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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1505**

In re the Matter of the Welfare of the Children of: J. S.

**Filed February 18, 2020
Reversed and remanded
Reilly, Judge**

Pope County District Court
File No. 61-JV-19-107

John E. Mack, New London Law, P.A., New London, Minnesota (for appellant mother J.S.)

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Considered and decided by Connolly, Presiding Judge; Reilly, Judge; and Kalitowski, Judge.*

UNPUBLISHED OPINION

REILLY, Judge

Appellant-mother challenges a district court order involuntarily terminating parental rights to a minor child. Because the district court failed to make adequate findings

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

supporting its conclusory determination that termination is in the best interests of the child, we reverse and remand.

FACTS

Appellant is the mother of a minor child born on March 19, 2019.¹ Pope County Human Services (the county) received an intake report regarding the child's birth and opened a family investigation. As a result of its investigation, the county filed a petition on March 20, 2019 to involuntarily terminate mother's parental rights to the child under Minn. Stat. § 260C.301, subd. 1(b)(4) (2018) for palpable unfitness because mother's custodial rights to another child were involuntarily terminated in October 2018, when she was pregnant with this child. The county filed an amended petition to terminate parental rights on April 24, 2019.

The district court held a trial in June 2019, and heard testimony from two county child protection social workers, the guardian ad litem (GAL), and mother. The first child protection social worker testified that mother's rights to an older child were involuntarily terminated in 2018 on the basis of neglect. Based upon this report, the social worker opened a family investigation. As a result of its investigation, the county took immediate custody of the child. The county also requested a hair follicle test from mother, which tested positive for methamphetamine. The social worker testified that mother was not a viable permanency option for the child based on her "recent involuntary termination of parental rights, her child protection history, and [her] past drug use." The second social

¹ Father is not a party to this appeal.

worker also testified that she had “concerns” about mother’s ability to parent the child due to “the prior TPR, the criminal history, [and] the child protection history.” The GAL also supported the county’s petition to involuntarily terminate mother’s parental rights to the child, and testified that mother was not a viable permanency option based on her history.

Mother testified on her own behalf at trial. Mother acknowledged that her parental rights to another child were involuntarily terminated in 2018 on the basis of neglect. However, mother argued that she had taken positive steps to maintain a sober lifestyle and wanted to regain custody of both children.

In July 2019, the district court involuntarily terminated mother’s parental rights to the child. The district court determined that the county satisfied its burden of proving by clear and convincing evidence that mother’s parental rights should be terminated because she is presumed to be palpably unfit under Minn. Stat. § 260C.301, subd. 1(b)(4). The district court also concluded that “[i]t is in the best interests of [the child] that the parental rights of Mother be involuntarily terminated,” but did not make any specific best-interests findings. This appeal follows.

D E C I S I O N

The decision to terminate parental rights is discretionary with the district court. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136-37 (Minn. 2014). As a reviewing court, we conduct a close inquiry into the evidence but give “considerable deference” to the district court’s termination decision. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). The district court’s decision to terminate parental rights will be affirmed if “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).

The best interests of the child are the “paramount consideration” in a termination proceeding. Minn. Stat. §§ 260C.001, subd. 2(a) (2018), *see* 260C.301, subd. 7 (2018) (stating that if a statutory basis for an involuntary termination of parental rights is present, the paramount consideration is the child’s best interests). The district court must balance three factors when considering the child’s best interests: (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 interests of the child. Minn. R. Juv. Prot. P. 58.04(c)(2)(ii); *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). Competing interests of the child include such things as a stable environment, health considerations, and the child’s preferences. *In re Welfare of the Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 17, 2012). “Where the interests of parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7. We review the district court’s decision that termination is in the child’s best interests for an abuse of discretion. *J.R.B.*, 805 N.W.2d at 905.

Mother argues that the district court failed to undertake the required best-interests analysis. We agree. Determination of a child’s best interests “is generally not susceptible to an appellate court’s global review of a record.” *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 546 (Minn. App. 2009) (quotation omitted). Instead, the district court “must consider a child’s best interests and explain its rationale in its findings and conclusions.” *In re Tanghe*, 672 N.W.2d 623, 626 (Minn. App. 2003). Here, the district court made a

conclusory statement that “[i]t is in the best interests of [the child] that the parental rights of Mother be involuntarily terminated.” However, the district court did not address the three best-interests factors or otherwise explain its rationale for this conclusion.

The county argues that the findings, taken as a whole, reflect that the district court considered the best-interests factors even if it did not cite to the rules directly or make specific findings. *See, e.g., In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 711 (Minn. App. 2004) (concluding that district court did not abuse its discretion even though the district court did not go into great detail when making best interests findings). We are not persuaded by this argument. When the district court’s findings do not address the child’s 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.” *Tanghe*, 672 N.W.2d at 626 (quoting *In re Welfare of M.M.*, 452 N.W.2d 236, 239 (Minn. 1990)); *see also In re Welfare of Child of J.L.L.*, 801 N.W.2d 405, 414 (Minn. App. 2011) (cautioning reviewing court against “combing through the record to determine best interests” because such activity “involves credibility determinations”). “Considering a child’s best interests is particularly important in a TPR proceeding because a child’s best interests may preclude terminating parental rights even when a statutory basis for termination exists.” *D.L.D.*, 771 N.W.2d at 545 (quotation omitted). Thus, “the absence of district court findings on [a] child’s best interests in a TPR proceeding precludes effective appellate review because it prevents [an appellate court] from determining

whether the district court adequately considered the child's best interests as the paramount consideration." *Id.* at 547.

The district court did not make any specific best-interests findings in its termination order. Given the absence of clear best-interests findings, we cannot effectively review the district court's termination decision. We therefore reverse and remand for the district court to make proper best-interests findings. *See id.* at 545-46 (directing that "the absence of findings on the child's best interests in a TPR proceeding constitutes error that requires remand"). On remand, the district court, in its discretion, may reopen the record or hold an evidentiary hearing.²

Reversed and remanded.

² Because our determination that the district court's findings on the child's best interests are insufficient is fatal to the termination of mother's parental rights, we need not consider whether a statutory basis supported termination.