

IN THE COURT OF APPEALS OF IOWA

No. 3-359 / 12-2308
Filed April 24, 2013

**IN THE INTEREST OF L.D., M.D., AND C.D.,
Minor Children,**

**J.D., Mother,
Appellant.**

Appeal from the Iowa District Court for Fayette County, Alan D. Allbee,
Associate Juvenile Judge.

A mother appeals from the denial of her request for a reduction in the level
of visitation supervision in a child in need of assistance dispositional review
order. **AFFIRMED.**

Kimberly Lange of Kimberly S. Lange Law Office, Edgewood, for appellant
mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, W. Wayne Saur, County Attorney, and Nathan Lein, Assistant County
Attorney, for appellee State.

James Burns, Decorah, for appellee father.

Melissa Anderson Seeber of the Waterloo Juvenile Public Defender,
Waterloo, attorney and guardian ad litem for minor children.

Considered by Eisenhauer, C.J., and Potterfield and Tabor, JJ.

POTTERFIELD, J.

A mother appeals from a child in need of assistance (CINA) dispositional review order continuing her supervised visits with her three children. She argues the juvenile court erred in not directing the Department of Human Services (DHS) to move to monitored or unsupervised visits between her and her children. We affirm, finding the continuation of supervised visits in the best interests of the children.

I. Facts and Proceedings.

In May 2012, L.D., M.D., and C.D. were removed from their mother's care and placed with their father on a founded report that their mother was using methamphetamine and living with a sex offender. They were adjudicated CINA as stipulated by the mother in July 2012. After the adjudication, the mother underwent substance abuse treatment and submitted to drug testing; however, she has not fully complied with these services. The mother submitted a written intent to marry the sex offender pending a divorce from the children's father. This choice concerned the juvenile court and the department of human services (DHS) as the paramour had a history of methamphetamine use, failing to comply with sex offender registry notification requirements, and aggression toward service providers.

At an August dispositional review hearing, the court continued placement of the children with their father, allowing supervised visitation with the mother. The court noted the presence of the mother's paramour in her home as a complication to returning the children. The paramour was not allowed to be

present at any of the supervised visits. One of the children, a teenager, routinely refused visits with the mother.

After the dispositional review hearing, the mother tested negative for drug use on five tests—three in August and one each in October and November. She failed to attend two drug tests, and refused use of a sweat patch for testing drug use because she doubted its accuracy. At a November 14 family team meeting, the mother reported she had not used drugs since 2000, despite a positive June 2012 test. The mother struggled to continue with services during this time, quitting mental health and substance abuse counseling and revoking permission for release of all her records to DHS.

At a November 30, 2012 review hearing, the parties stipulated to continuation of the dispositional order, though the mother requested visits move from supervised to monitored or unsupervised. The court held the record open until December 13 so updated information could be submitted by the parties. One of the additional exhibits was submitted by the court appointed special advocate (CASA). In it, the CASA expressed concern about the paramour's anger management, detailing his behavior leaving the hearing, which involved yelling and throwing an object while cursing workers. In its December 14 order, the court continued the dispositional order, finding continued supervised visitation appropriate. The mother appeals, contending the district court erred in failing to order a reduced level of supervision during her visits with the children.

II. Analysis.

We review an order entered after a CINA review hearing de novo. *In re K.B.*, 753 N.W.2d 14, 15 (Iowa 2008).¹ We give weight to the factual findings of the district court, but are not bound by them. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). Our paramount concern is the best interests of the child. *Id.* At a dispositional review hearing, the trial court reviews placement of the children in order to determine whether the children should be returned home, an extension of placement should be made, or termination proceedings initiated. *Id.* at 16. A court may hear other issues where a parent consents to such a consideration. *K.B.*, 753 N.W.2d at 16. “Visitation between a parent and child is an important ingredient to the goal of reunification. However, the nature and extent of visitation is always controlled by the best interests of the child. This standard may warrant limited parental visitation.” *In re M.B.*, 553 N.W.2d 343, 345 (Iowa Ct. App. 1996).

We agree with the juvenile court that unsupervised visitation by the mother with the children at this time is not in the best interests of the children. Many of the reasons underlying the supervised visitation requirement from the prior hearing were still present at the dispositional review hearing. The mother continues to reside with a sex offender who also has a history of drug use and anger problems. She has struggled to follow through with services to address her drug abuse and appears to place her relationship with her paramour above

¹ The State argues our review is for abuse of discretion, however, though the juvenile court must use its best judgment in determining a child’s best interests for visitation, a best interests evaluation does not mean our review is for abuse of discretion. *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010).

the safety of her children. Acknowledgement of these problems is crucial to moving forward with reunification efforts. *In re L.B.*, 530 N.W.2d 465, 468 (Iowa 1995). This continued visitation arrangement is an appropriate “reflection of [the mother’s] poor overall progress in resuming custody of her children.” See *M.B.*, 553 N.W.2d at 345. We conclude the mother’s request for reduced supervision during visits was properly denied.

AFFIRMED.