

IN THE COURT OF APPEALS OF IOWA

No. 9-355 / 09-0367

Filed May 29, 2009

**IN THE INTEREST OF J.P., H.F., AND R.F.,
Minor Children,**

**M.A.P., Mother,
Appellant.**

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,
District Associate Judge.

A mother appeals from the district court's permanency order regarding her
three children. **AFFIRMED.**

Kristin Denninger, Cedar Rapids, for appellant mother.

Mark Thompson, Iowa City, for appellee father of J.P.

Zorana Wortham-White, Waterloo, for appellee father of H.F. and R.F.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Janet M. Lyness, County Attorney, and Kristin Parks, Assistant County
Attorney, for appellee State.

Don Schroeder, West Liberty, for minor children.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

VOGEL, J.

Malissa appeals the district court's permanency order entered February 17, 2009, regarding three of her children. She asserts she should have been given additional time to work towards reunification and that reasonable services were not offered to her to achieve reunification.

Three of Malissa's children are the subjects of this appeal: J.P. (born in 1999), R.F. (born in 2000 with cerebral palsy), and H.F. (born in 2002).¹ The Iowa Department of Human Services (DHS) has been involved with the family since 2003, mainly due to Malissa's history of addiction to methamphetamine. In 2007, the children were living with their maternal great aunt, Suellen. While visiting Malissa in her home, Malissa's boyfriend struck and injured J.P. DHS workers then discovered Malissa's boyfriend was a registered sex offender. As a result, on January 22, 2008, in a stipulated hearing, the children were adjudicated to be in need of assistance under Iowa Code sections 232.2(6)(b) (2007) (parent has physically abused or neglected child) and 232.2(6)(c) (parent's failure to exercise care in supervising child).

I. Scope of Review.

We review permanency orders de novo. Iowa R. App. P. 6.4; see *In re K.C.*, 660 N.W.2d 29, 32 (Iowa 2003).

II. Best Interests.

Malissa claims it was not in the children's best interests to enter a permanency order, with long-term placement with the children's maternal great

¹ Another child resides with his father and one child is deceased. The fathers to the three children of this case have not appealed.

aunt. She asserts the court should have granted her an additional six months to work towards reunification before entering the permanency order, or in the alternative, placed the children with her mother.

The children, prior to adjudication, spent a good portion of their lives in the informal care of their maternal great aunt. The placement continues and according to the children's therapist is a positive and safe placement for the children. The therapist testified that the instability in the children's lives of not knowing they could remain with the great aunt was detrimental and they were in need of permanency. She stated that it was more important for the children to have permanency than to give Malissa additional time to work towards reunification. As the DHS reported, the aunt "has been the one consistent parental figure in the lives of the children." We agree. See *In re J.E.*, 723 N.W.2d 793, 801 (Iowa 2006) (Cady, J., concurring specially) (stating children's safety and their need for a permanent home are the defining elements in determining a child's best interests).

III. Reasonable Efforts.

Malissa next faults the district court for finding that DHS exhausted its efforts to work towards reunification before the permanency order was entered. While she claims the current services were inadequate, we note that DHS has provided a variety of services to Malissa over the course of the past several years, dating back to 2003. Malissa has a long substance abuse history and multiple prior founded child abuse reports. The services offered have been tailored to assist Malissa in overcoming her difficulties and resolving her unstable lifestyle such that she could provide a safe home for her children. Substance

abuse and mental health counseling have been the primary focus of services, but progress has been slow and limited. In spite of numerous attempts at becoming sober, as recently as September 2008 Malissa tested positive for methamphetamine. From our review of the record, there does not appear to be a lack of reasonable services offered by DHS, but rather a lack of compliance and progress by Malissa, which has stalled the return of the children to her care and necessitated the permanency order. See *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) (“At some point, the rights and needs of the children rise above the rights and needs of the parents.”).

We affirm the permanency order.

AFFIRMED.