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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0720**

In the Matter of the Welfare of the Child of: J. M. K. and J. Z. J., Parents

**Filed August 28, 2017
Affirmed
Larkin, Judge**

Stearns County District Court
File No. 73-JV-16-2855

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Considered and decided by Johnson, Presiding Judge; Larkin, Judge; and Kalitowski, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

LARKIN, Judge

In this post-remand appeal, appellant-mother challenges the termination of her parental rights (TPR), arguing that the evidence is insufficient to support the amended termination order. We affirm.

FACTS

Appellant-mother J.M.K. is the biological mother of J.E.J., born in 2015.¹ On January 29, 2016, J.E.J. was placed in emergency foster care after his daycare staff reported several bruises on multiple parts of his body. On February 3, respondent Stearns County Human Services (the county) filed a child in need of protection or services petition regarding J.E.J. The district court held an emergency-protective-care hearing and continued J.E.J.'s out-of-home placement.

In March 2016, the county petitioned to terminate mother's parental rights to J.E.J. A county social worker attached an affidavit to the petition alleging that on January 29, 2016, mother dropped J.E.J. off at daycare and told daycare staff that J.E.J. had injured his face during his bath. J.E.J. had "bruising, reddish to purplish in color, on both sides of his face, and some spots appeared to be swollen." When daycare staff changed J.E.J.'s diaper, "more reddish and purplish bruising from his hip creases to his knees [was] visible" as well as "bruising and swelling . . . on the back of [J.E.J.'s] left hand." Because the petition stated a prima facie case that J.E.J. had experienced egregious harm in mother's care, the

¹ The district court terminated the parental rights of J.Z.J., J.E.J.'s adjudicated father, by default on May 27, 2016. Father did not appeal.

district court relieved the county of its obligation to provide reasonable reunification efforts.

In July 2016, the district court held a trial on the TPR petition. At trial, Amy Youkin, an employee at the daycare center, testified as follows. Mother dropped J.E.J. off at the daycare center around 7:30 a.m. on January 29, 2016. Mother told Youkin that J.E.J. had fallen out of the bathtub and hit the floor. Youkin “noticed a bit of bruising on [J.E.J.’s] face” and that there were “lines in the bruising and redness.” While changing J.E.J.’s diaper around 8:00 a.m., Youkin noticed “significant bruising down his legs from about just below his hips to his knees.” Youkin saw “dotted redness just above his hips,” a “bruise on his sternum,” a bruise on the back of one of his hands, and more clearly saw the bruising on J.E.J.’s face. Youkin testified that there “appeared to be a handprint bruise” on J.E.J.’s right leg. Youkin also saw “[r]edness with some petechiae” on the left side of J.E.J.’s abdomen as well as “additional bruises up high above his belly button.”² Youkin did not recall seeing any bruising or injuries on J.E.J. when he was at daycare the day before.

Youkin testified that she brought J.E.J. to the director of the daycare, Kathleen LacQuay. LacQuay observed J.E.J.’s bruises, and Youkin expressed concern because they did not appear to have been caused by a fall from a bathtub as mother had reported. Youkin and LacQuay called the county and reported the injuries and their concerns.

² “Petechia” is a “small purplish spot on a body surface, such as the skin, caused by a minute hemorrhage.” *The American Heritage College Dictionary* 1041 (4th ed. 2007).

LacQuay testified that Youkin brought J.E.J. into her office and that she examined the child. LacQuay observed “significant bruising all on his cheek and down the side of his face,” bruising on his abdomen and chest area, a “dark blue bruise on the top of his hand,” and “[v]ery dark purple” and “bluish” bruising on his legs. LacQuay did not believe that the bruising was caused by a fall from a bathtub because of the number of bruises and because J.E.J. could not have hoisted himself up to go over the side of a bathtub.

Jonathan Mattson, a county child-protection worker, testified that he investigated the daycare center’s report regarding J.E.J. He examined the child and observed bruising on the left side of J.E.J.’s face and abdomen and on J.E.J.’s hand and legs. He also observed linear marks within the bruise on J.E.J.’s face, “which appeared to [him] to be finger marks.” Mattson photographed J.E.J. at the daycare center, and the photographs were admitted as evidence at trial.

