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**STATE OF MINNESOTA
IN COURT OF APPEALS**

A18-2069

A18-2070

In the Matter of the Welfare of the Child of:
J. K. and T. C. S., Parents.

Filed May 28, 2019

Affirmed

Cochran, Judge

Otter Tail County District Court
File No. 56-JV-18-1563

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Considered and decided by Schellhas, Presiding Judge; Smith, Tracy M., Judge; and Cochran, Judge.

UNPUBLISHED OPINION

COCHRAN, Judge

In these consolidated appeals, appellant-parents challenge the termination of their parental rights to their child T.S. Appellants argue that the district court erred in determining that the statutory criteria for termination were met and in determining that

termination is in the best interests of the child. Because there is clear and convincing evidence in the record to support a statutory basis for termination of both parents' rights and because the record supports the district court's determination that termination of each parent's parental rights is in the best interests of the child, we affirm.

FACTS

J.K. (mother) and T.C.S. (father) are the parents of T.S., who was born in May 2018. J.K. and T.C.S. both have other children from prior relationships with other individuals.

T.C.S. is the father of five other children besides T.S. In January 2018, a district court in Becker County involuntarily terminated T.C.S.'s parental rights to his fifth child (born in September 2017) based on a prior conviction for second-degree criminal sexual conduct (CSC). The Becker County District Court terminated his parental rights under what is now Minn. Stat. § 260C.301, subd. 1(b)(9) (2018), which provides that a district court may involuntarily terminate a parent's parental rights if the parent has been convicted of certain listed crimes including second-degree CSC. The record does not reflect that T.C.S.'s parental rights were terminated for any of his other children.

J.K. is the mother of four other children besides T.S. Prior to this proceeding, J.K.'s parental rights to all four of her other children were terminated. She voluntarily terminated her parental rights to her first child in 2013. Her parental rights to her other children were involuntarily terminated.

In 2014, a Crow Wing County District Court terminated J.K.'s parental rights to her second child. The Crow Wing County District Court relied, in part, on two reports written

by a psychologist.¹ Among other findings, the psychologist noted that J.K. had an unrealistic view of her own strengths and limitations, that J.K. showed significant cognitive limitations that impair her learning ability and judgment, and that J.K. scored poorly on a test that measures empathy towards children and reversal of parent-child roles. The psychologist explained that J.K.'s attitude in these areas was harmful to both the child and J.K. The psychologist noted that J.K. "continue[d] to reject serious intervention and opportunity to learn and change." The second report specifically noted the services that were provided by the county to J.K. and found that J.K. had not made progress in her mental health or ability to parent. The psychologist opined in the second report that J.K. was either incapable of, or unwilling to, take sufficient steps to become a competent parent and that J.K. was incapable of providing adequate care for the child into the foreseeable future.

The Crow Wing County District Court also found that "[d]ue to [J.K.'s] low cognitive functioning and psychological disorders, [J.K.] will not, in the reasonably foreseeable future, develop the skills necessary to care for the minor child." The Crow Wing County District Court concluded that clear and convincing evidence supported several statutory grounds to involuntarily terminate J.K.'s parental rights, including that J.K. was palpably unfit to be a party to the parent and child relationship pursuant to what is now Minn. Stat. § 260C.301, subd. 1(b)(4) (2018).

In January 2014, J.K. had a third child in Todd County while the Crow Wing County termination was pending. Todd County provided services to J.K. By July 2014, about four

¹ The reports were drafted by the same psychologist. The first report was written in 2012. The second report was written in 2013, approximately one year after the first.

months after Crow Wing County terminated her parental rights to the second child, J.K. was “at best, minimally complying with the case plan.” Consequently, Todd County brought a petition to terminate J.K.’s parental rights to her third child.

J.K. did not appear for trial in the Todd County matter. A Todd County case manager testified that J.K. failed to appear at meetings or appointments with her. The case manager also testified that J.K. did not participate in regular or consistent therapy. Another case manager testified that J.K. could not be coached on proper parenting skills, including understanding the child’s cues, feeding the child appropriately, understanding the developmental stages of the child, and showing empathy for the child. The Todd County District Court found that J.K. had a “lack of insight due to mental health and perhaps chemical dependency issues or a combination of and has not been participating in the case really at all.” In its findings, the Todd County District Court also referenced the psychologist’s reports from the Crow Wing County proceedings. The Todd County District Court concluded that clear and convincing evidence supported several statutory grounds to involuntarily terminate J.K.’s parental rights to her third child, again including that J.K. was palpably unfit to be a party to the parent and child relationship pursuant to Minn. Stat. § 260C.301, subd. 1(b)(4).

