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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1564**

In the Matter of the Welfare of the Children of:
R. J. O., J. E. J., and J. S. O., Parents

**Filed May 24, 2021
Affirmed
Gaïtas, Judge**

Becker County District Court
File No. 03-JV-20-868

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Considered and decided by Worke, Presiding Judge; Johnson, Judge; and Gaïtas,
Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

On appeal from the district court's order terminating her parental rights, appellant-mother R.J.O. challenges the district court's determinations that respondent Becker County Human Services (BCHS) proved a statutory basis for termination, that termination is in the children's best interests, and that BCHS made reasonable efforts to reunite the family. We affirm.

FACTS

This appeal arises from a child-protection proceeding that resulted in termination of mother's parental rights to her children born in 2010 (child 1) and 2013 (child 2). The district court also terminated the parental rights of J.E.J., the father of child 1, and J.S.O., the father of child 2. Neither father is participating in this appeal.

BCHS first became involved with mother in February 2017, when the county received a maltreatment report alleging physical and emotional abuse of child 1 and child 2 (the children) by mother and concerns about mother's history of drug use. BCHS conducted an investigation during which it determined that J.S.O. was convicted of armed robbery, possession of child pornography, and rape of a minor. Mother and J.S.O. were divorced at the time of the investigation, which was later closed without maltreatment determinations.

From April to December 2018, Southwest Health and Human Services (SWHHS) received nine maltreatment reports concerning the children. These reports included allegations that the children were exposed to domestic violence between mother and her then-boyfriend and that the children had been physically and sexually abused by this boyfriend. Rock County Human Services investigated these reports and provided mother with services to help keep the children in the home. After the children witnessed a domestic violence incident in which the police were called, SWHHS filed a child-in-need-of protection-and/or-services (CHIPS) petition in Rock County and was granted protective custody of the children. At a hearing a few days later, however, the judge returned the children to mother after she stated she was moving to Becker County. A BCHS social

worker was assigned to mother's case, and mother continued to receive services. The Rock County CHIPS case was closed in April 2019.

The Becker County CHIPS case underlying this appeal began in the summer of 2019. On July 19, police stopped mother for a traffic offense and subsequently arrested her after finding methamphetamine in her purse and vape pens in her car that tested positive for THC. The children were present in the car. Also present in the car was mother's former boyfriend who had been accused of abusing the children in the maltreatment reports received by SWHHS in 2018. At the time, there was an active domestic abuse no-contact order (DANCO) prohibiting the former boyfriend from having contact with mother. Following her arrest, mother tested positive for methamphetamine and THC.

The next day, BCHS received a maltreatment report regarding mother's arrest, which detailed concerns about the welfare of the children. The report included allegations of neglect, threatened physical injury, and repeated exposure to domestic violence. On August 1, 2019, BCHS filed a CHIPS petition requesting immediate custody of the children. The district court issued an order on August 5 placing the children in BCHS's custody for an out-of-home placement. The children were adjudicated in need of protective services at a hearing held eight days later.

BCHS created an out-of-home placement plan that was approved by the district court. This plan was focused on ensuring that mother could provide a safe, stable home free from domestic violence and put her children's needs before her own. Mother reviewed this case plan extensively with her caseworker and stated that she understood the plan.

About five months later, after mother had substantially complied with the case plan, BCHS arranged a trial home visit to begin at the end of February 2020. As part of the case plan, mother agreed that BCHS would screen any individuals who spent time around the children. However, during the trial home visit, mother allowed a man who had not been vetted by BCHS to spend time around the children. She also allowed this man to care for the children alone. When mother's caseworker learned that an unknown individual was spending time with the children, mother claimed she did not know the man's last name and attempted to conceal his identity. The caseworker later learned that this man was a registered sex offender with whom child protection had extensive involvement, and who had been accused of abusing his own grandchildren. As a result, the trial home visit was terminated in mid-March.

In May 2020, Becker County petitioned to terminate the parental rights of mother and both fathers. In October 2020, the district court held a two-day trial on the termination-of-parental-rights petition. On November 23, 2020, the district court filed an order terminating the parents' parental rights, concluding that BCHS had proved two alleged statutory grounds for termination, that the termination was in the children's best interest, and that BCHS had made reasonable efforts to reunify the family.

Mother appeals.

