

**IN THE COURT OF APPEALS OF IOWA**

No. 6-888 / 06-1492  
Filed December 13, 2006

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

**C.J., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Appanoose County, William S. Owens, Associate Juvenile Judge.

A mother appeals from the modification of a permanency order continuing placement of her son with the father of his half-sibling. **AFFIRMED.**

Roberta A. Chambers, Corydon, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, and Robert F. Bozwell, Jr., County Attorney, for appellee.

Jonathan Willier, Centerville, for appellee-intervenor.

Kevin Maughan, Albia, guardian ad litem for minor child.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

**SACKETT, C.J.**

Christina, the mother of Keaton and Sidney, appeals from the juvenile court permanency order continuing placement of her son, Keaton, with Anthony, the father of his half-sister, Sidney, instead of returning Keaton to Christina's care. She contends (1) the court erred in finding Keaton could not be returned to her care, (2) the court erred in finding the State made reasonable efforts toward reunification, and (2) the placement is not in Keaton's best interest. We affirm.

**I. Background.**

Keaton was born in 2001. His half-sister, Sidney, was born in 2003. Their mother has a long history of substance abuse, extending back to when she herself was a child in need of assistance. Keaton was removed from Christina's care and found to be in need of assistance in 2003 following several founded child abuse assessments for lack of supervision or exposure to drugs. Sidney was born a month later. Christina participated in services. After more than a year, Keaton was returned to his mother's care and the case was closed.

In 2004, following two more founded child abuse assessments arising from Christina's substance abuse, exposing the children to marijuana, both children were removed from their mother's care. Christina agreed to a voluntary placement of both children with Sidney's father in Missouri. Following the juvenile court's determination both children were in need of assistance, the court continued their placement with Anthony, where the half-siblings have remained. The juvenile court also granted concurrent jurisdiction to the district court so Anthony could pursue guardianship and custody of Keaton in Missouri. The district court in Missouri refused to take jurisdiction.

Following a permanency hearing in September of 2005, the Department of Human Services scheduled increasing visitation between Christina and Keaton, with a goal of returning him to her care before Christmas. The increased visitation resulted in some behavioral problems for Keaton when he returned to Anthony's house after visitation.

The next permanency hearing occurred over several days in February and May of 2006. The evidence showed Christina had obtained employment and housing, had participated in substance abuse treatment and personal counseling, had remained drug free for over a year, and was working toward reunification with Keaton. Christina testified she recognized Sidney's permanent placement is with her father, Anthony, and that separating Keaton and Sidney would be difficult for the siblings. The case worker recommended placing Keaton in the legal custody and guardianship of Anthony, even though he is not Keaton's legal or biological father.

The juvenile court issued its permanency order in September. The court concluded termination would not be in Keaton's best interest, but that Keaton could not be returned home at that time. It gave great weight to the bond between Keaton and Sidney. The court recognized the preference that children be placed with a biological parent whenever possible, but concluded "that preference is outweighed by what is in Keaton's best interests over the long term." The court ordered that Keaton's legal custody and guardianship remain with Anthony and granted concurrent jurisdiction to the district court in Missouri "to enter appropriate custodial and guardianship orders" concerning Keaton.

## **II. Scope of review.**

Our review of child-in-need-of-assistance proceedings is de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002). We review the facts and the law and adjudicate rights anew. *In re H.G.*, 601 N.W.2d 84, 85 (Iowa 1999). We give weight to the juvenile court's factual findings but are not bound by them. *In re E.H. III*, 578 N.W.2d 243, 248 (Iowa 1998). The parent-child relationship is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S. Ct. 549, 554, 54 L. Ed. 2d 511, 519 (1978); *Wisconsin v. Yoder*, 406 U.S. 205, 233, 92 S. Ct. 1526, 1542, 32 L. Ed. 2d 15, 35 (1972).

## **III. Discussion.**

*A. Return to Christina's care.* Christina contends the State did not provide clear and convincing evidence Keaton could not be returned to her care. Although Christina has made progress in addressing her problems, there is evidence she may still be involved with drugs. She is sporadic in attending aftercare sessions and other recommended meetings. She continues to deny responsibility for the positive drug tests of Keaton and Sidney. Her long-term substance abuse and repeated relapses suggest Keaton could be at risk if returned to her care. We find clear and convincing evidence Keaton could not be returned to her care.

*B. Reasonable efforts.* Christina contends the State did not make reasonable efforts to reunite Keaton with her. 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 the efforts were unreasonable. *Id.* “Visitation between a parent and child is an important ingredient to the goal of reunification.” *In re M.B.*, 553 N.W.2d 343, 345 (Iowa Ct. App. 1996); see *In re S.W.*, 469 N.W.2d 278, 280-81 (Iowa Ct. App. 1991).

Visitation was increased after it was ordered by the court. In the final months of 2005 visitation between Keaton and Christina was being increased significantly, with a goal of reunification by the end of the year. Keaton exhibited negative behaviors after visitation. Christina also received family centered services, substance abuse treatment, and other services.

We find the State made reasonable efforts to reunite Christina and Keaton.

*C. Best interest.* Christina also contends placing Keaton in the custody and guardianship of Anthony is not in Keaton’s interest. The juvenile court found Keaton’s placement with Tony and his wife was in Keaton’s best interest.

Keaton was not able to be returned to Christina’s care at the time of the permanency hearing. He is in a stable environment with his half-sister. Tony treats Keaton as if he were his son and Keaton looks to him as his father. Both the case worker and the guardian ad litem recommended continuing Keaton’s placement with Tony. We conclude the juvenile court was correct.

**AFFIRMED.**