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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0575**

In the Matter of the Welfare of the Children of:
A. D. S., D. L. B. and J. J. J., Parents.

**Filed September 4, 2018
Affirmed
Kirk, Judge**

McLeod County District Court
File No. 43-JV-17-95

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Considered and decided by Cleary, Chief Judge; Kirk, Judge; and Smith, Tracy M.,
Judge.

UNPUBLISHED OPINION

KIRK, Judge

On appeal from the involuntary termination of her parental rights, appellant mother argues that the record does not support the district court's conclusions that: (1) mother is palpably unfit to be a party to the parent-child relationship, (2) reasonable efforts by the county failed to correct the conditions leading to the children's placement, (3) the children are neglected and in foster care, and (4) it is in the best interests of the children to terminate mother's parental rights. We affirm.

FACTS

Appellant A.D.S. is the mother of J.J., born in 2006, and I.B., born in 2010. Appellant also is the biological parent of six older children. Permanent custody of one of appellant's older children was voluntarily transferred to the child's father in 2001 following juvenile court proceedings in Anoka County. Appellant voluntarily terminated her rights to her other five older children between 2002 and 2004 following further juvenile court proceedings in Anoka County.

Appellant has been in a series of relationships with men who were uninvolved in her children's lives and were emotionally, verbally, or physically abusive, or involved with drugs or both. Appellant has had a long-term "on and off" relationship since 2005 with J.J.J., J.J.'s father. At one point when appellant and J.J.J. were apart, appellant married D.L.B., who is I.B.'s father. D.L.B. physically abused mother and was chemically dependent.

J.J. and I.B. previously have been the subject of child-protection proceedings in Wisconsin. In 2012, while living in Wisconsin, the children were removed from appellant's care for approximately eight months. In March 2016, Wisconsin child protection received a report from a hospital that appellant had overdosed on a tranquilizer, tested positive for methamphetamines, and reported concern for her children because they were living in a "meth house."

In the summer of 2016, appellant left the children in J.J.J.'s care and came to Minnesota by herself to look for housing to move away from J.J.J. While visiting the father of one of her older children in jail, appellant met B.W. in the jail parking lot, and he offered her rooms to rent in a residence with no running water or functioning toilets. Appellant agreed to rent rooms from B.W. and moved into the residence in July. J.J. and I.B. moved into the residence in early September 2016.

In November 2016, a report was made to McLeod County Social Services raising concerns for the children's welfare. When the children were interviewed, they stated that they had no running water and primarily used a nearby gas station for toileting needs. On December 1, 2016, the children were removed from appellant's home and placed in relative-foster care with appellant's 18-year-old daughter. The following day McLeod County filed a petition alleging that the children were in need of protection or services (CHIPS).

Social services then discovered that I.B. suffered from significant dental neglect, requiring extensive dental repairs while in foster care, specifically, six crowns, four fillings, two root canals, and two pulled teeth. Both children have been diagnosed with

posttraumatic stress disorder (PTSD), and J.J. has struggled with toileting accidents. In March 2017, the district court held a court trial to determine whether the children should be adjudicated CHIPS. Appellant did not appear for the hearing, and the children were adjudicated CHIPS.

The children were placed in a nonrelative-foster home to which they adjusted easily and where they did well and were happy. J.J., who was in fourth grade at the time, saw his reading level go up from grade 2.5 to 4.0 from January to May. As part of permanency planning, in September 2017, the children were placed with Foster Parent 1, an adult non-joint daughter of J.J.J. J.J. attended court hearings with Foster Parent 1, and the district court observed that J.J. has bonded to Foster Parent 1 and “looks to her for physical affection, comfort, and emotional support.” Foster Parent 1 wants to adopt both children to provide them with stability and security. Since the children have been placed with Foster Parent 1, the previous nonrelative-foster parents have maintained contact with the children, providing respite foster care once per month, and they also are interested in adopting the children. Both Foster Parent 1 and the children’s nonrelative-foster mother testified that they believe that it is in the children’s best interests to maintain their relationships with their biological parents.

