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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1281
A20-1307**

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

**Filed March 1, 2021
Affirmed
Florey, Judge**

Pine County District Court
File Nos. 58-JV-20-57; 58-JV-19-126

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Considered and decided by Reilly, Presiding Judge; Florey, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

In these consolidated appeals from the district court's termination of parents' parental rights, mother argues that the record and findings do not support the district court's determination that she is a palpably unfit parent and that the county made reasonable efforts

to reunify the family. Father argues that the record does not support the district court's determination that the county made reasonable efforts to reunite the family. We affirm.

FACTS

Appellants S.L.S. (mother) and T.J.S. (father) are the biological parents of four children, L.S., A.S., K.L.S., and K.M.S. Mother and father have a lengthy history with child-protective services, including voluntarily terminating their parental rights to two older children, and a closed child-protection case for incidents involving the four children who are also the subject of the case at hand.

In March 2019, Meeker County opened a family assessment after receiving a report of child neglect alleging A.S., age 3, was found alone on railroad tracks three blocks away from home without weather-appropriate clothing. Meeker County was already working with the parents to address L.S.'s school attendance and educational-neglect concerns. A Meeker County social worker, who had worked with the family over several months and offered ongoing case-management services, testified that additional reports of inadequate supervision were received, including "multiple reports of the children playing on the road with no parental supervision, and L.S., age seven, being responsible for caring for his siblings." Mother admitted to the social worker a history of domestic violence and alcohol consumption.

Meeker County Health and Human Services offered a voluntary case plan with the goal of increasing parental supervision and maintaining sobriety. Communication with the parents grew increasingly sporadic. In July 2019, the social worker met with the parents about the possibility of filing a CHIPS petition given the ongoing reports of inadequate

supervision and recent lack of communication. Father asked what would happen to the CHIPS case if they moved counties or states. In August 2019, the family moved out of the county and did not inform Meeker County Health and Human Services.

In September 2019, Meeker County filed a CHIPS petition requesting protective supervision of the children. The petition alleged:

[F]irst, the children were without necessary food, clothing, shelter, education, or other required care because the parents were unable or unwilling to provide that care; second, the children were without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the parents; and third, the children's behavior, condition, or environment was injurious or dangerous.

In October 2019, the Meeker County District Court transferred venue to Pine County based on information that the family was now residing there.

In November 2019, the children were adjudicated in need of protection or services in Pine County. The district court ordered the children to remain in the custody of the parents under the protective supervision of Pine County Health and Human Services (the agency). The parents were ordered to comply with the case plan filed by the agency (the case plan).

In November 2019, the family was evicted from their home. In December 2019, a Pine County social worker was contacted by the elementary school because L.S. and A.S. had lice and needed to be picked up, but the school was unable to contact the parents. The social worker contacted mother, who agreed to meet the next day to discuss the family's case but did not follow through.

In January 2020, mother informed the Pine County social worker that the family moved to Stearns County. The Pine County District Court transferred venue to the Stearns County District Court based on the family's relocation. Before the Stearns County hearing occurred, several new concerns arose indicating the family was no longer living in Stearns County.

In February 2020, Pine County received a police report from Meeker County law enforcement reporting a van in a store parking lot that was not running with children inside, one of whom was crying. There were no car seats for the children, and a glass marijuana pipe was in plain view in a cup holder. Mother and father were arrested on warrants out of Pine County for failing to appear in criminal court.

In March 2020, Pine County received a report that the family was staying in a chalet at the casino in Hinckley; the parents had left the children alone, unsupervised; the children were not being given enough food to eat; father hits mother who, in turn, hits the children; K.L.S. had a black eye; the parents had "trained the kids" to blame each other when they had marks and bruises; the parents drove the children around without appropriate car seats; the children had not been to school in three weeks; and father was telling the children they were going to move to Rochester. A Pine County investigating social worker went to meet with the family. The parents admitted using marijuana but refused to submit to a urinalysis. The children were "disheveled," "[t]heir faces were dirty with food," and the chalet "in disarray." The parents reported "being homeless and feeling overwhelmed." The parents agreed to meet with the investigating social worker the next morning, but did not. The agency filed a motion for immediate custody of the children.

At the hearing for emergency protective care, the district court ordered the children to be placed in foster care under agency supervision. Stearns County transferred venue back to Pine County. The parents did not appear at a permanency-progress review hearing in April 2020. They had made no progress on the case plan since the November 2019 hearing and failed to meet with the Pine County social worker to discuss case planning or to submit to urinalysis. Pine County requested the permanency timelines be extended to allow the parents additional time to work towards reunification, which the district court granted. The district court also approved and adopted an updated case plan. The case plan had not been signed by the parents “due to their non-cooperation with [the Pine County social worker],” but the district court noted that Pine County had made “reasonable efforts” to engage the parents in the case-planning process. The updated case plan was mailed to the parents, who eventually reviewed and signed it.

