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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1968**

In the Matter of the Welfare of the Children of:
H. R. S. and Z. J. L., Sr., Parents.

**Filed April 22, 2019
Affirmed
Halbrooks, Judge**

Anoka County District Court
File No. 02-JV-18-593

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Z.J.L., Sr., St. Paul, Minnesota (pro se respondent)

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Considered and decided by Smith, Tracy M., Presiding Judge; Halbrooks, Judge;
and Klaphake, Judge.*

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

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant-mother challenges the district court's termination of her parental rights, arguing that respondent-county did not make reasonable efforts to reunite the family and that the record does not establish that a statutory basis for termination exists. We affirm.

FACTS

Appellant-mother H.R.S. and respondent-father Z.J.L., Sr. met in Florida in 2011. They are the parents of Z.J.L., Jr. and Z.J.L., born in 2015 (the twins), and Za.J.L., born in the fall of 2017 (the baby). In February 2017, H.R.S., Z.J.L., Sr., and the twins moved to Michigan. While living in Michigan, the police responded to several reports of domestic disputes. Following one incident, H.R.S. was arrested for domestic assault and a domestic-abuse no-contact order (DANCO) was put in place that prevented H.R.S. from contacting Z.J.L., Sr. and the twins. She subsequently violated the DANCO and was placed on probation.

In April 2017, Michigan Child Protection (MCP) opened a case file related to the twins. A social worker from MCP met with H.R.S., who was living in a women's shelter at the time. H.R.S. admitted that she had been placed on probation for six months and was required to complete anger-management programming. MCP offered her assistance with finding housing, employment, and arranging visits with her children. After this initial meeting and despite repeated attempts, MCP was unable to make contact with H.R.S. MCP continued to work with Z.J.L., Sr. and the twins.

In May 2017, H.R.S. left Michigan. She was still on probation at the time and failed to notify her probation officer or get permission to leave the state. As a result, there is a warrant for her arrest in Michigan. After spending two days in Indiana, she moved to Minnesota. In September 2017, Z.J.L., Sr. and the twins left Michigan and moved to Minnesota to be with H.R.S., who was then pregnant with the baby. On October 18, 2017, MCP contacted respondent Anoka County Human Services (the county) to inform them that H.R.S. was currently living in Anoka County and that MCP had an open case file regarding the twins. After receiving the report, the county contacted the Columbia Heights Police Department and requested a welfare check. Officers reported that the twins appeared fine and that H.R.S. had a cesarean section scheduled for later that day. The county contacted the hospital and asked to be notified when H.R.S. delivered the baby.

On October 23, the hospital contacted the county and informed them that H.R.S. delivered the baby on October 18. H.R.S. was expected to be discharged on October 23, and the baby was expected to be discharged the following day. Katey Zeleny, the county social worker, met with Abbie Gilgenbach, the hospital social worker. Gilgenbach informed Zeleny that on October 22 the hospital had received an anonymous report that H.R.S. had used methamphetamine during the pregnancy. Z.J.L., Sr. later made the same report. Because the reports were not received until several days after H.R.S. had given birth, the hospital was unable to conduct any drug testing screens.

Zeleny met with H.R.S. and determined that she could be discharged from the hospital with the baby. Following the discharge, the hospital contacted Zeleny and informed her that H.R.S. was still at the hospital and had indicated that she could not go

home. She did not have a ride because Z.L.J., Sr. was not returning her calls, and when the hospital offered her a cab voucher she responded that she would not be able to get into the apartment. The hospital agreed to readmit the baby, and H.R.S. spent the night in the hospital.

On October 24, the baby was placed on a 72-hour hold and the county requested that a welfare check be conducted on the twins. When officers arrived at the apartment, it appeared that Z.J.L., Sr. and the twins had moved out. Zeleny spoke with Z.J.L., Sr. the following day. He informed her that he had left because he could not live with H.R.S. any longer due to her anger issues. He described his relationship with H.R.S. as “toxic.”

On October 27, the county filed a child in need of protection or services (CHIPS) petition for all three children. All three children have remained in foster care since. On November 27, H.R.S. met with the assigned case worker, Sarah Walander, to develop a case plan. They established an out-of-home-placement plan for each of the children. The plans required H.R.S. to participate in mental- and chemical-health assessments and follow through with services, maintain stable, safe, and sober behaviors, and consistently maintain a living environment that is free of safety concerns.