J.K. became pregnant with a fourth child while the Todd County termination proceedings were ongoing. The child was born in April 2015. In July 2017, the Manitowoc County Circuit Court in Wisconsin terminated J.K.’s parental rights to her fourth child. The Wisconsin court found that J.K. was “unfit.” The court noted that a Wisconsin social services agency had provided a wide range of parenting and other supportive services to

J.K. Even with these efforts to assist J.K., the circuit court concluded that it would be contrary to the child's welfare to return to J.K.'s home.

In December 2017, approximately five months after J.K.'s parental rights to her fourth child were terminated, respondent Otter Tail County Department of Human Services (the agency) learned that J.K. was pregnant with her fifth child, T.S. Due to J.K.'s four previous parental-rights terminations, the agency opened a child welfare assessment while J.K. was pregnant. The assessment was voluntary, and both J.K. and T.C.S. were interested in participating in services offered by the agency. After the initial assessment, the agency assigned a case manager to J.K. and T.C.S.

The case manager met with J.K. and T.C.S. and developed a service plan in February 2018. At that time, J.K. was attending pregnancy support classes. The service plan recommended that J.K. (1) continue attending the classes, (2) complete a diagnostic assessment relating to her mental health, and (3) receive public health nursing services through Healthy Families of America. J.K. complied with only the first part of her service plan. She continued to attend pregnancy support classes, but she never provided a diagnostic assessment to the case manager. And although she was scheduled to meet with Healthy Families of America several times, the program stopped providing services to J.K. because of her lack of participation.

For T.C.S., the service plan recommended that he continue mental-health therapy and chemical-dependency treatment and that he complete sex-offender treatment. T.C.S. complied with the first two recommendations but never completed sex-offender treatment.

T.S. was born on May 31, 2018. On June 1, the agency filed a petition with the Otter Tail County District Court to terminate both parents' parental rights to T.S. under Minn. Stat. § 260C.301, subd. 1(b)(4).² The petition alleged that both parents were palpably unfit. The agency also requested immediate custody of T.S., which the district court granted.

Following a June 5, 2018 emergency care hearing, the district court relieved the agency of its duty to provide services for J.K. and T.C.S. Thereafter, the agency did not provide any formal reunification services, but did facilitate supervised parenting time for both parents. Until August 2018, J.K. was allowed two supervised parenting sessions per week. After J.K. missed several parenting sessions and cancelled other sessions on short notice, the district court authorized the agency to reduce J.K.'s parenting time to one session per week. T.C.S. was also allowed parenting time. T.C.S. participated in parenting time the week after T.S. was born but stopped scheduling parenting time until mid-September 2018. After he resumed parenting time, he also missed sessions or cancelled sessions late. Consequently, the agency also reduced his allowed parenting sessions to once per week.

The district court found that J.K. and T.C.S. were "generally" appropriate during their parenting sessions. The case manager and the child's guardian ad litem, however, noted some concerns over the parents' parenting during the sessions. The case manager described that J.K. once attempted to unilaterally change T.S.'s formula despite knowledge

² The agency later orally amended their petition to seek termination of T.C.S.'s parental rights under Minn. Stat. § 260C.301, subd. 1(b)(9) based on T.C.S.'s CSC conviction.

that T.S. was suffering from stomach issues. The guardian ad litem recounted an incident in which J.K. attempted to calm T.S. by bouncing him. As T.S. continued to fuss, J.K. bounced him faster, ultimately causing T.S. to become so upset that he started crying. The case manager also discussed that T.C.S. appeared to be overwhelmed at times during the parenting sessions.

The trial on the termination petition was held in October 2018. The agency called a therapist to testify about parental-capacity evaluations that she and two other professionals conducted with J.K. and T.C.S. The parental-capacity-evaluation reports were thorough and contained a significant amount of information about each parent's mental health, chemical-use history, relationship history, other children, and previous parental-rights terminations, among other categories of information. The reports concluded that neither J.K. nor T.C.S. were presently able to independently parent in a safe way.

