

IN THE COURT OF APPEALS OF IOWA

No. 9-076 / 08-1997
Filed March 11, 2009

**IN THE INTEREST OF A.P. and A.P.,
Minor Children,**

A.S., Mother,
Appellant.

Appeal from the Iowa District Court for Muscatine County, Gary P. Strausser, District Associate Judge.

A mother appeals from the permanency order establishing a planned permanent living arrangement and the filing of a termination petition for her sons.

AFFIRMED.

Roland Caldwell of Muscatine Legal Services, Muscatine, for appellant mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Gary Allison, County Attorney, and Korie Shippee, Assistant County Attorney, for appellee State.

Esther Dean, Muscatine, for minor children.

Considered by Mahan, P.J., and Miller and Doyle, JJ.

MAHAN, P.J.

Angela appeals the permanency order establishing another planned permanent living arrangement regarding her older son, A.P, and the filing of a termination of parental rights petition regarding her younger son, A.P. She argues the juvenile court erred in refusing to grant her a six-month extension and abused its discretion in denying her motion to expand findings and present additional evidence. We affirm.

I. Background Facts and Proceedings.

Angela is the mother of ten-year-old A.P. (A.P. I) and seven-year-old A.P. (A.P. II).¹ The family began voluntary services in May 2007 due to Angela's mental health and substance abuse issues and extremely poor parenting. In June 2007 A.P. I was placed at the Mental Health Institute (MHI) due to major behavioral issues, where he remained until Angela removed him in mid-July 2007, against medical advice because she missed him. Prior to their removal from the home, the children slept with Angela, and she routinely kept them home from school to satisfy her own loneliness.

The children were removed from the home in October 2007, as a result of suicide attempt by Angela.² She was taken to University of Iowa hospitals for psychiatric evaluation. The children were placed in family foster care. In December 2007 the children were adjudicated children in need of assistance

¹ The children's father has not taken part in this matter and does not appeal. The children's older sister was also adjudicated in need of assistance. Her case closed, however, when she turned eighteen last year. Like her mother, she has a history of substance abuse, personality disorder features, exposure to domestic violence, and self-harming and aggressive behavior.

² Angela cut her wrists while the children were home.

(CINA) due to Angela's suicide attempt, mental health issues, and her inability to parent the children.

Although initially placed in family foster care, A.P. I was removed because he was impossible to control, threatened to kill his foster mother and her son, and engaged in self-harming behavior. A.P. I has major behavioral issues due to severe mental and emotional abuse by Angela. He has been made to feel worthless, ill, and stupid. At the time of his removal, A.P. I used a cane Angela provided for him because she told him he had fibromyalgia.³ In addition, A.P. I has a history of fire-setting, animal torture and killing, lying, stealing, running away, and physical aggression. He has allegedly sexually abused another child, and assaulted other children and a child's parent. He threatens others and has impulse control issues. Upon his removal from foster care, A.P. I was placed at MHI for evaluation and then placed at Tanager Place in Cedar Rapids for long-term treatment, where he remains.

A.P. II was six-years-old when he was removed, and he was still in diapers, unable to talk, and unable to dress or undress himself. He would often act like an animal—walking on his hands and feet, eating off the floor, and spitting on the floor. Angela treated him like an infant and discouraged him from learning age-appropriate behavior. After several months in foster care, A.P. II was no longer in diapers, was using full sentences, and was able to dress himself. He continues to have enuresis and anxiety, but is doing well in therapy.

Following Angela's receipt of reunification services, the permanency hearing was held in October 2008. Angela requested six additional months to

³ He does not have fibromyalgia or any other ailment requiring the use of a cane.

work toward reunification. DHS recommended the six-month extension. The court determined, however, the State had made reasonable efforts to eliminate the need for removal of the children from her home and refused to grant Angela's request. With regard to A.P. I, the court ordered that he be placed in another permanent living arrangement, continuing his residence at Tanager Treatment Center. The court further ordered that a petition for termination of parental rights be filed with regard to A.P. II and continued his placement in family foster care. The court denied Angela's motion to expand findings and present additional evidence. Angela 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 child's best interests. *Id.*

Our review of evidentiary rulings is for abuse of discretion. We therefore review the trial court's allowance or refusal to allow evidence on the basis of abuse of discretion. *Vasconez v. Mills*, 651 N.W.2d 48, 55 (Iowa 2002). A court abuses its discretion when it exercised such discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *In re J.A.L.*, 694 N.W.2d 748, 751 (Iowa 2005); *State v. Maghee*, 573 N.W.2d 1, 5 (Iowa 1997).

III. Merits.

Angela argues the juvenile court erred in refusing to grant a six-month extension to the permanency order and in denying her motion to expand findings and present additional evidence. We disagree.⁴

Upon our review of the record and the legal arguments submitted, we agree with the conclusions of the juvenile court. The court determined it is too late for reunification. While the record clearly shows that Angela loves her children and 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 Angela's home within six months without further adjudicatory harm. The children have been through many years of mental and emotional harm, and their physical well-being and development has been jeopardized. The children need and deserve stability and consistency, which they cannot find with Angela, 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 court did not err in refusing to grant Angela six more months.

We further find the court did not abuse its discretion in denying Angela's motion to expand findings and present additional evidence.

AFFIRMED.

⁴ We note that Angela's appeal with regard to A.P. II is denied on a jurisdictional basis, among other reasons. A court's order directing the filing of a petition for termination of parental rights is an interlocutory ruling. *In re T.R.*, 705 N.W.2d 6, 10-13 (Iowa 2005). A juvenile court order is not appealable unless it is final. *Id.* We conclude the order with regard to A.P. II is interlocutory, and we therefore deny Angela permission to appeal from it.