Mattson was present during law-enforcement interviews with mother and father on February 1, 2016. Mattson testified that mother and father indicated that mother had fallen while carrying J.E.J. on ice the night before J.E.J. was placed in protective custody, that J.E.J. had fallen into mother’s side, but that J.E.J. was not bruised as a result. Mattson also testified that mother and father gave conflicting statements regarding who dressed J.E.J. that morning. Each parent initially claimed to have dressed the child before stating that the other parent had dressed the child.

Mattson testified that father had another child and that the mother of that child reported to child protection that father struck her in the face, pushed her out of the room,

and locked the door, and that she heard father hit the child. That mother reported that father caused bruising on the child's legs.

Mattson opined that termination was in J.E.J.'s best interests. Mattson explained that either parent could have caused J.E.J.'s injuries and that J.E.J. would be at risk of further harm if he were returned to mother. Mattson testified that he would have concerns even if "[father] was completely out of the picture," because there has not been a clear statement regarding the incident, "despite [mother] stating that she was present at all times when [the] incident could have occurred," which indicated that mother "could have been . . . the offender and could also be [an] offender again in the future."

Mother testified that she provided most of J.E.J.'s care. She testified that some mornings, father would get up with her to help her with childcare tasks, but most of the time he would not. But she also testified that father would occasionally change J.E.J.'s diaper, bathe him, feed him, and dress him in the morning.

Mother testified that on January 29, she gave J.E.J. a bath around 6:30 a.m. Mother observed some bruising on J.E.J.'s thighs while bathing him. She attributed that bruising to her fall on ice with J.E.J. the night before. Mother testified that she told law enforcement that J.E.J. "possibly would have tummy bruising" from leaning over the bathtub. When mother was shown the photographs of J.E.J.'s injuries at trial, she testified that she had not seen the significant bruising depicted in the photographs and had "no way to account for those" bruises. When asked by the county if she knew how J.E.J. received the bruises, mother testified that her "only assumption would have been from [father]." Mother denied

injuring J.E.J. Mother testified that she did not see any of the bruises depicted in the photographs when she put J.E.J.'s diaper on after his bath on January 29.

As to that day, mother testified that around 7:05 a.m., she entered the bathroom to shower, and J.E.J. entered the bathroom. Father removed J.E.J. from the bathroom, shut the bathroom door, and took J.E.J. into their bedroom. Mother heard J.E.J. crying when father took him out of the bathroom. Mother admitted that she told the police that when she heard J.E.J. crying, she "screamed" and asked father why J.E.J. was crying. Mother testified that J.E.J. was crying because he wanted to stay in the bathroom with her. Mother claimed that she could not hear outside of the bathroom while she showered because she "was in the shower with the door closed with the fan on." Mother testified that when she left the bathroom at approximately 7:25 a.m., J.E.J. was dressed and lying down in his crib. Mother left for the daycare center with J.E.J. around 7:30 a.m. When she arrived, she told daycare staff that J.E.J. might have some bruising because he had been "falling in the bathtub" and would "slip and hit his head on the outside of the tub and then sometimes on the toilet."

Mother testified that she had been in a relationship with father for three years. She was aware of father's criminal history, including that he had a robbery conviction, and that father was "not a very friendly human being." Mother claimed that she ended her relationship with father in May 2016 and that father assaulted her in June 2016. Mother acknowledged that at the time of the assault, father was visiting mother once a week, was allowed to drive her car, and had her house and car keys. Mother said that she did not have contact with father following the assault.

Father testified that before the alleged assault, he was at mother's residence "all the time." Father claimed that on the morning of January 29, he did not bathe, dress, feed, or otherwise have any contact with J.E.J. Father said that he saw J.E.J. while the child was sleeping that morning but did not see him after he woke up. Mother tried to talk to father about J.E.J.'s injuries, but father told her he did not want to talk about it. When the county asked father how J.E.J. sustained the injuries, he answered, "Listen, we both know that—she know[s] and I know what happened." Father said that mother knew what happened better than he did. Father testified that J.E.J. did not have bruising when he left the house on January 29, and he alleged that daycare staff injured J.E.J. Father eventually invoked his Fifth Amendment right against self-incrimination during his testimony, and the district court granted the county's request to make a negative inference from his refusal to testify.