The parental-capacity-evaluation report regarding J.K. raised concerns that were similar to those raised in the psychologist's reports from the Crow Wing County proceedings. Interpreting a series of psychometric tests, the report opined that J.K. "lacks insight into her own behavior and was trying to create an unusually favorable impression of herself [when taking a test]." J.K. "showed a tendency to deny personal problems, symptoms, and negative feelings, and responded to test items defensively." Multiple tests suggested that J.K. was likely not being honest in answering questions during her assessment. In a test that measured J.K.'s risk level for violence, J.K. scored in the "severe problem or violent range" on the "violence scale." Another test measured J.K.'s "Full

Scale IQ.” The test results suggested that J.K.’s abilities to plan, strategize, and set priorities were “impaired.” The tests also suggested that J.K. had difficulty perceiving social cues and that J.K. needed support with “complex daily living tasks.”

The report included a section devoted to diagnostic impressions. The report identified that J.K. struggled with several mental-health diagnoses. J.K. told the therapist that she was participating in individual therapy, but she could not describe what progress she was making, and moreover she stated that she had only begun therapy the week before the therapist interviewed her. The report also summarized J.K.’s criminal history, which spanned from 2008 to 2017. J.K. discussed with the therapist two incidents that occurred in February 2017 and June 2017 in which J.K. hit her then-boyfriend in the head with a cowboy boot and a telephone, respectively. J.K., however, denied to the therapist that she struggled to manage her anger.

Though a parental-capacity evaluation would typically include a parent-child interaction observation, J.K. did not work with the therapist to schedule an observation session.

The report concluded that J.K. was not “appropriate to parent any children, at this time.” The therapist wrote that J.K. was “struggling with Severe and Persistent Mental Illness (SPMI) which must be addressed and managed before she could be considered appropriate to parent any children, including any born to her in the future.”³ The therapist made several recommendations about how J.K. could work towards being able to parent

³ The therapist noted in the report that J.K. had expressed to others that she was attempting to conceive a sixth child while this case was pending.

independently. One of those recommendations was that J.K. be appointed a guardian as soon as possible. The therapist testified that, among other problems, J.K.'s difficulty managing impulsivity, regulating emotion, and making mature judgments were significant concerns for parenting.

The therapist also prepared a parental-capacity-evaluation report for T.C.S. The report discussed T.C.S.'s criminal history, which included a 1998 conviction for second-degree CSC. T.C.S. was reincarcerated in 2013 for failing to register as a sex offender. T.C.S. told the therapist that he tried to complete sex-offender treatment while in prison for his CSC conviction, but that he was "kicked out" of the program. At the time of the parental-capacity evaluation, T.C.S. did not believe that he needed sex-offender treatment and refused to participate in such programming.

T.C.S. discussed his history of chemical abuse with the therapist. He said that he last used marijuana and methamphetamine in December 2017 and that he "used to love meth." After he used drugs in December 2017, he completed chemical-dependency treatment in July 2018. He claimed that he had been sober since December 2017.

T.C.S. had been diagnosed with bipolar disorder, but he did not believe that this diagnosis was accurate. Nevertheless, T.C.S. took his medications as prescribed. He received therapy from February 2018 to June 2018, but his therapy file was closed in September 2018 because T.C.S. did not consistently appear for appointments.

T.C.S.'s evaluation included a parenting-observation component, which T.C.S. completed. No significant concerns about T.C.S.'s parenting ability arose during the observation. But the report concluded that T.C.S. was not able to appropriately parent T.S.

The primary concern regarding T.C.S.'s ability to parent was his "history of unhealthy choices and lifestyle." The report also noted that T.C.S.'s chemical-dependency prognosis was "guarded," due to his history of relapse. The report identified T.C.S.'s lack of stable housing as a concern. Finally, the report recommended that T.C.S. complete sex-offender treatment and resume individual therapy to address his mental-health issues. The therapist opined that if T.C.S. genuinely followed the recommendations, T.C.S. could become able to appropriately parent.

The only other witness that the agency called was the parents' case manager. The case manager testified that she did not believe that J.K. had improved in any of the concerns that led to the prior terminations. She further testified that she did not believe that J.K. or T.C.S. were, at the time of trial, able to provide for T.S.'s physical, mental, or emotional needs. The case manager was "hesitant to believe" that T.C.S. would follow through with the recommendations in the report, and expressed concern over T.C.S.'s sobriety, his job security, and his housing stability. The case manager was even less optimistic about J.K.'s ability to parent, opining that J.K. could not become fit to parent. She believed that there was no "combination of services that [the agency] would provide that would allow [J.K.] to appropriately parent at any time in the near future." The case manager testified that if J.K. and T.C.S. retained their parental rights, T.S.'s "safety and wellbeing would be at risk."

