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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0894**

In the Matter of the Welfare of the Children of: T. S. and J. G., Parents.

**Filed November 4, 2019
Affirmed
Reyes, Judge**

Benton County District Court
File No. 05-JV-19-143

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Considered and decided by Florey, Presiding Judge; Reyes, Judge; and Smith, Tracy
M., Judge.

U N P U B L I S H E D O P I N I O N

REYES, Judge

Appellant mother challenges the district court's termination of her parental rights,
arguing that it is not supported by clear and convincing evidence. We affirm.

FACTS

Appellant T.S. (mother) appeals the district court's termination of her parental rights (TPR) over A.G., her six-year-old child.¹

Benton County Human Services (the county) began monitoring mother in October 2016 after receiving a report that she used drugs in front of A.G. while pregnant. The county responded by offering services to mother. However, after receiving a report on November 3, 2016, that mother was injured in a "home invasion"² and "was yelling and swearing at [A.G.] and calling [A.G.] 'little b---h,'" the county opened a family assessment and started giving mother random drug tests. After mother tested positive for methamphetamine and marijuana, the county filed a child in need of protection or services (CHIPS) petition on May 19, 2017. During the June 12, 2017 CHIPS hearing, mother acknowledged that her chemical use hindered her ability to care for her children. The children were placed in foster care on April 17, 2018, after mother tested positive for methamphetamine again.

After granting the CHIPS petition, the district court approved a case plan that mother needed to complete. The case plan required that mother

¹ A.G. is mother's second of three children. Mother's oldest child is a legal adult. Mother agreed to transfer full parental rights of her youngest child to that child's father shortly before the TPR trial on appeal. Because mother had responsibility for A.G. and her younger sibling until the beginning of the TPR trial, this opinion's references to "children" are to the two children for whom mother had legal responsibility at that time.

² Mother described the incident during her TPR testimony by stating, "Some guys tried coming in my door. I didn't know who they were. So we got the door shut, but one of them got in, and I got stabbed." A.G. witnessed the event. Mother no longer lives in this apartment.

cooperate fully with [the county]; she abstain and submit to testing; she complete a Rule 25 and follow recommendations; she obtain and maintain safe and suitable housing, keeping the case manager informed of an address and active telephone number; she work with the case manager to assess her mental health and follow recommendations of a full diagnostic assessment; she work with in-home services; she remain law abiding; and she attend visitation with the children.

The county case manager in charge of mother's case testified at mother's TPR trial that, while mother did maintain contact with him as her case moved forward, mother "is not doing the case plan. She is not doing the case work." Over the two years the county tested mother for chemical use, she tested positive on 37 occasions, diluted three tests, and missed 31 tests for a total of 71 positive drug tests.

The county petitioned to terminate mother's parental rights on January 23, 2019. At the time of filing the TPR petition, A.G. had been out of the home for 273 days. The district court granted the county's petition, determining that (1) mother has substantially, continuously, and repeatedly refused to comply with her parental duties; (2) reasonable efforts have failed to correct the conditions leading to A.G.'s placement; (3) mother is palpably unfit to be a parent; and (4) terminating mother's parental rights is in A.G.'s best interest. This appeal follows.

D E C I S I O N

I. Standard of review

District courts may terminate parental rights only "for grave and weighty reasons." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012) (quotation omitted). This court reviews the district court's decision for an abuse of discretion. *In re Welfare of*

Child of R.D.L., 853 N.W.2d 127, 136 (Minn. 2004). We will affirm the district court’s order when (1) at least one statutory ground for termination is supported by clear and convincing evidence; (2) termination is in the best interests of the child; and (3) the county has made reasonable efforts to reunite the family. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008).³ Findings of fact are clearly erroneous if they are not reasonably supported by the evidence as a whole or if the finding is “manifestly contrary to the weight of the evidence.” *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted).

II. The record supports the district court’s determination that clear and convincing evidence supports the statutory ground that reasonable efforts failed to correct the conditions leading to the out-of-home placement.

Mother argues that the record lacks sufficient evidence to support the district court’s determination that the county made reasonable efforts to reunite her with A.G. because she did everything asked of her, yet the county failed to offer visitation even when she demonstrated sobriety. We are not persuaded.

The district court can terminate parental rights if the parent “failed to correct the conditions leading to the child’s placement.” Minn. Stat. § 260C.301, subd. 1(b)(5) (2018). The failure of reasonable efforts will be presumed if: (i) the child is under eight years old and resided out of the parent’s home for six months without regular contact with the parents; (ii) the district court approved the case plan; (iii) the conditions resulting in the

³ Mother does not argue that the county failed to make reasonable efforts to reunite the family. Instead, mother challenges the county’s efforts under the Minn. Stat. § 260C.301, subd. 1(b)(5) analysis. We therefore address the county’s efforts under the same point of analysis.

child's removal from the home have not been corrected; and (iv) the county made reasonable efforts "to rehabilitate the parent and reunite the family." *Id.* Mother challenges the first and fourth elements. We address both in turn.

A. Residing outside of parent's home for six months

Mother asserts that the first element is not met because, at the time of the TPR trial, A.G. had not been away from mother for twelve consecutive months. But mother only references half of the element. The statute also states that:

In the case of a child under age eight at the time the petition was filed alleging the child to be in need of protection or services, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the out-of-home placement plan.

Id., subd. 1(b)(5)(i). The county placed A.G. in foster care on April 17, 2018, and filed its TPR petition more than nine months later, on January 23, 2019. Additionally, consistent with the record, the district court found that mother did not comply with her case plan. This element of the presumption is therefore satisfied.

