

IN THE COURT OF APPEALS OF IOWA

No. 1-1014 / 11-1593
Filed January 19, 2012

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

**K.C.-H., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Rachael E. Seymour,
District Associate Judge.

A mother appeals from the permanency order regarding the child, P.H.

AFFIRMED.

Ethan P. Anderson, Norwalk, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Cory McClure,
Assistant County Attorney, for appellee State.

Kimberly S. Ayotte of the Youth Law Center, Des Moines, for minor
children.

Considered by Vogel, P.J., Eisenhauer, J., and Sackett, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

EISENHAUER, J.

A mother appeals from the permanency order placing the child P.H., age fourteen years, in the custody of the Iowa Department of Human Services (DHS) for purposes of a planned permanent living arrangement. She contends the juvenile court erred in finding a six-month extension would not likely result in the child returning home. She also contends the State failed to make reasonable efforts to reunify her with the child. We review these claims de novo. *In re A.A.G.*, 708 N.W.2d 85, 90 (Iowa Ct. App. 2005).

The three children involved in this case were adjudicated in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and (n) (2009) in August 2010. At the time, D.H. was residing at a psychiatric medical institute for children. Placement of P.H. and A.C. was continued with the mother until their removal was ordered the following month after both children reported being physically abused by the mother. P.H. was also alleged to have sexually abused another minor who was sleeping in the home. A.C. reported the mother was driving under the influence of narcotics.

A permanency hearing was held on August 31, 2011. Following the hearing, the court found termination of the mother's parental rights was not in the children's best interests, services were offered to correct the circumstances that led to the children's removal, and the children could not be returned home. The juvenile court determined the primary permanency goal for all three children to be another planned permanent living arrangement, with D.H. in residential treatment and P.H. and A.C. in foster care.

The mother contends the juvenile court erred in finding a six-month extension would not likely result in P.H. returning home. Iowa Code section 232.104(2)(b) (2011) sets forth the option of continuing placement for six months after a permanency hearing, allowing the court to,

[e]nter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

In order to continue placement for six months, the statute requires the court to make a determination the need for removal will no longer exist at the end of the extension. *Id.* While extensions could be appropriate under some circumstances, “[t]he judge considering them should however constantly bear in mind that, if the plan fails, all extended time must be subtracted from an already shortened life for the children in a better home.” *A.A.G.*, 708 N.W.2d at 92.

We conclude clear and convincing evidence supports the juvenile court's determination P.H. could not be returned home after a six-month extension. Despite participating in weekly individual therapy, group therapy, and a weekly youth offender group, P.H.'s behavior continues to escalate. He acts aggressively and sexually, and if his behaviors do not improve, it is likely he will need a more restrictive placement. The mother continues to demonstrate poor parenting skills and lack of insight, and has failed to maintain stable housing. As P.H.'s therapist explained:

[T]he mother . . . has often been emotionally demonstrative and in my opinion erratic in her emotional stability, and I am not sure of

her participation, benefit, or changes made from her own individual therapy. . . . [The mother] reports she moved again recently and gave me a new address I am concerned about the mother's stability in terms of employment, housing and transportation.

The mother has been receiving services from the DHS going back as far as 2002 and still continues to struggle with these deficiencies. Her past performance is indicative of the quality of the future care she is capable of providing. *In re A.Y.H.*, 508 N.W.2d 92, 95 (Iowa Ct. App. 1993).

The mother also contends the State failed to make reasonable efforts to reunify her with the children. The DHS has an obligation to make reasonable efforts toward reunification. *A.A.G.*, 708 N.W.2d at 91. However, the parent has an equal obligation to demand other, different, or additional services prior to a permanency hearing. *Id.* Specifically, the mother claims she asked for more visits with P.H. and the visits were denied. A review of the record shows the mother only asked for more visits with her daughter, A.C., at the review hearing in June and the request was granted. We cannot find a request for additional visits with P.H. However, we conclude the DHS has made reasonable efforts toward reunification. Although visitation between a parent and child is an important ingredient to the goal of reunification, *In re S.W.*, 469 N.W.2d 278, 280-81 (Iowa Ct. App. 1991), the nature and extent of visitation is always controlled by the best interests of the child and may warrant limiting parental visitation. See *In re C.G.*, 444 N.W.2d 518, 520 (Iowa Ct. App. 1989). By the time of the permanency hearing the mother was having semi-supervised visits with P.H. Nothing suggests more visitation between mother and child would have led to reunification now or within six months.

Because clear and convincing evidence shows termination of the mother's parental rights is not in the children's best interests, services were offered to correct the situation that led to the children's removal, and the children cannot be returned home, we affirm the juvenile court's permanency order. See Iowa Code § 232.104(3).

AFFIRMED.