The child's guardian ad litem submitted a written filing after trial. The guardian supported the petition to terminate the parents' parental rights. She opined that it is in the child's best interests to terminate J.K. and T.C.S.'s parental rights based on the information

in the parental-capacity assessments, the trial testimony, and the guardian's interactions and observations with both parents.

J.K. called several witnesses to testify that she is fit to parent. Her boyfriend testified that she is a great mother and that she regularly cares for her friends' children. He said that J.K. did not use drugs or alcohol, but admitted that he had recently been convicted of a drug crime. He had only known J.K. for about eight months, since February 2018. J.K.'s mother testified that J.K. is appropriate in her interactions with other peoples' children and that she had seen J.K. feed children and change diapers. J.K.'s neighbor testified that she sometimes leaves her children in J.K.'s care. She said that J.K. is good with her children and that her children enjoy spending time with J.K.

J.K. testified that she had been drug-free for seven years and alcohol-free for five years. She said that she had been attending therapy with two different therapists. She claimed that she completed an independent diagnostic assessment that did not recommend any additional health services but she did not provide a copy of the assessment to the court or her case worker. She testified that she has a demanding work schedule and that T.S. would go to daycare or stay with her mother while she is at work. She explained that she was unable to make parenting-time appointments because of her demanding work schedule and, on one occasion, because she was ill. She also testified that she had no issues taking care of others' children and that she made meals for the children, took them to the park, and got them clothes. She also stated that she knows how to change diapers and feed, burp, and bathe a baby. She expressed that she would be willing to follow any recommendation made by the agency, but that she did not believe she needed a guardian. She did not believe

that she had any intellectual disability, and thought that she had “come a long way” since the prior termination cases. J.K. did not present any testimony from a therapist or other professional regarding the concerns that were raised in her prior termination proceedings or her progress addressing those concerns.

T.C.S. did not present any evidence or testimony. After trial, T.C.S. was involved in a car accident. The accident occurred on the same day as trial. T.C.S. tested positive for methamphetamine and was taken into custody for violating probation.⁴

The district court found that the agency’s witnesses and the parental-capacity-evaluation reports were highly credible, and relied heavily on the information contained in the reports in making findings in its post-trial order. The district court assigned “very little weight” to J.K.’s witnesses’ testimony. The district court concluded that J.K. is palpably unfit to be a party to the parent-child relationship and that termination of her parental rights is appropriate under Minn. Stat. § 260C.301, subd. 1(b)(4). The district court concluded that T.C.S. is also palpably unfit, and moreover found that T.C.S. had been convicted of a crime listed in Minn. Stat. § 260.012(g)(5) (2018). Consequently, the district court concluded that termination of his parental rights is appropriate under both Minn. Stat. § 260C.301, subd. 1(b)(4) and Minn. Stat. § 260C.301, subd. 1(b)(9). The district court determined that it is in the best interests of T.S. that both parents’ parental rights be terminated in light of T.S.’s need for a safe and permanent living arrangement

⁴ T.C.S. does not challenge the district court’s decision to take judicial notice of the probation violation file indicating that he tested positive for methamphetamine. According to the district court’s order, T.C.S. admitted to a probation violation and was sentenced to 120 days in jail.

and the fact that T.S. was placed out of home when he was only two days old. The district court issued a written order terminating J.K.'s and T.C.S.'s parental rights.

Both parents challenge the district court's termination order in these consolidated appeals.

D E C I S I O N

J.K. and T.C.S. both argue that the district court abused its discretion in terminating their parental rights to T.S. Both maintain that the evidence is not sufficient to support the district court's determination (1) that a statutory ground for termination exists and (2) that termination of their parental rights is in T.S.'s best interests. We first address the parents' arguments regarding the statutory grounds for termination. We then turn to the district court's finding that termination is in the child's best interests.

Involuntary termination of parental rights is only appropriate if there is clear and convincing evidence that a statutory ground for termination exists and termination is in the child's best interests. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 137 (Minn. 2014). We review a district court's "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).