When this case was first referred to McLeod County Social Services in November 2016, it requested that appellant submit to a drug test, which she refused. Appellant eventually submitted to a test on December 13, 2016, and it came back positive for methamphetamine. In March 2017, appellant completed a rule 25 evaluation, which

recommended inpatient chemical-dependency treatment, but appellant did not comply with the recommendation.¹

On April 11, 2017, appellant was hospitalized after overdosing on Lithium and Lyrica. Initially, appellant was hospitalized in an intensive care unit, but she was transferred to mental-health hospitalization and referred for potential civil commitment. Following a contested hearing held on April 28, 2017, appellant was civilly committed as mentally ill. On May 25, 2017, the district court filed an order authorizing the involuntary administration of neuroleptic medication, but stayed that order on the condition that appellant take neuroleptic medication as prescribed. Later that day, the district court revoked the stay when appellant refused to take her prescribed medication.

Near the completion of her inpatient mental-health treatment, appellant was recommended to attend inpatient chemical-dependency treatment. Appellant opposed the suggestion and attended only under a court order requiring her to do so to be discharged from the mental-health hospital. Ultimately, appellant was transferred directly from the mental-health facility to inpatient chemical-dependency treatment. When appellant completed inpatient chemical-dependency treatment on September 15, 2017, outpatient treatment was recommended. Appellant opposed the recommendation.

¹ J.J.J. attended hearings and participated in parenting time with appellant, but refused to participate in a case plan and generally refused to cooperate with drug testing. J.J.J. agreed to one hair-follicle test, which came back positive for methamphetamine. While the child-protection matter was ongoing, J.J.J. was criminally charged in Wisconsin for possession of methamphetamine. Appellant testified to being aware that J.J.J. drinks alcohol and has used methamphetamine. However, appellant testified that she was not able to say whether or not he is dependent on those substances. Appellant testified that “just drinking alcohol don’t make you chemically dependent.”

On October 10, 2017, the district court held a review hearing, during which all parties agreed to postpone trial on whether to terminate appellant's parental rights because she was in compliance with her case plan and it was in the children's best interests to continue reunification efforts. Appellant entered outpatient treatment on October 26, 2017, and completed it on January 17, 2018. Despite her long history with drug abuse, appellant testified that "the staying clean part is easy."

In December of 2017, appellant had three police contacts, each involving the loan of her car to acquaintances she met in chemical-dependency treatment. First, appellant reported that an acquaintance did not return her car after she had allowed him to use it. Second, two acquaintances from treatment who had borrowed appellant's car came to the attention of the police because one had an outstanding warrant for his arrest. Appellant allowed law enforcement to enter her home and arrest both acquaintances on outstanding warrants. Finally, appellant reported that she had allowed two other acquaintances from treatment to borrow her car and that they did not return with it when they told her they would. Appellant missed her parenting time on the days of the second and third contact. On the day of the second contact, appellant told a social worker that she could not go to parenting time because she had to work, and on the day of the third contact, she told the social worker that she was sick.

The case was tried to the district court over one week in February 2018. At that time, appellant was on the verge of being evicted. Her landlord had loaned her \$2,789.50 to purchase furniture, and her church had contributed \$1,700 to pay rent. Appellant had paid back nothing towards the loan, had not made any rent payments herself over five

months, and was at least \$2,100 behind in rent. Appellant testified that she has been employed at times and had employment lined up but was not employed at that time.

Appellant testified that her relationship with J.J.J. included emotional or mental violence and that they “disagree a lot.” Appellant nevertheless expressed “wishes and hopes” to reunify herself and the children with J.J.J. as a family. Appellant testified that she remained friends with W.B., who was, at the time of trial, incarcerated for felony assault.

Both the social worker and the guardian ad litem assigned to this case testified that termination of appellant’s parental rights is in the best interests of the children. On March 22, 2018, the district court ordered appellant’s parental rights be terminated. This appeal follows.

D E C I S I O N

I. The record supports the district court’s finding that appellant is palpably unfit to parent.

“We review the termination of parental rights to determine whether the district court’s findings address the statutory criteria and whether the district court’s findings are supported by substantial evidence and are not clearly erroneous.” *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). “A finding is clearly erroneous if it is either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted). “Termination of parental rights will be affirmed as long as at least one statutory ground for termination is supported by clear and convincing evidence

and termination is in the child’s best interests.” *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004). We apply an abuse-of-discretion standard of review to the district court’s decision to terminate parental rights. *See In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136-37 (Minn. 2014) (“[T]ermination of parental rights is always discretionary.”).