H.R.S. struggled to establish stable housing. She returned to her apartment in Columbia Heights for a short time but left after the landlord threatened to file an eviction action. She then stayed at the Alexander House Shelter for a few weeks, followed by the Stepping Stones shelter. She was removed from that shelter due to behavioral concerns, after which she became homeless. While homeless, she was “bouncing around shelter to shelter, couch hopping.” Some nights she did not have a place to go, so she “sat up at the

store.” On April 24, 2018, she obtained a residential placement at House of Charity, where she resided until June 26. She was then homeless again for approximately two weeks. She received assistance through the county to obtain placement at the Simpson House shelter, followed by entering inpatient treatment at RS Eden. She entered treatment on July 18 but was discharged on July 30 as a result of rule violations and behavioral concerns.

H.R.S. was inconsistent in addressing her mental- and chemical-health concerns. Elizabeth J. Caven, Ph.D., a licensed psychologist, diagnosed H.R.S. with alcohol abuse, cannabis abuse, opioid dependence, borderline personality disorder, post-traumatic stress disorder, and insomnia. Dr. Caven opined that H.R.S. was experiencing a psychotic disorder as well as anxiety. On May 9, 2018, H.R.S. completed a rule 25 assessment, which recommended intensive outpatient programming with lodging at House of Charity. H.R.S. was discharged from the program on June 26.

H.R.S.’s discharge summary indicates that the staff referred her for a more intensive level of programming at a different treatment center, but that she declined the referral and was discharged as a result. H.R.S. had continued to use chemicals during her time at House of Charity. The discharge summary gave her a poor prognosis and stated that she “displayed a lack of emotional regulation and coping skills” and “lack[ed] insight into her mental illness as well as her overall dependence on substances.” The summary further stated that H.R.S. did not accept her mental-health diagnosis.

On July 16, H.R.S. entered treatment at RS Eden. She was discharged on July 30 for “repeated behavioral issues and noncompliance with her behavioral agreement.” The discharge summary states that H.R.S. broke several program rules and exhibited angry and

agitated behavior toward others when she was dysregulated, including stating that she was going to kill herself on multiple occasions. Following her discharge from RS Eden, H.R.S. started treatment at Avivo. She was still in treatment at Avivo at the time of the termination of parental rights (TPR) trial and estimated that treatment would last another four or five months.

The county petitioned to terminate the parental rights of both H.R.S. and Z.J.L., Sr. The petition alleged that their parental rights should be terminated on the grounds that (1) they had substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon them by the parent-child relationship, (2) they were palpably unfit to be parents, and (3) reasonable efforts had failed to correct the conditions leading to the children's out-of-home placement. On August 31, 2018, Z.J.L., Sr. consented to adoption and did not participate in the TPR trial. The district court held a TPR trial on three days in September and October 2018. Following the trial, the district court terminated H.R.S.'s parental rights. The district court determined that (1) the county had made reasonable efforts to reunite the family, (2) the county had established all three alleged statutory grounds for termination by clear and convincing evidence, and (3) termination is in the best interests of the children. This appeal follows.

D E C I S I O N

On appeal from a district court's decision to terminate parental rights, we review "the district court's findings of the underlying or basic facts for clear error, but we review its determination of whether a particular statutory basis for involuntarily terminating parental rights is present for an abuse of discretion." *In re Welfare of Children of J.R.B.*,

805 N.W.2d 895, 901 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012). We must “closely inquire 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).

“Parental rights are terminated only for grave and weighty reasons.” *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). “The child’s best interests, however, remain the paramount consideration in every termination case.” *Id.* The petitioner must establish by clear and convincing evidence that a statutory ground exists for terminating parental rights. *In re Welfare of S.Z.*, 547 N.W.2d 886, 893 (Minn. 1996).

I.