"[W]e review the factual findings for clear error and the statutory basis for abuse of discretion." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012). "A finding is clearly erroneous if it is manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Id.* (quotation omitted). "We defer to

the district court's findings, but exercise great caution in proceedings to terminate parental rights and examine the evidence to determine whether it is clear and convincing." *In re Welfare of Child of A.S.*, 698 N.W.2d 190, 194 (Minn. App. 2005) (quotation omitted), review denied (Minn. Sept. 20, 2005). "Considerable deference is due to the district court's decision because a district court is in a superior position to assess the credibility of witnesses." *Id.* (quotation omitted).

"We review a district court's ultimate determination that termination is in a child's best interest 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).

I. Clear and convincing evidence supports the district court's determination that J.K. is palpably unfit to parent under Minn. Stat. § 260C.301, subd. 1(b)(4).

The legislature has identified nine separate bases for involuntary termination of parental rights. Minn. Stat. § 260C.301, subd. 1(b)(1)-(9) (2018). One statutory basis for involuntary termination is if

[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).

Before a court may terminate parental rights under this provision, the petitioner seeking termination must prove by clear and convincing evidence that the parent is palpably unfit. *In re Welfare of J.W.*, 807 N.W.2d 441, 445 (Minn. App. 2011), review

denied (Minn. Jan. 6, 2012). Ordinarily, a natural parent is presumed to be “fit to be entrusted with the care of their children.” *J.K.T.*, 814 N.W.2d at 87. But “[i]t is presumed that a parent is palpably *unfit* to be a party to the parent and child relationship upon a showing that the parent’s parental rights to one or more other children were involuntarily terminated.” Minn. Stat. § 260C.301, subd. 1(b)(4) (emphasis added). The presumption of unfitness imposes a burden of production on the parent to produce evidence to rebut the presumption. *In re Welfare of Child of J.A.K.*, 907 N.W.2d 241, 245-46 (Minn. App. 2018). “If the statutory presumption has been rebutted, the district court shall find the existence or nonexistence of the alleged palpable unfitness upon all the evidence exactly as if there never had been a presumption at all.” *Id.* at 246 (quotations omitted).

Because of J.K.’s three prior involuntary terminations, the district court determined that J.K. faced the statutory presumption of unfitness. The district court concluded that J.K. failed to rebut the presumption based on the evidence presented. The district court also concluded that clear and convincing evidence exists to terminate J.K.’s parental rights under Minn. Stat. § 260C.301, subd. 1(b)(4). J.K. argues that the district court erred when it concluded that she failed to present sufficient evidence to rebut the presumption.

Because the agency presented clear and convincing evidence that J.K. is in fact palpably unfit and because the record as a whole supports the district court’s decision to terminate J.K.’s parental rights on that basis, we need not decide whether J.K. successfully rebutted the presumption. See *J.W.*, 807 N.W.2d at 447 (noting that once a party has successfully rebutted the presumption of unfitness, the burden of persuasion shifts back to the county to prove palpable unfitness by clear and convincing evidence). In concluding

that clear and convincing evidence supports termination of J.K.’s parental rights, the district court made credibility determinations, weighed the evidence presented by both parties, and ultimately concluded that J.K.’s “unaddressed mental illness, cognitive deficits, lack of insight, poor decision making, and impulsivity exist as specific conditions that render her unable, for the reasonably foreseeable future, to appropriately care for [T.S.’s] ongoing physical, mental, or emotional needs.” The district court also found that

[J.K.] continues to suffer from several severe and persistent untreated mental illnesses. When coupled with [J.K.’s] cognitive deficits and poor decision making, her poor mental health puts herself and others around her at risk of harm. This conclusion is supported by [J.K.’s] parental capacity evaluation, which . . . recommends that she be assigned a guardian as soon as possible and that she reside in an adult foster or group home.

The agency’s evidence, credited by the district court, clearly and convincingly establishes that specific conditions exist that render J.K. unable to appropriately care for T.S.’s needs, and that those conditions will exist for the reasonably foreseeable future.

More specifically, the parental-capacity-evaluation report and the testimony of the therapist who drafted the report clearly and convincingly demonstrated that J.K. suffers from the specific conditions that the court identified—namely, severe and persistent mental illness, cognitive deficits, lack of insight, poor decision making, and impulsivity. The report also indicated that J.K. had “demonstrated a history of assaultive behaviors,” which she attempted to minimize. The report thoroughly discussed these conditions and the district court found the report to be credible.

