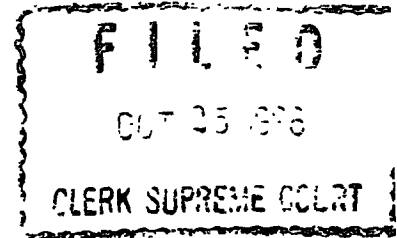


IN THE COURT OF APPEALS OF IOWA

No. 6-427 / 96-0088



IN THE INTEREST OF D.W. and C.M., Minor Children,

**S.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke,
Associated Juvenile Judge.

Mother appeals from the juvenile court's permanency order placing her two
children in the care of L.F. **AFFIRMED.**

R. Allen Corzine of Pieters, Pieters & Corzine, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Giande Stahle, Special Assistant Attorney
General, Maureen McGuire, Assistant Attorney General, and Dan Bloc, County
Attorney, for appellee State.

Heard by Sackett, C.J., and Huitink and Streit, JJ.

STREIT, J.

Mother appeals from the juvenile court's permanency order granting guardianship and custody of her two youngest children to a non-relative who is not a licensed foster parent. Susan W. is the mother of four children. Only the two youngest children, DiAngelo W., born October 25, 1984, and Courtney M., born November 5, 1987 are subjects of this appeal.

In April 1992, Susan W. left three of her children with Lela F. in Waterloo, Iowa, and disappeared. In July 1992 a Petition for CINA was filed and in October 1992 the children were adjudicated children in need of assistance. Susan's attorney and guardian ad litem stipulated that the children were in need of assistance at the adjudication hearing, but resisted the recommendation that the children remain with Lela at the disposition hearing. Susan had not been in contact with her attorney and no evidence was presented to show Lela was not a suitable person to maintain custody of the children. In September 1994, a permanency order was entered for the older child of the three, Amber M., and guardianship and custody was placed with her uncle. The younger children remained in the custody of Lela.

The children have continued to reside with Lela for the past four years while Susan has been in and out of prison and jail since 1987. She has an extensive criminal record including shoplifting, forgery, an O.W.I., and a robbery charge that was dropped to a lesser offense. She has disappeared while on probation, going for two years

without any contact with her children and her whereabouts unknown. At the time of appeal, she was in jail for theft and forgery scheduled for release in August 1996. She also has a long history of drug and alcohol abuse, and the children have witnessed their mother buying and using drugs.

The juvenile court deferred permanency orders in January and September 1994, on the younger children. In March 1995, the department of human services requested another permanency hearing which was held in May. Susan was present and claimed the environment at Lela's home was not healthy. She asked the court to place the children in a foster home in Des Moines, where she could see her children and get counseling in an effort to get her family back together. The court rejected Susan's request that the children be placed in a foster home in Des Moines. The court deferred making a decision on permanency and instead ordered a home study conducted of Lela's residence, a child abuse investigation, and a parent-child assessment regarding Susan's relationship with the children.

A review hearing was held in December 1995. Susan requested a six-month continuance and the Court defer permanency. She also objected to Lela being named guardian of DiAngelo and Courtney. The court concluded the statutory requirements for a permanency order had been met and that Lela was an appropriate guardian.

Susan appeals the juvenile court's permanency order. She contends the court should have continued the permanency hearing for six months. She also asserts it is not

in the best interests of her children to be placed in Lela's home. We affirm the district court.

Appellate review of child in need of assistance proceedings is de novo. *In re L.K.S.*, 451 N.W.2d 819 (Iowa 1990). We give weight to the findings of fact made by the juvenile court, but we are not bound by them. *In re W.G.*, 349 N.W.2d 487, 491-92 (Iowa 1989), *cert. denied sub nom., J.G. Tauke*, 469 U.S. 1222 (1985).

The children in this case have been living with Lela for almost four years. A continuance by the juvenile court would only have dragged this already lengthy case out six more months. The juvenile court had already deferred making a permanency decisions in January and September 1994 and in May 1995. Iowa Code section 232.104(1) provides a permanency hearing is appropriate after the child has been in foster care for twelve months. Iowa Code § 232.104(1) (1995). Therefore, we affirm the juvenile court's permanency order.

Further, Susan accuses Lela of child abuse and drug usage, and does not think it is in the best interests of her children to live with Lela. Review is de novo. Iowa R. App. P. 4. "The question is whether in the placement ordered by the juvenile court the child will receive adequate care." *In Interest of V.F.*, 490 N.W.2d 87, 89 (Iowa 1992). A home study of Lela's residence conducted by the department of human services did not substantiate any of the accusations. Susan argues on appeal the home study was not adequate. There is no indication in the record this issue was raised in the juvenile

court. An issue not presented in the juvenile court may not be raised for the first time on appeal. *In Interest of T.J.O.*, 527 N.W.2d 417, 420 (Iowa App. 1994). In any event, matters concerning the best interests of the children can be raised at the annual review hearing Iowa Code § 232.104(6) (1995). Since the mother did not raise this issue before the juvenile court, it is not preserved for appeal.

Susan contends placement of the children should be in Des Moines in foster care. She concedes she is not ready to take care of the children. There are no relatives that have offered to take the children. We believe the best placement option available for DiAngelo and Courtney appears to be with Lela. She has been the one consistent caretaker of the children. We recognize Lela's home is not perfect, but there is nothing in this record that causes us to disagree with the placement decision made by the juvenile court.

AFFIRMED.