In May 2020, the parents appeared at the intermediate disposition hearing. Their communication with the Pine County social worker was sporadic, and they made no progress on the case plan. In June 2020, mother was arrested and charged with gross misdemeanor possession of controlled substances, misdemeanor driving after suspension, and petty misdemeanor possession of drug paraphernalia.

On July 30, 2020, an admit/deny hearing on Pine County’s petition to terminate parental rights was held. The following day, law enforcement responded to a report of a domestic incident between mother and father, who were staying at a hotel in Woodbury. Per the report, mother and father were “obviously intoxicated.” Father was transported to Ramsey County detox.

A court trial on the permanency petition was held on September 11, 2020. The district court made the following findings.

Implementation of the case plan

The district court found that the parents failed to demonstrate that they had implemented many of the requirements of the agency's case plan, including maintaining a safe, stable, and healthy environment, and financial stability; remaining abstinent from chemical use; cooperating with urinalysis and hair-follicle testing; providing consistent appropriate care and supervision; obtaining health insurance for the children and well-child check-ups and dental appointments; ensuring consistent school attendance; attending couples' therapy; and remaining in contact with the agency. The district court found that the parents had substantially complied with the case-plan requirements that they complete diagnostic assessments and maintain consistent visits and contact with the children.

Children's best interests

The district court found that termination of the parents' rights was in the children's best interests, noting that the children have been in court-ordered foster care placement for approximately 193 days. Additionally, L.S., A.S., and K.L.S. had accumulated 253 days of court-ordered foster-care placement in 2017-2018 under a prior petition. The district court stated that "[t]he parents' lack of engagement throughout this case and history with child protective services indicates they are unable to sustain reunification with the children and parent on their own." The district court further noted that the children are currently placed in a "safe, stable, consistent environment" and "their medical, educational, developmental, and behavioral needs are now being met." The district court highlighted

the importance of stability and permanency for children’s development and concluded that “the children’s best interests are served by terminating parental rights.”

Reasonable efforts by the agency

The district court found that “reasonable efforts were made by the [a]gency to rehabilitate the parents, reunify the children with the parents, and finalize a permanency plan for the children.” Specifically, the district court noted that the agency provided the following: ongoing case management; frequent attempted contact; case planning; a list of priority tasks from the case plan; service coordination and referrals for services to address chemical dependency and mental health; applications and offers of assistance with completing paperwork for health insurance and county financial aid; resources for housing; communication with the schools; a request to extend permanency timelines; urinalysis and hair-follicle testing; coordination with Stearns County Child Protection; supervised visits; coordination of visits; diagnostic assessments and therapy for the children; gas cards; public transportation; and a relative search. The district court determined that the agency failed to make reasonable efforts related to parenting skills because the agency did not request an order mandating parenting-skills instruction during the parents’ supervised visitation. Based on evidence presented at trial, the district court found that parenting assessments aimed at reunification “would have been difficult and an inefficient use of resources” due to the parents’ inconsistent communication and failure to engage in the case plan.

The district court also found that the Pine County social worker “put forth more than reasonable efforts to attempt to keep the parents engaged in the case.” The district court

concluded that “the services offered were relevant to the safety and protection of the children, adequate to meet the needs of the children and family, culturally appropriate, available and accessible, consistent and timely, and realistic under the circumstances.”

Statutory grounds for termination

The district court found three statutory grounds for termination pursuant to Minn. Stat. § 260C.301, subd. 1(b)(2),(4),(5) (2018). With regard to the determination of the parents’ palpable unfitness pursuant to subdivision 1(b)(4), the district court found that the agency proved by clear and convincing evidence that the parents were palpably unfit “to be a party to the parent child relationship,” and concluded that the parents are “unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the children.”

Mother and father filed separate appeals, and this court consolidated those appeals.

DECISION

“We affirm the district court’s termination of parental rights when at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the best interests of the child, provided that 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) (citation omitted). We give deference to a district court’s decision to terminate parental rights but closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing. *In re Welfare of J.M.*, 574 N.W.2d 717, 724 (Minn. 1998). When reviewing a district court’s decision to terminate parental rights, appellate courts review the district court’s factual findings for clear error but review “its

determination of whether a particular statutory basis for involuntarily terminating parental rights is present for an abuse of discretion.” *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012). “A finding is clearly erroneous if it is either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Children of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted). “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.” *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996).

I. The district court’s findings provide clear and convincing evidence of mother’s palpable unfitness pursuant to Minn. Stat. § 260C.301 subd. 1(b)(4).