There is also clear and convincing evidence to support the district court's determination that these conditions rendered J.K. unable to appropriately care for T.S.'s ongoing physical, mental, or emotional needs. For example, J.K. repeatedly missed and cancelled parenting sessions on short notice, failed to schedule a parent-child observation session, failed to provide her independent diagnostic assessment to the court and to the case manager, and failed to consistently meet with the public-health nurse. Her inability to cooperate with the parental-capacity evaluation and failure to consistently appear for appointments is consistent with the report's indication that J.K.'s ability to plan and prioritize is "impaired." The report also noted that J.K. has a demonstrated history of irritability and aggressiveness, and that she showed a "reckless disregard for the safety of her children." The report went on to recommend that J.K. be assigned a guardian. These significant concerns and J.K.'s behavior supported the district court's determination that her mental-health issues, cognitive deficits, lack of insight, poor decision making, and impulsivity rendered her unable to appropriately care for T.S.

Finally, clear and convincing evidence supports the district court's conclusion that these conditions will exist for the reasonably foreseeable future. The report noted that J.K. made only minimal efforts to manage her mental health since her first child was removed from her care. The report also indicated that even though J.K. has subsequently lost her parental rights to her other children, "she still has not demonstrated any insight into her functioning." Though J.K. reported that she was attending therapy and that she would follow the agency's recommendations in obtaining treatment, she had only recently begun therapy and there was no evidence that therapy was effective. The case manager testified

that she did not believe that J.K. would ever become fit to parent. J.K.'s history of non-cooperation, her failure to improve on these conditions, and the information in the parental-capacity evaluation report provide clear and convincing evidence to support the district court's determination that the conditions that rendered J.K. palpably unfit will exist for the reasonably foreseeable future.

J.K. argues that evidence of her sobriety, stable employment, adequate housing, reliable transportation, care for others' children, and ongoing mental-health treatment undermines the district court's finding of palpable unfitness, and therefore that clear and convincing evidence does not support the district court's determination. The district court acknowledged that J.K. participated in parenting classes while pregnant and attended therapy, but found that there was no evidence that J.K.'s participation in therapy and other services were helping to *improve* her ability to appropriately parent. The finding is not clearly erroneous. The district court also accepted that J.K. was sober, employed, had housing, and sometimes cared for others' children. Even considering this evidence, the district court concluded that the other conditions that it identified rendered J.K. palpably unfit to parent. The district court also noted that the fact that J.K. has cared for others' children on occasion is not evidence that it is appropriate for her to do so. Considering the evidence in totality, we conclude that clear and convincing evidence supports the district court's determination that J.K. is palpably unfit to parent. Consequently, the district court did not abuse its discretion in determining that a statutory basis exists to involuntarily terminate J.K.'s parental rights to T.S.

II. The district court did not abuse its discretion in concluding that a statutory basis exists to involuntarily terminate T.C.S.’s parental rights to T.S.

The district court found that two separate statutory grounds exist to involuntarily terminate T.C.S.’s parental rights to T.S. The district court found that T.C.S. is palpably unfit under Minn. Stat. § 260C.301, subd. 1(b)(4). The district court also found that grounds exist to terminate T.C.S.’s parental rights under Minn. Stat. § 260C.301, subd. 1(b)(9). T.C.S. challenges both of these conclusions, but because we will affirm the district court’s decision if just one statutory ground exists, we address only the second basis. See *In re Children of T.A.A.*, 702 N.W.2d 703, 708 (Minn. 2005) (“In reviewing a decision to terminate parental rights, the appellate court determines whether there is clear and convincing evidence to support at least one statutory ground for termination.”).

Minn. Stat. § 260C.301, subd. 1(b)(9) provides that involuntary termination is appropriate if the parent has been convicted of a crime listed in Minn. Stat. § 260.012(g)(1)-(5) (2018). Minn. Stat. § 260.012(g)(5) identifies offenses that require “registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).” Second-degree CSC is an offense that requires registration as a predatory offender under that section. Minn. Stat. § 243.166, subd. 1b(a)(1)(iii) (2018) (listing offenses that require registration as a predatory offender, including second-degree CSC).

T.C.S. does not dispute that he has been convicted of a crime listed in Minn. Stat. § 260.012(g)(1)-(5). Instead, T.C.S. argues that the district court erred in terminating

his rights based on Minn. Stat. § 260C.301, subd. 1(b)(9) because the district court failed to consider the facts underlying the conviction.

