomez, May, Schutte, Yeggy, Bieber & Wells,  
Davenport, for minor child.

Considered by Huitink, P.J., and Vaitheswaran and Potterfield, JJ.

**POTTERFIELD, J.**

In November 2007, Venessa had a daughter, M.R.<sup>1</sup> On May 9, 2008, M.R. was adjudicated a child in need of assistance pursuant to Iowa Code section 232.2(6)(n) (2007) due to Venessa's mental health problems, suicide attempts, and substance abuse problems. On June 27, 2008, M.R. was taken out of her mother's custody and placed in the custody of her maternal grandmother.<sup>2</sup> In July 2008, a paternity test established Max as M.R.'s biological father. Max immediately took steps to become involved in M.R.'s life.

On September 8, 2008, Max filed a motion for change of custody asking that M.R. be placed with him. Venessa resisted Max's petition for change of custody. The Iowa Department of Human Services (DHS) and the child's guardian ad litem (GAL) recommended granting Max's motion. After an evidentiary hearing, the juvenile court placed custody of M.R. with her father, Max. Venessa appeals, arguing that the juvenile court erred in finding clear and convincing evidence that placement with Max is in M.R.'s best interests. Venessa claims that Max has a long history of substance abuse and that the juvenile court acted prematurely in changing M.R.'s placement.

On our de novo review, we find clear and convincing evidence to support the juvenile court's finding that it is in M.R.'s best interests to be placed with her biological father, Max. Iowa R. App. P. 6.4; *In re D.S.*, 563 N.W.2d 12, 14 (Iowa Ct. App. 1997) (stating that a party seeking modification of a dispositional order must show that "a modification is in the best interests of the child.") Iowa case

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<sup>1</sup> The child's legal father has not responded to these proceedings.

<sup>2</sup> M.R. and her three siblings had also been placed with the maternal grandmother from April 28, 2008, to May 2, 2008. The other siblings are not at issue in this case.

law establishes a strong presumption that parental custody best serves a child's welfare. *Zvorak v. Beireis*, 519 N.W.2d 87, 89 (Iowa 1994). While we acknowledge that Max has made mistakes in the past, the record shows that he has made a true commitment to sobriety. He regularly attends AA meetings as well as a weekly support group. He has consistently complied with the terms of his probation and has disassociated with individuals who were a negative influence in his life. While Max has been sober for just over six months, we agree with the GAL that Max has made a commitment to sobriety.

Max has also shown a commitment to caring for M.R. and, according to the DHS case worker that evaluated Max, "is currently taking the steps needed to safely parent [M.R.]" Max has a full-time job and stable housing. The GAL found that Max's home was "clean and orderly" and that Max had appropriate toys and a crib for M.R. The GAL also noted that "it was clear there was a true bond between [M.R.] and Max." Max has arranged for M.R. to go to daycare while he attends work, and his mother is able to provide care while Max attends his regular meetings. Max has recognized that it is important that M.R. maintain a relationship with her mother and siblings. The DHS case worker found that Max cooperated with the DHS and "appears to be placing [M.R.'s] needs above his own." Additionally, the record shows that before the hearing, Venessa spoke to the DHS in a very positive manner about Max and raised serious questions regarding her mother's ability to parent M.R. safely. We find that clear and convincing evidence supports the juvenile court's finding that placement with Max is in M.R.'s best interests and therefore affirm.

**AFFIRMED.**