Dr. Alice Swenson, a pediatrician at the Midwest Children's Resource Center (MCRC), testified that she examined J.E.J. on February 5, 2016, and prepared a report regarding J.E.J.'s injuries. Dr. Swenson testified that there was reason to suspect abuse because (1) J.E.J.'s bruises were on soft surfaces of the child's body rather than on bony prominences, (2) the bruises were on multiple surfaces, (3) the bruising appeared "somewhat patterned or linear," and (4) J.E.J. was not yet walking and it is unusual for a child who is not walking to sustain bruises. Dr. Swenson testified that the "linear-patterned" bruises on J.E.J.'s face were indicative of him having experienced a high-velocity slap, and that the bruising on J.E.J.'s abdomen raised significant concerns because "bruising on a belly of an infant . . . is extremely consistent with abuse" as it is difficult for an infant to accidentally bruise that part of the infant's body because "there's so much fat

[there] and there's no bones directly underlying it." Dr. Swenson opined that J.E.J. was a victim of physical abuse. Dr. Swenson's report regarding J.E.J., which was admitted into evidence at trial, stated that J.E.J. "is at [a] high risk for more severe injury and even death if he remains in the same unsafe environment."

Lacie Prenderville, a former county child-protection worker, testified that she had been assigned to work with mother and J.E.J. In March 2016, Prenderville and another county child-protection worker reviewed Dr. Swenson's report regarding J.E.J.'s injuries in detail with mother. The other county child-protection worker pointed out that the report indicated that the bruising could not have been caused by J.E.J. falling in the bathtub or by mother falling on the ice while holding the child. Prenderville discussed the possibility that father caused J.E.J.'s bruising, and mother stated that she had not seen or heard anything to give her reason to believe father caused the bruising. Prenderville testified that in May, mother expressed concern about father's parental rights being terminated because mother and father wanted to be a family. But in June, mother contacted Prenderville regarding father's alleged assault and told Prenderville that she was no longer in a relationship with father.

Prenderville believed that mother either caused J.E.J.'s bruising or failed to protect J.E.J. Prenderville also believed it was in the best interests of J.E.J. to terminate mother's parental rights because "[w]ithout knowing for sure what happened to the child, there's no way to adequately safety plan to insure bruising won't happen again."

Officer Jason Thompson of the Waite Park Police Department testified that mother asked to give a statement to law enforcement with her attorney present in June 2016. At

that time, mother said that it was possible that father caused J.E.J.'s injuries but that she had no proof he did. However, mother did not indicate that father cared for J.E.J. on the morning of January 29 and said that he hardly ever cared for the child.

Although J.E.J.'s guardian ad litem (GAL) did not testify at trial, the GAL advised the district court that termination of mother's parental rights was in J.E.J.'s best interests because "the information that [she had] obtained throughout this entire case and throughout these hearings cause[ed her] huge concern if [J.E.J.] were to be returned to his mother's care."

The district court found that J.E.J. had experienced egregious harm in mother's care that "indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in" mother's care. (Quoting Minn. Stat. § 260C.301, subd. 1(b)(6) (2016).) The district court concluded that termination of parental rights was in J.E.J.'s best interests and terminated mother's parental rights to the child.

Mother appealed, and this court concluded that the district court failed to make a finding regarding whether mother "either inflicted egregious harm on the child or that she knew or should have known of [the] egregious harm." *In re Welfare of Child of J.M.K.*, No. A16-1644, 2017 WL 476015, at *2 (Minn. App. Feb. 6, 2017). This court reversed the termination of mother's parental rights and remanded for additional findings. *Id.*

On remand, the district court found that mother "knew or should have known of the egregious harm, whether or not she actually caused the bruises and injuries or whether [father] actually caused the bruises and injuries." The district court concluded that the

injuries J.E.J. sustained were of a nature that indicated a lack of regard for the child's well-being such that a reasonable person would believe it contrary to the best interests of the child or of any child to be in mother's care. The district court again concluded that termination of parental rights was in J.E.J.'s best interests and terminated mother's parental rights. Mother appeals.