T.C.S.'s argument lacks merit. The statute only requires the district court to find that the parent has been convicted of a listed offense. Minn. Stat. § 260C.301, subd. 1(b)(9). Because T.C.S. does not dispute the fact that he has been convicted of second-degree CSC, a listed offense, the district court did not abuse its discretion by failing to consider the facts underlying the offense in determining that the conviction served as a statutory basis to involuntarily terminate his parental rights.

III. The district court did not abuse its discretion in concluding that it is in T.S.'s best interests to terminate both parents' parental rights.

Both parents argue that the district court abused its discretion in ordering termination of their parental rights because the evidence is insufficient to support its finding that termination of parental rights is in T.S.'s best interests.

J.K. argues that her participation in classes and therapy, stable employment, housing, access to transportation, sobriety, care for others' children, and ability to manage money undermine the district court's finding regarding the child's best interests.

T.C.S. argues that the evidence at trial showed that he was not struggling with sexual issues that would affect his ability to parent, that he was taking prescribed medication to address his mental health, that he had recently completed chemical-dependency treatment, and that he acted appropriately in parenting sessions with T.S. T.C.S. also argues that the district court's findings regarding T.S.'s best interests are not sufficiently specific.

Involuntary termination is only proper when “at least one statutory ground for termination is supported by clear and convincing evidence *and* the termination is in the child’s best interest.” *R.D.L.*, 853 N.W.2d at 137. “[T]he best interests of the child must be the paramount consideration.” Minn. Stat. § 260C.301, subd. 7 (2018). In determining whether termination of parental rights is in the child’s best interests, “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.” *J.R.B.*, 805 N.W.2d at 905 (quotation omitted). “Competing interests include such things as a stable environment, health considerations and the child’s preferences.” *Id.* (quotation omitted). “Where the interests of the parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7. “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 specifically found that it “is in the best interests of [T.S.] to terminate the parental rights of [J.K.] and [T.C.S.].” In reaching this determination, the district court considered T.S.’s need for a safe and permanent living arrangement. The district court noted that the record demonstrated that the circumstances that led to T.S.’s out-of-home placement were likely to continue for a prolonged, indefinite time. The district court also considered that T.S. was placed with foster parents when he was only two days old. The district court found that T.S. had only limited contact with his parents and even less contact with other biological family members. The district court concluded that under these circumstances, the benefits to T.S. from terminating the parents’ parental

rights outweigh the parents' and child's interests in preserving the parent-child relationship.

We find no abuse of discretion in the district court's determination that it is in T.S.'s best interests to terminate the parental rights of both parents. With regard to J.K., the district court recognized J.K.'s interest in parenting T.S. but found that J.K.'s unaddressed mental illness, cognitive deficits, lack of insight, poor decision making, and impulsivity put herself and others around her at risk. The district court's findings and conclusions demonstrate that it balanced the child's interests, J.K.'s interests, and any competing interests before ultimately concluding that "the benefits to the child that will result from a termination of parental rights will outweigh the parent or child's interests in preserving their parent-child relationship." Clear and convincing evidence supports the district court's findings. The district court's conclusion that terminating J.K.'s parental rights is in the child's best interests was well within its discretion.

The district court also acted within its discretion in determining that it is in T.S.'s best interests to terminate T.C.S.'s parental rights. The district court considered T.C.S.'s chemical-dependency issues and lack of stable housing, specifically noting that T.C.S. had used methamphetamine immediately after trial. Moreover, the district court expressly noted that T.C.S.'s appropriate behavior at observed parenting sessions was not sufficient to overcome the other concerns that it identified about T.C.S.'s ability to parent. Clear and convincing evidence supports the district court's findings. Again, the district court's factual findings relating to T.C.S. addressed the three factors relevant to a child's best interests. Considering these facts and circumstances, we conclude that the district court

also acted within its discretion in determining that termination of T.C.S.'s parental rights is in T.S.'s best interests.

In sum, clear and convincing evidence supports the district court's determination that statutory grounds exist to involuntarily terminate both J.K.'s and T.C.S.'s parental rights. The record also supports the district court's finding that termination of parental rights is in the child's best interests. Accordingly, we conclude that the district court did not abuse its discretion in ordering termination of both J.K. and T.C.S.'s parental rights.

Affirmed.