The termination statute requires the district court to make specific findings “that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made.” Minn. Stat. § 260C.301, subd. 8(1) (2018). The district court must make “individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family.” *Id.*

“When determining whether reasonable efforts have been made,” the district court must consider “whether services to the child and family were: (1) relevant to the safety and protection of the child; (2) adequate to meet the needs of the child and family; (3) culturally appropriate; (4) available and accessible; (5) consistent and timely; and (6) realistic under the circumstances.” Minn. Stat. § 260.012(h) (2018). “Reasonable efforts at rehabilitation are services that go beyond mere matters of form so as to include real, genuine assistance.” *In re Welfare of Children of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quotations omitted), *review denied* (Minn. Mar. 28, 2007). The county’s

efforts must “be aimed at alleviating the conditions that gave rise to out-of-home placement, and they must conform to the problems presented.” *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 88 (Minn. App. 2012). Determining whether the county provided reasonable efforts requires consideration of the length of the county’s involvement, the nature of the problems presented, and the quality of the effort given. *Id.*

H.R.S. argues that the district court’s finding that the county made reasonable efforts to rehabilitate H.R.S. and to reunite the family is unsupported by substantial evidence in the record. She contends that the county did not provide sufficient assistance to help her obtain housing, failed to provide her with adequate assistance to find appropriate anger-management programming, and refused to allow her visits with her children while she was at RS Eden and Avivo.

The county responds that it did assist H.R.S. in obtaining housing, but that she was unable to maintain stable housing because she was repeatedly discharged from shelters and treatment programs based on her behavior. The district court found that the county had contacted housing resources, and at trial, the case worker, Walander, testified about the county’s efforts to assist H.R.S. in obtaining housing. Walander attempted to assist H.R.S. in obtaining a voucher through the Family Unification Program, but H.R.S. was ineligible based on a prior felony conviction. Walander contacted the St. Paul Housing Authority and assisted H.R.S. in applying for the waitlist and contacted Anoka County to obtain information about possible housing options for H.R.S. Walander testified that she had provided H.R.S. with a brochure detailing housing resources available and referred her to a website for an organization that listed “hundreds of different subsidized housing and

different programs.” Finally, Walander testified that she coordinated with H.R.S.’s case manager while H.R.S. was at House of Charity to discuss housing resources for H.R.S. The record also indicates that the county facilitated housing for H.R.S. by obtaining placement in various shelters during her periods of homelessness. And the record supports the district court’s finding that H.R.S. was removed from multiple shelters and residential treatment programs based on her behavior.

The record also supports the district court’s determination that, while the county made reasonable efforts to assist H.R.S. in addressing her anger and mental- and chemical-health concerns, H.R.S.’s lack of insight into her own problems impeded her ability to meaningfully engage in those services. As part of her mental-health assessment, Dr. Caven determined that H.R.S. was experiencing a psychotic disorder and anxiety and diagnosed her with borderline personality disorder. H.R.S. was unable to make progress in addressing her mental-health needs because she did not agree with the diagnoses. She was discharged from programming at House of Charity for refusing to attend a more intensive program. Her discharge summary also indicates that her anger outburst occurred when she became emotionally dysregulated. The county assisted her in meeting with several psychiatrists to address her mental-health concerns, but she became angry and hostile when the doctors refused to prescribe specific medications for her because of her drug-seeking behavior. At trial, H.R.S. maintained that these things were not her fault and testified that “[n]obody else ever gets in trouble, just me.” And when asked about being discharged from RS Eden for rule violations and behavioral concerns, H.R.S. testified that the rules at RS Eden “were

very much too strict” and “unreasonable” because if she did not believe what she was doing was “morally wrong” she did not think she should “get[] in trouble for it.”

Finally, the record supports the district court’s determination that the county made reasonable efforts to coordinate visitation between H.R.S. and the children. H.R.S. argues that the county should have arranged for the children to visit her at Avivo rather than having supervised visitation at a different location. But the record reflects that the county made consistent efforts to arrange for visitation and to improve H.R.S.’s parenting. The county arranged for her to have weekly visitation sessions with the children and Sue Haugen, a parenting skills educator. Haugen had her final session with H.R.S. on April 19, 2018. At that point, the county arranged for H.R.S. to have visitation with the children at the Early Childhood Family Education (ECFE) facility. Visitation stopped briefly while H.R.S. attended programming at RS Eden. Following her discharge from RS Eden on July 30, the county was unable to contact H.R.S. for approximately two weeks and therefore could not arrange visitation. The county then arranged for her to continue with weekly supervised visits, which were still occurring at the time of trial. We conclude that the county made reasonable efforts to arrange visitation. While H.R.S. may have wanted a different visitation arrangement, the record supports the district court’s determination that the county made reasonable and consistent efforts based on the circumstances.

II.