Appellant challenges the district court’s determination that she is palpably unfit to parent. A district court may terminate parental rights to a child if it finds that the parent

is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.

Minn. Stat. § 260C.301, subd. 1(b)(4) (2016). The petitioner must prove “a consistent pattern of specific conduct or specific conditions existing at the time of the hearing that appear will continue for a prolonged, indefinite period and that are permanently detrimental to the welfare of the child.” *T.R.*, 750 N.W.2d at 661 (quotation omitted). In deciding whether to terminate parental rights, the district court should rely “not primarily on past history, but to a great extent upon the projected permanency of the parent’s inability to care for his or her child.” *In re Welfare of A.D.*, 535 N.W.2d 643, 649 (Minn. 1995) (quotation omitted).

In this case, the district court found that appellant has a pattern of being involved with unhealthy living arrangements, including many partners and other individuals who

abused her, used drugs, or engaged in criminal activity. The district court specifically noted appellant's continued involvement with J.J.J. and B.W., despite serious questions about their lifestyles.

The district court also noted appellant's continued inability to set proper priorities, like paying rent. The record reflects that appellant repeatedly provided the children with gifts, but did not pay anything toward rent for five months and was on the verge of eviction. The district court concluded that, despite some positive progress, appellant "continue[d] to demonstrate the same pattern of behavior and choices that indicate she cannot provide an adequately safe, stable home for the children."

Appellant argues that the district court erred in not giving her sufficient credit for the progress she had made both in and out of treatment and that she is capable of parenting her children. The record demonstrates that the district court fully considered and credited the progress appellant had made, and weighed it against her continued pattern of associating with individuals involved in drugs or crime and her continued inability to ensure stable housing for the children. Although appellant did have housing at the time of trial, the record supports the district court's finding that appellant demonstrated a continued pattern of failing to prioritize housing for her children.

On this record, the district court did not abuse its discretion in finding that appellant was palpably unfit to parent. Because a single statutory basis for termination is sufficient to affirm a district court, we need not address the other statutory bases for termination. *See R.W.*, 678 N.W.2d at 55.

II. Termination of appellant's parental rights is in the children's best interests.

The children's best interests is "the paramount consideration" when deciding whether to terminate parental rights. *In re Welfare of J.R.B.*, 805 N.W.2d 895, 902 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012); Minn. Stat. § 260C.301, subd. 7 (2016). "In analyzing the best interests of the child, the court must balance three factors: (1) the child's interest in preserving the parent-child relationship; (2) the parent's interest in preserving the parent-child relationship; and (3) any competing interest of the child." *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992); *see also* Minn. R. Juv. Prot. P. 39.05, subd. 3(b)(3). Competing interests may include "a stable environment [and] health considerations." *R.T.B.*, 492 N.W.2d at 4. "We review a district court's ultimate determination that termination is in a child's best interest for an abuse of discretion." *J.R.B.*, 805 N.W.2d at 905.

Here, the district court considered J.J.'s testimony that he loves appellant and wishes to return to her, and that the same is likely true of I.B. The district court also considered that appellant loves her children. The district court noted that the termination of appellant's parental rights will not necessarily end the parent-child relationship because the children's current foster-care provider demonstrated an interest in preserving the children's relationship with appellant, and then weighed the children's and appellant's interest in preserving the parent-child relationship against the children's need for stability.

Both children have gone through multiple placements, have been diagnosed with PTSD, and have been out of home for over a year. The children are currently happy and stable in their foster home. Both the social worker and the guardian ad litem assigned to

this case testified that termination of appellant's parental rights is in the best interests of the children. The record supports the district court's assessment that the competing interests of the children in being in a safe, stable, and secure environment weigh strongly in favor of termination. On this record, the district court did not abuse its discretion in finding that termination of appellant's parental rights is in the children's best interests.

Because the record supports the district court's findings, and because the district court properly applied the law to those findings, the district court did not abuse its discretion when it terminated appellant's parental rights to both children.

Affirmed.