

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0634**

In the Matter of the Welfare of the Children of: J. N. L. and W.-S. D., Parents.

**Filed October 7, 2019
Affirmed
Hooten, Judge**

Anoka County District Court
File No. 02-JV-18-911

Samuel Johnson, Johnson Brothers Law, Lindstrom, Minnesota (for appellant J.N.L.)

Anthony C. Palumbo, Anoka County Attorney, Kathryn M. Timm, Assistant County Attorney, Anoka, Minnesota (for respondent Anoka County)

Susan Drabek, Circle Pines, Minnesota (for respondent W.-S.D.)

Connie Krantz, Stillwater, Minnesota (Guardian ad Litem)

Considered and decided by Hooten, Presiding Judge; Worke, Judge; and Kirk, Judge.*

UNPUBLISHED OPINION

HOOTEN, Judge

Appellant-mother requests the reversal of the order terminating her parental rights (TPR) on the basis that the district court failed to complete the TPR trial within 30 days, as required by Minn. R. Juv. Prot. P. 39.02, subd. 1(c). We affirm.

FACTS

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

Mother has two children who are subject to this child-protection appeal. The children's father consented to their adoption and does not appeal the district court's decision.

In January 2018, Anoka County Social Services placed the children in emergency protective care after father called the Blaine Police Department to report that he was having mental-health issues and could not care for his children. When police officers could not reach mother, and because it had been two days since mother left the children with father, the children were placed in emergency protective care.

The district court adjudicated the children in need of protection or services and approved an out-of-home placement plan on January 25, 2018. Mother's case plan required her to remain sober, address her chemical dependency and mental health issues, and acquire and maintain stable housing. Over the course of the following months, mother failed to submit to random urinalysis tests as required, failed to follow through with drug-patch monitoring, failed to attend inpatient treatment as recommended, and failed to attend a psychological assessment. She admitted that she used methamphetamine daily. After she made little progress on her case plan, the county petitioned the district court to terminate mother's parental rights.

The TPR trial began on November 14, 2018, took place over four days in the following four months, and concluded on March 20, 2019. After the first day of trial, the district court continued the trial to December 12, 2018, and left the record open for mother to submit a parenting assessment. By the second day of trial, mother had not submitted the parenting assessment. The district court noted that it had "a couple of cases

going on . . . so please be as flexible as you can” when scheduling the next trial date. At the start of the third day of the trial, on January 9, 2019, mother requested a continuance in order to seek new counsel. When the district court denied her request for a continuance, mother decided to retain her attorney. When scheduling the next trial date, the district court asked mother how much time she needed to complete the parenting assessment. Mother requested an additional 30 days, and the district court set the final trial date for March 20, 2019.

Following the final trial date, the district court terminated mother’s parental rights. Mother appeals.

D E C I S I O N

Mother does not challenge the district court’s decision to terminate her parental rights on the merits. Instead, she argues that she is entitled to a new trial because her TPR trial occurred over more than 30 days.

The Minnesota Rules of Juvenile Protection Procedure provide, “Unless otherwise provided by these rules, a trial regarding a termination of parental rights matter . . . shall be concluded within thirty (30) days from the date of commencement of the trial and whenever possible should be over consecutive days.” Minn. R. Juv. Prot. P. 39.02, subd. 1(c). The rules also provide:

The court may, either on its own motion or upon motion of a party or the county attorney, continue or adjourn a trial to a later date upon written findings or oral findings made on the record that a continuance is necessary for the protection of the child, for accumulation or presentation of evidence or witnesses, to protect the rights of a party, or for other good cause shown, so long as the permanency time requirements set forth in these rules are not delayed.

Minn. R. Juv. Prot. P. 39.02, subd. 2. This court reviews de novo the interpretation of a juvenile-protection rule. *In re Welfare of R.S.*, 805 N.W.2d 44, 48–49 (Minn. 2011).

In this case, mother argues that this court should reverse the termination of her parental rights and remand for a new trial. Her argument fails for three reasons. First, mother points to no authority to support her argument that the remedy for failing to comply with the timing requirement is a new trial. Indeed, not only do the rules themselves not provide a remedy, here because mother herself sought continuances and delays of the trial, she seems to be arguing that the district court erred by granting her requests to extend the proceeding.

Second, although the length of mother’s trial was beyond what is allowed by the rules, mother does not challenge any of the district court’s findings leading to the termination of her parental rights. And she does not identify how the extended duration of her trial caused her any harm or how a new trial would remedy any such harm. *See In re Welfare of D.J.N.*, 568 N.W.2d 170, 176 (Minn. App. 1997) (refusing to reverse termination of parental rights for harmless error). Moreover, granting mother’s request for a new trial would only further frustrate the policy of promptly resolving child-protection cases. *See In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 134 (Minn. 2014) (stating that proceedings involving endangered children “are expedited because a quick resolution is essential for the best interests of children who are in need of protection” and that “[t]he principle that child protection cases are to receive priority and be resolved quickly is a thoroughly engrained policy”).

Third, while the rules provide that a trial shall conclude within 30 days of commencement, the rules also provide that a district court may grant continuances when necessary. Minn. R. Juv. Prot. P. 39.02, subd. 2. Here, the district court granted three continuances. The record shows that these continuances in part were due to the district court's schedule conflicts. But the record also reveals that the district court granted a continuance based upon mother's need to complete a parenting assessment and her request for an additional 30 days to complete the assessment. The district court approved mother's request, giving her additional time to complete the parenting assessment. Although mother never submitted the parenting assessment, the district court's grant of the continuance allowed mother the opportunity to present evidence in defense of her parental rights. See Minn. R. Juv. Prot. P. 39.02, subd. 2. On this record, we cannot say that the district court's grant of the continuances was improper under rule 39.02.¹

Affirmed.

¹ Effective September 1, 2019, the Minnesota Rules of Juvenile Protection Procedure were amended, and those amendments apply to pending cases. *Order Promulgating Amendments to Rules of Juvenile Protection Procedure*, No. ADM10-8041 (Minn. May 13, 2019). The amended rules were not in effect when the district court made the decisions being challenged on appeal and are not cited in this opinion. Mother has not argued or established that the result would be different under the amended rules. See Minn. R. Juv. Prot. P. 5 2019 advisory comm. cmt. (indicating that amendments "are not intended to substantively change the rule's meaning" and courts "may grant a continuance in appropriate circumstances," but "should not grant a continuance that would defeat the federal and state time requirements for permanency determinations"). Because appellant has not established that the amended rules would require us to reach a different result, and because granting a new trial would further delay the permanency determination in this case, we conclude that a new trial is not appropriate.