B. Reasonable efforts

Mother contends that the fourth element is not met because the county did not satisfy its duty to make reasonable efforts to reunite her with A.G. We disagree.

A social-services agency must put forth reasonable efforts to reunite the parent with the child. *Id.*, subd. 1(b)(5)(iv); see Minn. Stat. § 260.012(a) (2018). The county cannot ignore case-plan responsibilities because it believes they are futile. *T.R.*, 750 N.W.2d at 665-66.

Mother states that she did everything asked of her and that the county failed to offer visitation even when she demonstrated sobriety. Mother is referencing her 79 days of sobriety leading up to the TPR trial. However, the record shows that the county suspended the visits because, in addition to the chemical-dependency concerns, mother actively tried to disrupt the new stability in the children's lives in foster care. Mother also vaguely references her chemical dependency and questions whether the county properly addressed her addiction. However, the district court found that the county gave mother the opportunity to attend multiple rehabilitation programs, regularly drug tested her, and gave her four chemical-dependency assessments with recommendations that she failed to follow. As a result, there is a statutory presumption that reasonable efforts failed to correct the conditions leading to A.G.'s placement. Mother did not rebut this assumption. Therefore, the district court did not abuse its discretion in determining that this statutory basis for termination is supported by clear and convincing evidence.⁴

III. The district court did not abuse its discretion in determining that terminating mother's parental rights is in A.G.'s best interests.

Mother argues that the district court improperly determined that termination is in the best interests of A.G. We disagree.

⁴ Mother also appeals the district court's determination to terminate the parental relationship under Minn. Stat. § 260C.301, subs. 1(b)(2) and (b)(4) (2018). But appellate courts may affirm the termination of parental rights if one statutory ground is supported by clear and convincing evidence. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004). Because we conclude that the district court did not abuse its discretion in determining that mother's parental rights should be terminated under 1(b)(5), we need not analyze the district court's other statutory rulings.

If the district court determines that the facts satisfy a statutory basis, it must also determine that terminating the parental rights is in the best interests of the child. Minn. Stat. § 260C.301, subd. 7 (2018); *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011). In a best-interests analysis, courts consider “(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). “Competing interests include a stable environment, health considerations, and the child’s preferences.” *In re Welfare of Children of M.A.H.*, 839 N.W.2d 730, 744 (Minn. App. 2013). We review a district court’s best-interests determination under an abuse-of-discretion standard. *In re Children of D.F.*, 752 N.W.2d 88, 95 (Minn. App. 2008).

The district court found by clear and convincing evidence that it is in A.G.’s best interests to terminate mother’s parental rights. The district court’s order does not expressly weigh the interest of mother or A.G. in preserving the relationship. District courts must explain their rationale in a best-interests analysis. *In re Tanghe*, 672 N.W.2d 623, 626 (Minn. App. 2003). “Determination of a child’s best interests is ‘generally not susceptible to an appellate court’s global review of a record,’ because of the credibility determinations involved, and because of the multiple factors that must be weighed.” *M.A.H.*, 839 N.W.2d at 744 (quoting *Tanghe*, 672 N.W.2d at 625). However, a district court’s decision will be affirmed if the district court makes sufficient findings of fact that supported their ultimate decision. See *Tanghe*, 672 N.W.2d at 626 (“[W]hen the findings do not adequately address best interests, they are inadequate to facilitate effective appellate review, to provide insight

into which facts or opinions were most persuasive of the ultimate decision, or to demonstrate the court's comprehensive consideration of the statutory criteria.") (quotation omitted).

Mother testified at the TPR trial that she wants to be a parent to A.G. Father also testified that he believes it is in A.G.'s best interests for mother to keep her parental rights. The record does not mention A.G.'s interests. Even if the interests of mother and A.G. weighed against terminating parental rights, there are still sufficient facts to affirm the district court based on the competing interests of a stable and healthy environment. See *M.A.H.*, 839 N.W.2d at 744.

Here, the district court supported its determination by referencing mother's continued failure to complete her case plan. The main issue preventing mother from finishing her case plan was her chemical dependency. Over the two years, mother failed 71 drug tests, did not successfully complete drug-rehabilitation treatment, did not implement the recommendations from her chemical-dependency assessments, and used chemicals while caring for her children. In addition, mother did not address the mental-health-treatment portions of her case plan. Moreover, she admitted to breaking the law by using illegal drugs. Finally, she did not complete the in-home parenting training required by the case plan.

In addition to failing to complete her case plan, other findings of fact by the district court show that mother could not provide a stable and healthy environment for A.G. First, mother admitted during her CHIPS case that her chemical use negatively affected her ability to care for her children. Second, A.G.'s younger sibling tested positive for

methamphetamine in a hair follicle, suggesting that mother used drugs in that child's presence. Third, mother intentionally tried to interrupt the children's routine during visits even though the routine helped her children in several ways. And finally, mother's case-plan manager testified at the TPR trial that he believes terminating mother's parental interest is in the best interest of A.G. because "[A.G.] deserves the stability. She deserves the care and the safety. She deserves life." He does not believe mother can provide that.

Mother argues that the district court did not address this issue and that "the only evidence presented in this matter suggests it is detrimental to A.G. to be separated from [mother]." Mother refers to the testimony of A.G.'s therapist that A.G. had trouble separating from mother. While this is true, the therapist also stated that A.G. had PTSD from traumatic events she experienced with mother, but that A.G. has been making improvements while in foster care. Based on the record, the district court did not abuse its discretion in terminating mother's parental rights because sufficient facts support the district court's ruling that termination is in A.G.'s best interests.

Affirmed.