We will affirm a district court’s decision to terminate parental rights if at least one statutory ground for termination is proven by clear and convincing evidence and if termination is in the child’s best interests. *In re Welfare of Children of T.R.*, 750 N.W.2d

656, 661 (Minn. 2008). “We give considerable deference to the district court’s decision to terminate parental rights. But we closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing.” *S.E.P.*, 744 N.W.2d at 385 (citation omitted).

H.R.S. argues that the record does not support the district court’s termination of parental rights under Minn. Stat. § 260C.301, subd. 1(b)(5) (2018). We focus our analysis on the district court’s termination of parental rights on this statutory ground. Under subdivision 1(b)(5), the district court may terminate parental rights if it determines that “following the child’s placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child’s placement.” H.R.S. argues that termination is not supported under subdivision 1(b)(5) because the conditions that led to out-of-home placement had been corrected.

The conditions that led to the children’s out-of-home placement and CHIPS petition were H.R.S.’s lack of stable and safe housing and H.R.S.’s anger issues, chemical dependency, and mental-health concerns. The district court determined that reasonable efforts failed to correct these conditions. H.R.S. contends that, at the time of trial, she had made “significant progress” on her case plan. She asserts she was sober and in treatment, participating in individualized therapy, treating her mental-health concerns, had completed anger-management programming, and was expected to be approved for family housing in the foreseeable future.

The county argues that the record supports the district court’s determination that the conditions that led to out-of-home placement had not been corrected. Walander testified

that H.R.S. had made minimal progress in her case plan, had not alleviated the safety concerns of the children, and had not demonstrated a recognition of the children's needs. The record reflects that, despite completing anger-management programming in April 2018, H.R.S. continued to have anger issues at the time of trial. She had to be removed from the courtroom multiple times for becoming angry, interrupting witnesses, and cussing at them; and the record is replete with reports of H.R.S. becoming hostile while meeting with county workers, doctors, and those involved with her treatment programs. And the record indicates her anger issues impeded her ability to engage in the programming offered to her.

H.R.S. argues that the record does not support the determination that she failed to address her chemical-dependency concerns. At the time of trial, H.R.S. had been sober for approximately one month. She argues that this, coupled with her participation in treatment, establishes that she had corrected her chemical dependency. But as the district court noted, throughout the case H.R.S. had "not sustained sobriety for any significant amount of time." She was discharged from two treatment programs and discharged from the shelter at Simpson House because she was using drugs. She continued to use drugs during the first month of treatment at Avivo. Notably, short periods of sobriety are consistent with H.R.S.'s pattern of behavior. When testifying about her chemical use, she indicated that she was not using constantly, but rather would "slip up" every now and then and use "for a couple days" before stopping again. Accordingly, her one month of sobriety does not belie the district court's finding that she had not sustained sobriety for any significant period of time.

H.R.S. argues that the record does not support the determination that she failed to adequately address her mental-health concerns. The district court found that H.R.S. had not gained any insight into how her mental health and behaviors affected her ability to be a parent. At the time of trial, she had only recently started individualized therapy and was still unwilling to fully accept her mental-health diagnoses. Walander testified that H.R.S. had not demonstrated that she fully understood how her mental health impacted her ability to parent her children safely. Walander ultimately opined that H.R.S. had not met the case-plan requirement of maintaining stable mental health. The guardian ad litem similarly testified that she had “not observed [H.R.S.] to have stable mental health for a consistent period of time.” We conclude that the record supports the district court’s finding that H.R.S. failed to adequately address her mental-health concerns.

Finally, the record supports the district court’s determination that H.R.S. had failed to obtain stable housing. By the time of trial, she had left her apartment after a threat of eviction, lived at three different shelters, three different treatment programs, stayed with friends, and experienced periods of homelessness. H.R.S. asserts that she was going to be placed in family housing at Avivo in the foreseeable future, but the record does not establish any firm timeline for that possibility. H.R.S. testified that she was on the waitlist but did not provide an estimate of when she would get off the waitlist. And she indicated that there was an additional requirement that the children spend more significant time in her apartment before she could even be approved for family housing. This supports the determination that H.R.S. failed to establish stable housing for herself and the children.

On this record, clear and convincing evidence supports the district court's determination that reasonable efforts have failed to correct the conditions that led to the children's out-of-home placement. Because there is a statutory basis for termination, and H.R.S. does not challenge the district court's determination that termination is in the best interests of the children, the district court did not abuse its discretion in terminating H.R.S.'s parental rights under Minn. Stat. § 260C.301, subd. 1(b)(5).

Affirmed.