Mother argues that the district court’s findings do not meet the statutory requirement “of a specific behavior that is permanently detrimental to the welfare of the children” as required to find her “palpably unfit” to care for her children. Minnesota Statutes section 260C.301, subdivision 1(b)(4), provides that a juvenile court may terminate all parental rights to children when

a 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.

Under this subdivision, there must exist a “consistent pattern of specific conduct or specific conditions existing at the time of the hearing that appear will continue for a prolonged,

indefinite period and that are permanently detrimental to the welfare of the child.” *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 661 (Minn. 2008) (quotation omitted).

Here, the district court found, and mother does not contest, that termination of the parental rights was in the best interest of the children. The district court further found that the agency presented clear and convincing evidence that mother was palpably unfit “to be a party to the parent and child relationship.” The district court stated:

A review of the records submitted indicates patterns of behavior rendering the parents palpably unfit to parent. For more than 15 years and despite numerous supports from child protective services, they have struggled with consistently providing a safe, stable home for their children, meeting their financial needs, ensuring consistent school attendance, providing appropriate child care and supervision, and cultivating a healthy environment that is free from chemical use, domestic violence, and questionable relationship dynamics.

Our review of the record supports the district court’s conclusion that the county established, by clear and convincing evidence, that mother’s “consistent pattern” of failing to provide her children with the stability and safe environment they need to develop has rendered her palpably unfit to parent the children, now and for the foreseeable future. *See* Minn. Stat. § 260C.301, subd. 1(b)(4). We therefore affirm the district court’s determination that mother is a palpably unfit parent.

Mother also appeals the district court’s determination to terminate the parental relationship under Minn. Stat. § 260C.301, subds. 1(b)(2) and (b)(5). However, we need not analyze the district court’s other statutory rulings because we affirm the district court’s ruling that mother’s parental rights should be terminated under subdivision 1(b)(4). *In re*

Welfare of Children of R.W., 678 N.W.2d 49, 55 (Minn. 2004) (holding appellate court may affirm the termination of parental rights if one statutory ground is supported by clear and convincing evidence).

II. The agency made reasonable efforts to reunify the family in accordance with Minn. Stat. § 260.012.

In a proceeding to terminate parental rights, the district court is required to make specific findings that reasonable efforts to reunify the children and the parent were made, including individualized and explicit findings regarding the nature and extent of efforts made by the social-services agency to rehabilitate the parent and reunite the family. Minn. Stat. § 260C.301, subd. 8 (2018). To determine if the county’s efforts were reasonable, the district court must assess whether the services offered were: “(1) relevant to the safety and protection of the children; (2) adequate to meet the needs of the children and family; (3) culturally appropriate; (4) available and accessible; (5) consistent and timely; and (6) realistic under the circumstances.” Minn. Stat. § 260.012(h) (2018). A district court’s decision that the county made reasonable efforts to reunite the family is reviewed for an abuse of discretion. *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 323 (Minn. App. 2015) (ruling that the district court’s “reasonable-efforts finding was not an abuse of discretion”), *review denied* (Minn. July 21, 2015).

Father argues that the agency failed to adequately assist him in reunifying with his children. He also argues that the parents “substantially compl[ied] with the case plan.” Mother argues “the agency failed to make reasonable efforts to provide the parents with

assistance in improving parenting skills” which was required because the parents’ lack of supervision was the “overarching” concern of the petition for child protection.

Here, while noting its belief that the agency should have requested the parents engage in parenting skills during parenting time, the district court determined—and the record supports—that the agency put forth reasonable efforts to correct the conditions leading to out-of-home placement through offering a multitude of opportunities and services to assist the parents. Despite the agency’s efforts to assist the parents in reunifying their family and its frequent attempts to stay in contact, the parents continually failed to make progress on their case plan, utilize the services offered by the agency, or remain in communication with the agency and social workers.

With regard to mother’s contention that the case plan provided by the agency did not address the concerns of the original petition, the record reflects that the petition filed by the agency was concerned not only with the parents’ lack of supervision of their children, but also the parents’ failure to provide stable housing and safe conditions, remain abstinent from chemical substances, and ensure the children consistently attended school. Furthermore, the case plan addressed housing stability, chemical use, mental health, parenting skills, medical and therapeutic needs of the children, school attendance, couples therapy, visitation, releases of information, and contact with the agency. The district court found, and we agree, that the case plan and services offered in this case were consistent with the requirements of section 260.012(h). The record demonstrates that the parents did not make substantial progress on most of the requirements of the case plan.

The district court's conclusion that the agency made reasonable efforts to reunify the family is substantially supported by the evidence. Therefore, the district court did not abuse its discretion on this issue.

Affirmed.