D E C I S I O N

Courts presume that "a natural parent is a fit and suitable person to be entrusted with the care of his or her child." *In re Welfare of A.D.*, 535 N.W.2d 643, 647 (Minn. 1995). "Ordinarily, it is in the best interest of a child to be in the custody of his or her natural parents." *Id.* Thus, "[p]arental rights are terminated only for grave and weighty reasons." *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). In a proceeding to terminate parental rights, "[t]he petitioner . . . bears the burden of producing clear and convincing evidence that one or more of the statutory termination grounds exists." *In re Welfare of C.K.*, 426 N.W.2d 842, 847 (Minn. 1988); see Minn. Stat. § 260C.317, subd. 1 (2016) (requiring "clear and convincing evidence" of a statutory basis to terminate parental rights). An appellate court "exercises great caution in termination proceedings, finding such action proper only when the evidence clearly mandates such a result." *In re Welfare of S.Z.*, 547 N.W.2d 886, 893 (Minn. 1996).

In a termination appeal, this court examines the record to determine whether the district court applied the appropriate statutory criteria and made findings that are not clearly erroneous. *In re Welfare of D.L.R.D.*, 656 N.W.2d 247, 249 (Minn. App. 2003). In doing so, this court defers to the district court's credibility determinations. See *In re Welfare of*

L.A.F., 554 N.W.2d 393, 396 (Minn. 1996) (“Considerable deference is due to the district court’s [TPR] decision because a district court is in a superior position to assess the credibility of witnesses.”). This court gives the district court’s decision to terminate parental rights considerable deference but “closely inquire[s] into the sufficiency of the evidence to determine whether it was clear and convincing.” *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). We review the district court’s ultimate decision whether to terminate a parent’s parental rights for an abuse of discretion. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136-37 (Minn. 2014).

I.

The district court terminated mother’s parental rights under Minn. Stat. § 260C.301, subd. 1(b)(6), which allows termination when

a child has experienced egregious harm in the parent’s care which is of a nature, duration, or chronicity that indicates a lack of regard for the child’s well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent’s care.

Egregious harm “means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care.”

Minn. Stat. § 260C.007, subd. 14 (2016). Egregious harm includes conduct towards a child that constitutes third-degree assault and felony malicious punishment. *Id.*, subd. 14(3), (6).

A person who “assaults a victim under the age of four, and causes bodily harm to the child’s head, eyes, or neck, or otherwise causes multiple bruises to the body” is guilty of third-degree assault. Minn. Stat. § 609.223, subd. 3 (2016). “A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child,

evidences unreasonable force or cruel discipline that is excessive under the circumstances” is guilty of felony malicious punishment if the punishment is “to a child under the age of four and causes bodily harm to the head, eyes, neck, or otherwise causes multiple bruises to the body.” Minn. Stat. § 609.377, subds. 1, 4 (2016).

Termination of parental rights based on egregious harm does “not requir[e] that the parent has inflicted egregious harm on his or her own child but, rather, that a child has experienced egregious harm in the parent’s care which demonstrates the parent’s grossly inadequate ability to provide minimally adequate parental care to any child.” *In re Welfare of A.L.F.*, 579 N.W.2d 152, 155-56 (Minn. App. 1998). “[A] child can be considered to have experienced egregious harm ‘in the parent’s care’ even though the parent was not physically present at the time the harm occurred.” *In re Welfare of T.P.*, 747 N.W.2d 356, 357 (Minn. 2008). “[T]o terminate the rights of a parent who has not personally inflicted egregious harm on a child, a court must find that the parent either knew or should have known that the child had experienced egregious harm.” *Id.* at 362. A finding that a parent knew or should have known that a child experienced egregious harm is necessary, but not sufficient to satisfy the egregious-harm statutory ground. *Id.* at 362 n.4. The parent’s actions in light of the “nature, duration, or chronicity” of the egregious harm must also “indicate a lack of regard by that parent for the child’s well-being.” *Id.* (quotation omitted).

Mother does not dispute that J.E.J. suffered egregious harm as defined in Minn. Stat. § 260C.007, subd. 14(3). Instead, mother argues that the district court erred by failing to “include specific findings as to the nature, duration, or chronicity [of] the egregious harm” and that the district court’s amended findings are unsupported by the record.

