

**IN THE COURT OF APPEALS OF IOWA**

No. 6-601 / 06-1023  
Filed August 23, 2006

**IN THE INTEREST OF A.K., Minor Child,**

**K.W., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Polk County, Karla J. Fultz,  
Associate Juvenile Judge.

A mother appeals from the juvenile court order terminating her parental  
rights to her son. **AFFIRMED.**

Victoria Meade, West Des Moines, for appellant-mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Annette Taylor,  
Assistant County Attorney, for appellee-State.

Heather Dickinson, West Des Moines, for father.

Jessica Miskimins, Youth Law Center, guardian ad litem for minor child.

Considered by Sackett, C.J., and Hecht and Vaitheswaran, JJ.

**SACKETT, C.J.**

Khalidah is the mother, and Ezra the father, of Anthoneih, born in January of 2005. He was removed from his parents' care in April of 2005 after his mother threw his car seat, with Anthoneih in it, during a disturbance at a shopping mall. He was placed with his paternal grandmother, Laura, where he remained during the pendency of this case. Following a termination hearing in April of 2006, the court terminated both parents' rights in an order filed on June 12, 2006. The mother appeals.

We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

Khalidah first contends termination was not in Anthoneih's interest because he is placed with a relative. Iowa Code section 232.116(3) provides that the court need not terminate a parent's rights if a relative has legal custody of the child. Iowa Code § 232.116(3)(a) (2005). The provisions of 232.116(3) are permissive, not mandatory. *In re C.K.*, 558 N.W.2d 170, 174 (Iowa 1997). It is within the sound discretion of the juvenile court, based on the unique circumstances before it and the best interests of the child, whether to apply section 232.116(3). The court found:

Anthoneih is too young for the court to enter a 232.104(2)(d) order establishing a guardianship. Although he is placed with his paternal grandmother, he should have a permanent home through adoption. He regards her as his primary parent. She will adopt him if parental rights are terminated. Neither of his parents will be available within a reasonable period of time to care for him.

....

Anthoneih is in a preadoptive home with his grandmother, Laura [ ], where he has been since he was removed twelve months ago. It is in the best interest of Anthoneih [ ] that termination of parental rights . . . occur.

Guardianships are subject to re-litigation, and would not afford Anthoneih the stability and permanency he deserves. Temporary or even long-term foster care is not in a child's best interests, especially when, as in this case, the child is adoptable and an adoptive home awaits him. See *In re T.T.*, 541 N.W.2d 552, 557 (Iowa Ct. App. 1995). We conclude the juvenile court properly found termination was in Anthoneih's best interest and exercised its discretion in considering the application of section 232.116(3) to the circumstances before it.

Khalidah also contends the State did not make reasonable efforts to reunify her with Anthoneih. The State asserts error was not preserved on this issue. Khalidah asserts she requested services "during court proceedings" and the court "subsequently" ruled on the issue in the termination order. From our review of the record, we find a request for additional visitation that was denied. Khalidah has not identified any other or different services she requested or that might have assisted in reunification efforts. See *In re A.A.G.*, 708 N.W.2d 85, 91 (Iowa Ct. App. 2005) ("The [State] has an obligation to make reasonable efforts toward reunification, but a parent has an equal obligation to demand other, different, or additional services prior to a permanency or termination hearing.").

The record reveals the State offered Khalidah these services: mental health assessment, psychosocial evaluation, individual therapy, random drug screens, parenting support groups and classes, substance abuse evaluations and treatment, substance abuse education, anger management therapy, skill development and supervised visitation, bus tokens, gas cards, and child-proofing

items for her home. Khalidah did not take advantage of most of the services offered. The core of the reasonable efforts mandate is that the child welfare agency must make reasonable efforts to prevent placement or to reunify families in each case. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997). While efforts made by the State to reunify a family may not be successful, this does not mean that the efforts were unreasonable. *Id.* We find the State made reasonable efforts to reunify Khalidah and Anthoneih.

The juvenile court carefully considered Anthoneih's circumstances, age, placement, need for stability, bonding with his grandmother, the likelihood of reunification with his parents, and other factors in determining termination was preferable to a guardianship or long-term foster care. We affirm its exercise of discretion. We find the reunification efforts made by the State, though unsuccessful, were reasonable.

**AFFIRMED.**