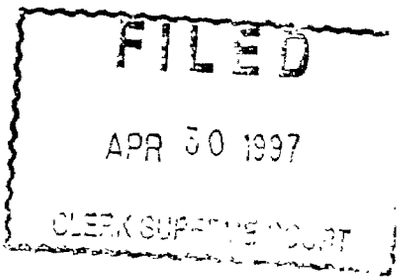
IN THE COURT OF APPEALS OF IOWA

No. 7-185 / 96-1536



IN THE INTEREST OF B.M.B., a/k/a **B.M.C.**, Minor Child,

M.L.B., Mother,
Appellant,

D.C., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Artis Reis, Associate Juvenile Judge.

The mother and father of B.M.B. appeal a district court order terminating their parental rights. **AFFIRMED.**

Ta-Yu Yang, Des Moines, for appellant mother.

Michael D. Blazek of Reed & Blazek, West Des Moines, for appellant father.

Nicole C. Garbis, Des Moines, guardian ad litem for minor child.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney General, Chris Odell, Assistant Attorney General, and Emily McConkey, Assistant County Attorney, for appellee State.

Considered by Sackett, P.J., and Cady and Vogel, JJ.

VOGEL, J.

Brandon's mother, Mellissa, and Brandon's father, David, appeal a district court order terminating their parental rights. The mother contends: (1) the termination proceedings violated her due process rights because she was a minor herself during the proceedings and should have had a guardian ad litem appointed for herself; and (2) the Department of Human Services did not take into consideration the fact she was only thirteen years of age and a child in need of assistance when offering her services. The father and mother both argue the State failed to make reasonable efforts to reunite the family.

Scope of review. We review termination proceedings de novo. *In re W.G.*, 349 N.W.2d 487, 491 (Iowa 1984) *cert. denied sub nom. J.G. v. Tauke*, 469 U.S. 1222 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. *Id.* at 491-92. The primary concern in termination proceedings is the best interest of the child. Iowa R. App. P. 14(f)(15); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

> We look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

In re R.M., 431 N.W.2d 196, 199 (Iowa App. 1988) (citing *Dameron*, 306 N.W.2d at 745).

I. Due process and guardian ad litem. Mellissa contends the termination proceedings violated her rights to due process because as a minor, she was entitled to a guardian ad litem. She contends that although she was represented by an attorney, he did not stand in the place of her parents. This issue was not raised in the juvenile court. An issue not raised in the juvenile court has not been preserved for review on appeal. *In re T.J.O.*, 527 N.W.2d 417 (Iowa App. 1994). Constitutional issues must also be presented to the court below in order for it to be preserved on appeal. *In re C.D.*, 508 N.W.2d 97, 100 (Iowa App. 1993). We accordingly deem this issue waived.

Even if we were to reach the merits on Mellissa's guardian ad litem claim, Mellissa would not succeed. The record reflects the juvenile court did appoint a guardian ad litem for Mellissa. At the beginning of the termination hearing, Mellissa's attorney explained to the court that he was Mellissa's attorney as well as Mellissa's guardian ad litem for purposes of Mellissa's CINA proceeding. The juvenile court appointed Mellissa's attorney to also be her guardian ad litem for the termination hearing. Mellissa did not object to this appointment.

II. Reasonable efforts to reunify the family. Both Mellissa and David argue the State failed to provide sufficient services in order to reunite the family. Reasonable services must be provided by the State to attempt to reunite the family

before a termination of parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). However, while the State must make reasonable efforts to reunite the family, the parents have the ultimate responsibility to demand services prior to the termination hearing. *Id.*; *In re C.D.*, 508 N.W.2d 97, 101 (Iowa App. 1993). We find the record lacks evidence indicating either parent raised this issue prior to the termination hearing. We are thus precluded from addressing this issue. *Id.*

Notwithstanding this issue has not been preserved for appeal, we note the State did make reasonable efforts to reunite the family. Many services were offered to the parents who failed to take the opportunities offered. Failure to take advantage of services does not mean reasonable services were not provided. *See In re B.K.J.*, 483 N.W.2d 608, 610-11 (Iowa App. 1992).

Mellissa was provided services through the House of Mercy. She ran away from this facility and the program twice. She sporadically attended parenting classes offered through the Parent Infant Nurturing Center. When she did take advantage of the program, her participation was poor and her parenting skills did not improve. She increasingly became overwhelmed and discouraged; her lack of motivation contributed to a decrease in her parenting skills. She was resistant to instruction in the Generations program and frequently missed visits. That service terminated for lack of involvement by Mellissa. We recognize that Mellissa was only thirteen when Brandon was born and fifteen at the time of the termination hearing; however, we note "[w]hile the law demands a full measure of patience with a troubled parent who

attempts to remedy a lack of parenting skills, . . . a child need not endlessly wait the maturity of his or her natural parent." *In re B.K.J.*, 483 N.W.2d at 611. Moreover, the Iowa legislature does not make a special provision to allow young parents more time to learn to adequately function as parents. A child's rights are not a function of his or her parent's age. *In re M.R.*, 487 N.W.2d 99, 103 (Iowa App. 1992).

Since Brandon's birth, David has had minimal involvement with Brandon. He did not complete any parenting classes or participate in counseling at the House of Mercy. He failed to attend parenting sessions at the Parent Infant Nurturing Center and his involvement at Generations declined to the point of discontinuing supervised visits. The record is replete with evidence the State secured reasonable efforts to reunite the parents with Brandon, yet the parents failed to take full advantage of the opportunities the State made available to them.

Having carefully reviewed the arguments and the record before us, we affirm the district court's termination of Mellissa's and David's parental rights.

AFFIRMED.

Cady, J., concurs; Sackett, P.J., specially concurs without opinion.