The district court found that the county proved, by clear-and-convincing evidence, that J.E.J. had experienced egregious harm while in mother's care and that mother "knew or should have known of the egregious harm, whether or not she actually caused the bruises and injuries or whether [father] actually caused the bruises and injuries." The district court also found that J.E.J.'s injuries were of a nature that indicated a lack of regard for J.E.J.'s well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in mother's care. The district court based this finding on the following reasoning:

- (1) [J.E.J.] suffered numerous bruises in multiple locations where non-mobile infants normally do not suffer bruises;
- (2) these bruises were in a linear pattern, indicative of abuse;
- and (3) these bruises occurred either (a) while in the care of [mother], or, (b) while in the care of [father], with [mother] being in the position to inflict these injuries or to see or hear [father] inflicting these injuries on [J.E.J.] or to hear and see [J.E.J.] reacting to the infliction of said injuries.

The record supports the district court's findings and reasoning. Dr. Swenson testified that it was unusual for a nonmobile infant to sustain bruises and that J.E.J.'s injuries, particularly the "linear-patterned" bruising on the child's face and the bruises on his abdomen, were unlikely to have resulted from a fall or other accident and were indicative of abuse. Daycare provider Youkin testified that she did not recall seeing any bruising or injuries on J.E.J. when he was at the daycare center on January 28, the day before he arrived with bruising. Mother testified that she did not see significant bruising when she put J.E.J.'s diaper on after his bath at approximately 7:00 a.m. on January 29. Mother testified that she showered around 7:05 a.m. and heard J.E.J. crying when father

took him out of the bathroom. She admitted that she told the police that she “screamed” when she heard J.E.J. crying and asked father why J.E.J. was crying. She also testified that when she left the bathroom after her shower at approximately 7:25 a.m., J.E.J. was dressed and lying in his crib.

Father testified that he did not bathe, dress, feed, or have any other contact with J.E.J. on the morning of January 29. Moreover, there is no evidence or allegation that anyone other than mother and father had access to J.E.J. between the time he left daycare on January 28 and returned to daycare on January 29. And there is no evidence that father was alone with J.E.J. other than during the time that mother showered on the morning of January 29.

This evidence suggests one of two scenarios. If father’s testimony that he did not care for J.E.J. on January 29 is credited, the evidence clearly and convincingly establishes that mother inflicted J.E.J.’s injuries because there is no evidence that any other person had access to J.E.J. to inflict the injuries between the time when mother bathed and diapered J.E.J. and dropped him off at daycare on January 29. If mother’s testimony that she did not inflict the injuries is credited, the evidence clearly and convincingly establishes that father inflicted J.E.J.’s injuries and that mother was in a position to either see or hear the infliction of those injuries. Mother was in the residence when the injuries were inflicted. Even if mother did not see or hear father hit J.E.J., mother heard J.E.J. crying after father removed him from the bathroom and should have appreciated the suspicious nature of the bruising that was apparent by the time that J.E.J. arrived at daycare. Instead, mother gave inconsistent explanations for the injuries and did not suggest father caused them until father

allegedly assaulted her. The district court did not make a finding regarding who inflicted the injuries, but mother's actions in either scenario indicate that she knew or should have known that the child experienced egregious harm.

Mother contends that "[a]ny bruising that may have been observed by [her] between the hours of 7:00 a.m. and 7:45 a.m. was not of the nature, at that time, which would mandate her or any other reasonable person to suspect or have reason to believe that J.E.J. suffered egregious harm." Mother argues that the fact that the county did not respond to the daycare center's initial report until seven hours after the county received it suggests that the bruising was not serious enough to warrant J.E.J.'s immediate assessment by a medical provider. Mother's argument is unpersuasive for two reasons.

First, the district court specifically discredited mother's testimony that she neither heard the abuse when it happened nor saw signs that J.E.J. had been abused. The district court expressly found that it was not credible that mother did not hear father "inflicting high-velocity impacts on multiple areas of [J.E.J.'s] body, did not hear [J.E.J.] cry while sustaining high-velocity impacts on multiple areas of his body, did not see any signs that [J.E.J.] had been crying or injured, and/or did not observe changes in [father's] behavior that caused her concern." This court defers to that credibility determination. *See L.A.F.*, 554 N.W.2d at 396.

