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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0002**

In the Matter of the Welfare of the Child of:
S. L. L. and J. R. N., Parents.

**Filed June 3, 2019
Affirmed
Halbrooks, Judge**

Cottonwood County District Court
File No. 17-JV-18-73

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Considered and decided by Connolly, Presiding Judge; Halbrooks, Judge; and Slieter, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant-father challenges the district court's termination of his parental rights, arguing that the record does not support a conclusion that he substantially, continuously,

or repeatedly refused or neglected to comply with the duties imposed upon him by the parent and child relationship. We affirm.

FACTS

Appellant J.R.N. and S.L.L. are the biological parents of 3-year-old N.R.N.¹ N.R.N. was adjudicated a child in need of protection or services (CHIPS) in January 2016 and was removed from his parents' care until September 2016.² In January 2018, N.R.N. was removed from S.L.L.'s care and placed into emergency protective care. J.R.N. was incarcerated at the time, but N.R.N. and S.L.L. were living in J.R.N.'s home. Respondent Des Moines Valley Health and Human Services (the county) filed a CHIPS petition, and N.R.N. was adjudicated CHIPS in February 2018. In September 2018, the county petitioned to involuntarily terminate the parental rights of both J.R.N. and S.L.L., alleging that (1) they had substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon them by the parent and child relationship, (2) they were palpably unfit to parent, and (3) reasonable efforts had failed to correct the conditions leading to N.R.N.'s out-of-home placement.

The district court held a multiple-day hearing in November 2018. On the first day of trial, S.L.L. agreed to the termination of her parental rights (TPR) petition and her parental rights were subsequently terminated by the district court. Trial proceeded on the TPR petition regarding J.R.N. The district court found that the county proved by clear and

¹ S.L.L. is not a party to this appeal.

² The district court took judicial notice of the district court orders and findings from the 2016 CHIPS file when it considered the petition in this case.

convincing evidence that under Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5) (2018): (1) J.R.N. continuously or repeatedly, refused or neglected to comply with the duties imposed upon him by the parent-child relationship; (2) J.R.N. is palpably unfit to be a part of the parent-child relationship; and (3) reasonable efforts have failed to correct the conditions leading to out-of-home placement. The district court found that termination is in the best interests of N.R.N. and terminated J.R.N.'s parental rights. This appeal follows.

D E C I S I O N

Upon review of a district court's decision to terminate parental rights, we "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). The district court's ultimate decision to terminate parental rights is reviewed for an abuse of discretion. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136-37 (Minn. 2014).

We will affirm the termination of parental rights "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). Therefore, although J.R.N. challenges all three of the district court's statutory grounds for termination of his parental rights, we will address one: the district court's determination that J.R.N. continuously or repeatedly refused or neglected to comply with the duties imposed upon him by the parent and child relationship under Minn. Stat. § 260C.301, subd. 1(b)(2).

The district court may terminate parental rights if it finds

that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and either reasonable efforts by the social services agency have failed to correct the conditions that formed the basis of the petition or reasonable efforts would be futile and therefore unreasonable[.]

Minn. Stat. § 260C.301, subd. 1(b)(2).

J.R.N. challenges the district court's determination that he continuously or repeatedly refused or neglected to comply with the duties imposed upon him by the parent and child relationship. The district court's determination on this statutory ground was primarily based on J.R.N.'s refusal to provide N.R.N. with "appropriate shelter and care for his physical and emotional health." Specifically, J.R.N.'s home did not have operating utilities or water. Maintaining all utilities in the home without shut-off occurrences was a condition imposed by the county for J.R.N. to have custody of and care for N.R.N.

Addressing this issue, the district court determined that J.R.N. "is refusing to turn on the utilities and water and heat in his home, and is choosing to live this way. [J.R.N.]'s failure to provide [N.R.N.] a home with water and electricity and heat is an intentional and purposeful choice." The district court concluded that the county had "provided reasonable and available services" but that "given the questionable decisions and judgment demonstrated by [J.R.N.], there were no further services that could have been provided that would have convinced him to change his behavior, or parenting."

The record supports this determination. J.R.N.'s utilities and water were shut off in April 2018, June 2018, and again in July 2018 based on unpaid bills. Once they were turned off in July 2018, the utilities and water remained off through the time of trial in November. J.R.N.'s failure to pay for the utilities and water was not due to economic hardship. J.R.N. testified that he did not have financial problems and that he would turn the utilities and water on "when it's time to turn them on." J.R.N. stated that he gave S.L.L. money to pay the utility and water bills, but she did not do so. J.R.N. testified that "that has a big part to do with why I've been stubborn to turn it back on. Maybe I was trying to teach her a lesson . . . sometimes it takes tough love to teach somebody a lesson."

In addition to the lack of utilities and running water in the home, J.R.N. acknowledged that there was a sizeable hole in the ceiling of his home's entry. After J.R.N. ripped the shingles off the roof and did not replace them, the sheetrock became damaged. S.L.L. testified that the sheetrock was damaged as a result of water leaking through the hole in the ceiling. The county case aide testified that, in August 2018, the home had no running water or electricity, there was mold in the entry area, and the hole in the ceiling had a tub beneath it to catch water. She further testified that, in September, S.L.L. called to tell her that she had left J.R.N. because the house and mold were making her sick. The aide stated that the home was still without utilities or water during her visit in October. At the time of trial in November, J.R.N. testified that he was living on a friend's property in a pop-up camper that had no water or electricity.

Based on our review of the record, we conclude that the district court's findings are supported by substantial evidence and are not clearly erroneous. The district court properly

exercised its discretion in its determination that J.R.N. continuously refused or neglected to comply with the duties imposed on him by the parent-child relationship.

Even if there is a statutory basis for terminating a parent's rights, a child's best interests are the paramount consideration. Minn. Stat. § 260C.301, subd. 7 (2018); *In re Children of Vasquez*, 658 N.W.2d 249, 254 (Minn. App. 2003). The best-interests analysis considers "(i) the child's interests in preserving the parent-child relationship; (ii) the parent's interests in preserving the parent-child relationship; and (iii) 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). The district court's order terminating parental rights must explain its "rationale for concluding why the termination is in the best interests of the child[]." *In re Tanghe*, 672 N.W.2d 623, 625 (Minn. App. 2003). "[D]etermination of a child's best interests 'is generally not susceptible to an appellate court's global review of a record,' and . . . 'an appellate court's combing through the record to determine best interests is inappropriate because it involves credibility determinations.'" *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 546 (Minn. App. 2009) (quoting *Tanghe*, 672 N.W.2d at 625). We apply an abuse-of-discretion standard to a district court's determination concerning the child's best interests. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

Here, the district court made factual findings on the best-interests factors set forth in Minn. R. Juv. Prot. P. 39.05, subd. 3(b)(3), and determined that termination of J.R.N.'s

parental rights is in the best interests of N.R.N. The district court specifically noted that N.R.N. had spent roughly one-half of his life in foster care and that, while J.R.N. “has a strong desire to preserve the parent-child relationship,” N.R.N.’s best interests are paramount. The district court noted that “placing the child into the care and custody of [J.R.N.] at this time, to live in the camper . . . with no electricity or running water . . . would be a dangerous situation for this or any child,” and that “this child deserves a permanent home.” We conclude that the district court properly exercised its discretion in determining that termination of J.R.N.’s parental rights is in the best interests of N.R.N.

Affirmed.