

**IN THE COURT OF APPEALS OF IOWA**

No. 2-925 / 12-1531  
Filed October 31, 2012

**IN THE INTEREST OF N.P.,  
Minor Child,**

**D.S., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Mills County, Gary K. Anderson,  
District Associate Judge.

A mother appeals adjudicatory and dispositional orders involving her son, contending (1) the juvenile court should not have adjudicated him a child in need of assistance and (2) this court should set aside the juvenile court's subsequent dispositional order transferring custody of the child to the Department of Human Services for placement in foster care. **AFFIRMED.**

Ashley Kissel of Sell Law, Glenwood, for appellant mother.

Thomas J. Miller, Attorney General, Amy Licht, Assistant Attorney General, Eric Hansen, County Attorney, and Tricia McSorley, Assistant County Attorney, for appellee State.

Abby Davison of the Public Defender, Council Bluffs, for appellant father.

Katherine Murphy, Council Bluffs, attorney and guardian ad litem for minor child.

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

**VAITHESWARAN, P.J.**

A mother appeals adjudicatory and dispositional orders involving her son, born in 2008. She contends (1) the juvenile court should not have adjudicated him a child in need of assistance and (2) this court should set aside the juvenile court's subsequent dispositional order transferring custody of the child to the Department of Human Services for placement in foster care. Our review is de novo. *In re E.W.*, 434 N.W.2d 898, 900 (Iowa Ct. App. 1988).

I. This proceeding began shortly after police stopped the mother for a traffic violation, discovered an open container of alcohol in the car, and smelled alcohol on the mother's breath. The mother's three-year-old child was in the back seat of the car. The mother was jailed on a child endangerment charge and the child was temporarily removed from her custody and placed in foster care.

The mother was subsequently released from jail and obtained temporary housing at a domestic violence shelter.<sup>1</sup> She began participating in recommended reunification services, including mental health treatment and visits with her child. Visits went well.

After some delays, the juvenile court scheduled an adjudicatory hearing. At that hearing, a department employee expressed no concerns with the mother's supervision of the child and stated reunification was the preferred outcome. She nonetheless recommended continued involvement by the department to ensure that the mother followed through with certain prerequisites

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<sup>1</sup> The mother was domestically abused before the incident precipitating removal. She was turned out of the home she shared with the abuser and stayed in a car with her child until a church member temporarily took her in.

to reunification. In particular, the department sought to ensure that the mother obtained permanent housing and pursued treatment services.

The juvenile court agreed with the department's recommendations. The court adjudicated the child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) (2011) (defining a "child in need of assistance" as a child "[w]ho has suffered or is imminently likely to suffer harmful effects as a result of . . . [t]he failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child") and 232.2(6)(n) (defining a "child in need of assistance" as a child "[w]hose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care"). The court ordered reunification of mother and child at the shelter, subject to continued supervision by the department. The court reasoned that the mother lacked permanent housing, had no employment "or any visible means of support," "clearly . . . endangered the child when she drove with the child in the car after drinking," and failed to follow through with court orders requiring her to release information about her treatment and pursue permanent housing options.

On appeal of this adjudicatory order, the mother asserts that, between the time of removal and adjudication, she essentially resolved the issues that precipitated the child's removal. We disagree.

The child was clearly at risk of harm at the time of removal. It is also clear that the mother continued to need reunification services, including assistance with medication, clothing, transportation, and housing. The juvenile court's order

reflects a considered judgment that the child's interests would be best served by providing the mother with the assistance she required.

II. Three months after the adjudicatory order was entered, the juvenile court held a dispositional hearing. At the hearing, the child's attorney advised the court that the domestic abuse shelter could no longer accommodate mother and child, and the pair would be forced to move out the following week. The mother did not controvert this professional statement. She simply requested a postponement to continue her search for permanent housing. The district court responded, "Since you have no housing as of next week, I have no alternative [but to] find that it is in the child's best interest that the care, custody, and control of the child be placed with the Department of Human Services for placement in a family foster care/shelter care pending placement." Given the imminent likelihood of homelessness, we concur in the dispositional order.

We affirm the adjudicatory and dispositional orders.

**AFFIRMED.**