Second, as to whether the county should have responded to the daycare center's initial report earlier or immediately sought medical treatment, the more pertinent inquiry is what actions mother should have taken. Upon seeing signs that J.E.J. had been injured, mother should have taken steps to protect J.E.J. from further harm, such as reporting

possible abuse and ensuring that the perpetrator of the abuse would not have contact with J.E.J. Instead, she gave multiple, conflicting explanations for the bruises, even after county social workers reviewed Dr. Swenson's report with her, which indicated that the injuries were caused by abuse, and not the accidental causes mother had identified. Although mother eventually alleged that father caused J.E.J.'s injuries, she did so only after father allegedly assaulted her. In sum, mother's actions during the investigation indicates a serious disregard for J.E.J.'s well-being.

Because the district court's findings regarding the nature of J.E.J.'s egregious harm are supported by the record and clearly and convincingly indicate mother's lack of regard for the child's well-being, we do not address mother's arguments that the district court made inadequate findings regarding the duration or chronicity of the egregious harm. See Minn. Stat. § 260C.301, subd. 1(b)(6) (requiring egregious harm "of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being" (emphasis added)).

II.

A child's best interests can preclude termination of parental rights, even if a statutory ground for termination is established by clear-and-convincing evidence. *In re Welfare of the Child of D.L.D.*, 771 N.W.2d 538, 545 (Minn. App. 2009). In making best-interests findings, courts must analyze (1) the child's interests in preserving the parent-child relationship, (2) the parent's interests in preserving the parent-child relationship, and (3) any competing interests of the child. Minn. R. Juv. Prot. P. 39.05, subd. 3(b)(3). "Competing interests include such things as a stable environment, health considerations and the child's preferences." *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992).

“Where the interests of parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7 (2016). This court reviews a district court’s determination that termination of parental rights is in a child’s best interests for an abuse of discretion. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

Mother contends that the district court erred in analyzing the best-interests factors. Specifically, mother argues that the district court erred by reasoning that because “[J.E.J.] was 10 months old, that automatically means he did not have an established relationship with his mother.” Mother asserts that she “provided for his health, well-being, safety, and happiness since his birth up to the time he was removed from her care” and that she “has always been an appropriate caregiver of her son, they have a good relationship, and she was a loving and caring parent.”

The district court found that “[b]ecause [J.E.J.] had a relatively short amount of time to bond with [mother], his interest in maintaining the [parent-child] relationship is diminished.” The district court also found that mother “has not demonstrated that her interest in maintaining the parent-child relationship with [J.E.J.] is a priority to her.” The district court further found that mother “was more concerned at trial with protecting the interests of [father] than she was with providing the Court with an honest and consistent explanation of how [J.E.J.] was harmed so egregiously in her care.” The district court noted that Dr. Swenson testified that children who have sustained the injuries that J.E.J. sustained are much more likely to be injured in a similar fashion if returned to the environment where they sustained such injuries. The district court also credited statements

from J.E.J.'s GAL and Dr. Swenson regarding their significant concern for J.E.J.'s well-being if he were returned to mother's care.

We need not determine whether the district court erred by reasoning that J.E.J. has a diminished interest in maintaining the parent-child relationship with mother given his young age because the district court's other best-interests findings are supported by the record and establish that the termination of mother's parental rights is in J.E.J.'s best interests. As noted above, J.E.J. was physically abused at mother's residence and mother was in a position to either inflict the abuse, see or hear father inflict the abuse, or observe signs of the abuse. Yet mother did not report that J.E.J. may have been abused and gave conflicting explanations regarding the cause of his injuries, making it difficult for investigators to determine the cause and to protect J.E.J. from further abuse. The record clearly and convincingly establishes that mother has not demonstrated an ability to protect J.E.J. or to provide a safe environment for him. Under the circumstances, the district court did not abuse its discretion in determining that termination of mother's parental rights is in J.E.J.'s best interests.

Affirmed.