

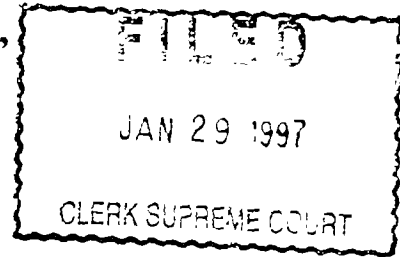
IN THE COURT OF APPEALS OF IOWA

No. 6-734 / 96-871

IN THE INTEREST OF C.A. and K.A., Minor Children,

A.A., Mother,

Appellant,



Appeal from the Iowa District Court for Scott County, Nancy Tabor, Associate
Juvenile Judge.

A mother appeals from a review order in a child in need of assistance
proceeding. **AFFIRMED AS MODIFIED.**

Donna M. Humpal of M.W. Liebke Law Office, Davenport, for appellant.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney
General, Maureen McGuire, Assistant Attorney General, and William E. Davis,
County Attorney, for appellee-State.

Barbara E. Maness, Davenport, Guardian ad litem for minor children.

Heard by Sackett, P.J., Cady, and Huitink, JJ.

CADY, J.

A mother appeals from a review order entered by a juvenile court judge. We affirm as modified on our review.

Angelita is the mother of Courtney, born December 8, 1989, and Kyle, born January 25, 1991. She also has another child who is not involved in this appeal.

In April 1995, a founded child abuse report was made against Angelita based on a denial of critical care and lack of supervision. Angelita was found to be in poor physical condition and incapable of supervising or caring for her children. The children were removed and placed in foster care on May 24, 1995. On that same day, the State filed a child-in-need-of-assistance (CINA) petition.

Following an August 9, 1995 hearing, the juvenile court adjudicated Courtney and Kyle to be CINA. The court found an “inability or failure of the mother to provide appropriate care, shelter and supervision due to her substance abuse and anorexia.” The court also found Angelita was incapacitated “to the point that she needed hospitalization and treatment.”

Following a dispositional hearing on October 10, 1995, the court continued the foster care placement. It also required the mother and children to receive psychological assessments, and barred contact with them pending further order. The restrictions and conditions were necessary due to a diagnosis made by the University of Iowa Hospitals that the mother suffered from Munchausen Syndrome and Munchausen Syndrome by Proxy. The court noted:

The mother by history has demonstrated a masterful ability to manipulate or obfuscate the issues. The mother by history has demonstrated a masterful ability to manipulate health care providers with fabricated illnesses, misinformation, deceit and misleading information all calculated to control or influence the diagnosis and treatment being provided. Through this means she has manipulated experienced medical providers to provide medications with which she has self-medicated to a point that her own health was seriously compromised and her life threatened.

The court indicated it would only allow contact between the mother and the children if the mother made “a full and complete admission to all acts of deception and manipulation and a specific acceptance of responsibility for the child abuse she has inflicted upon her children.”

The case permanency plan listed as a desired outcome that the mother acknowledge and address in detail her diagnosis of Munchausen Syndrome by Proxy. The plan recommended no parent-child contact and indicated parenting skills would be addressed upon resolution of the Munchausen by Proxy issues.

On April 23, 1996, the juvenile court issued a review order following a hearing. The order confirmed the children were still in need of assistance, pursuant to Iowa Code sections 232.2(6)(e), (g), and (n) (1995). It continued the children's placement in foster care and adopted the case permanency plan. The court indicated visitation may be possible in the future if recommended by the therapist. The State had recently located a therapist to work with Angelita, and was waiting for funding to be approved.

The mother appeals. She contends the juvenile court erred in adopting various aspects of the case permanency plan. She cites a seven-month delay by the department in selecting and obtaining funds for a therapist to treat her, and argues visitation should begin upon agreement of her therapist and the children's therapist. She maintains parenting skill services should not await resolution of the Munchausen's issues.

Our review is *de novo*. *In re H.M.H.*, 516 N.W.2d 867, 870 (Iowa 1994). We consider the facts and law in view of the issues raised, and adjudicate rights anew. *Id.*

The department is required to make "every reasonable effort" to return a child home as quickly as possible after removal, consistent with the best interests of the child. Iowa Code § 232.102(7) (1995). When determining whether reasonable efforts are being made, it is proper to consider the type, duration, and intensity of services, as well as the risk to the child if returned home. Iowa Code § 232.102(a). A challenge to the reasonableness of services is best made, as Angelita did in this case, at a review hearing. *See In re B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993). Too often, this challenge comes too late in the proceedings to impact the goal of reunification. We commend the lawyering by Angelita's counsel.

Angelita does not dispute the seriousness of her problems which led to the removal of her children. Nor does she claim the children should be immediately returned. She only claims the services and efforts by the department have not been

reasonable. Specifically, she asserts the delay by the department in implementing a treatment plan and selecting a therapist was unreasonable, the no contact provision was unreasonable, and the suspension of parenting skills until the Munchausen Syndrome and Munchausen Syndrome by Proxy has been resolved was unreasonable.

We share Angelita's frustration in the delay by the department in locating a therapist. At the same time, we recognize the seriousness of Angelita's disorder and the difficulty of locating the best therapist for her. Nevertheless, a therapist was finally selected and Angelita does not have any objection to the selection. Therefore, the issue is moot at this point in the proceedings.

The juvenile court ordered Angelita to have no contact with the children "pending further order." It also mentioned the possibility of beginning visitation within eight weeks following the April 1996 review hearing. We think it is clear the court contemplated that contact resume between Angelita and her children once recommended by the medical experts in the case. This is the relief Angelita actually requests. Thus, we believe her remedy is to file a motion or application with the juvenile court requesting visitation once it is recommended by the medical experts or is otherwise supported by evidence. . . .

Finally, we address the decision by the department to suspend parenting services until the Munchausen Syndrome and Munchausen Syndrome by Proxy has been resolved. Time becomes a critical element once children have been removed from a parents' care. For this reason, services must be coordinated to achieve

reunification as soon as reasonably possible. Accordingly, home management services should not wait until the resolution of the medical issues, but should begin once the medical issues begin to reveal positive steps toward reunification. We modify the review order to permit parenting services to begin prior to the resolution of the issues involving the Munchausen disorder.

In conclusion, we affirm the review order of the juvenile court except we remove the restriction in the case permanency plan delaying parenting services until the Munchausen Syndrome and Munchausen Syndrome by Proxy have been resolved.

AFFIRMED AS MODIFIED.

Huitink, J., concurs; Sackett, P.J., concurs in part and dissents in part.

SACKETT, P.J. (partially concurring)

I concur in part and dissent in part. I find no reason why Angelita could not have had some visitation with the children and I find the State, in failing to make provisions for visitation, did not make reasonable efforts to reunify the family. When visitation is totally withheld, a child has every reason to believe his or her parent has abandoned him or her.

Despite Angelita's faults, she is the children's mother and they love her and are bonded with her. It is important to their well being that they know their mother is there and continues to love them. Absent proof the children would be in danger by visitation or supervised visitation, I would find when the State failed to make provisions for the same, reasonable services had not been offered. There is no proof here the children would be in danger if allowed to visit with their mother.

As does the majority, I commend Angelita's lawyer for making a request for reasonable services at the proper time.