DECISION

Mother urges us to reverse the district court's order terminating her parental rights. Parental rights should not be terminated "except for grave and weighty reasons." *In re Welfare of HGB*, 306 N.W.2d 821, 825 (Minn. 1981). An appellate court will affirm the

district court's termination of parental rights 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[ren]," 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).

I. The district court did not err in determining that clear and convincing evidence established a statutory ground for termination—that mother failed to comply with her parental duties.

Mother argues that BCHS failed to present sufficient evidence to support termination of her parental rights. The district court found that BCHS proved two statutory grounds for termination: (1) mother failed to satisfy her parental duties under Minnesota Statutes section 260C.301, subdivision 1(b)(2) (2020); and (2) mother is "palpably unfit" under section 260C.301, subdivision 1(b)(4) (2020).

A reviewing court may affirm the termination of parental rights if one statutory ground is supported by clear and convincing evidence, and the other requirements to terminate parental rights are satisfied. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004). On review, "[w]e give considerable deference to the 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 Children of J.R.B.*, 805 N.W.2d 895, 899 (Minn. App. 2011) (quotation omitted), *review denied* (Minn. Jan. 6, 2012). "[W]e review the [district court's] factual findings for clear error and the statutory basis for abuse of discretion." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012). The district court's findings 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 Children of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted).

We begin with section 260C.301, subdivision 1(b)(2), which provides a district court with a statutory basis to terminate parental rights if it finds that a parent has “substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship.” So long as a parent is physically and financially able, “the duties imposed upon that parent” include “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.” Minn. Stat. § 260C.301, subd. 1(b)(2). To grant a petition for termination on this ground, the district court must find that, at the time of termination, the parent is not “presently able and willing to assume [her] responsibilities” and that the parent’s neglect of these duties “will continue for a prolonged, indeterminate period.” *In re Welfare of J.K.*, 374 N.W.2d 463, 466-67 (Minn. App. 1985) (quotation omitted), *review denied* (Minn. Nov. 25, 1985).

The district court determined that mother failed to comply with her parental duties because she is currently incapable of keeping her children safe and will be unable to do so in the foreseeable future. While noting that mother had complied with many of the requirements of her case plan, the district court nevertheless found that “there is little evidence that any skills she may have gained were able to help her make good decisions to help her protect her children from harmful or dangerous adults.”

The district court made findings about mother’s history of dangerous romantic partners and the children’s exposure to domestic violence and abuse. The court’s findings

were supported by testimony from four caseworkers who had worked with mother in Becker and Rock Counties. These caseworkers testified that mother had a long history of domestic violence, which included multiple abusive partners, and that the children had repeatedly witnessed incidents of domestic violence.

One caseworker testified that mother continued to be romantically involved with a partner after the children alleged that this partner had physically and sexually abused them. Though a DANCO was eventually issued prohibiting this partner from having contact with mother, he was in the car with mother and the children during the traffic stop that initiated the CHIPS case underlying the petition for termination of mother's parent rights. Moreover, multiple caseworkers testified that mother "downplayed" the effect that witnessing domestic violence had on the children and that she failed to take responsibility for how her actions impacted the children.

The court's findings are also supported by testimony from the psychologist who conducted mother's parental capacity assessment in 2019. The psychologist testified that it was unlikely that mother would change her behavior because she has a personality disorder, and such disorders are often permanent. She discussed concerns that mother would be unable to keep her children safe and unable to meet her children's emotional or psychological needs as a result of the personality disorder. The guardian ad litem likewise had concerns about mother's ability to connect to her children's emotional and psychological needs.

While the district court noted that mother substantially complied with her case plan, the district court also found that mother failed to comply with it when she allowed a man

she knew, or should have known, is a sex offender to care for her children alone during the trial home visit. Mother's most recent caseworker testified that mother had reviewed and understood the terms of her case plan, including that she not bring individuals around the children without prior approval from BCHS. In fact, the caseworker recounted that mother provided a list of persons who could watch the kids, which indicates that mother understood this condition. However, during the trial home visit, mother violated the case plan when she allowed a man who had not been approved (and who is in fact a sex offender) around the children and, on occasion, she even left the children alone with him. Before the trial home visit was terminated, mother falsely denied that she was continuing to allow the man around her children, despite her caseworker having proof to the contrary. The district court found that this incident and mother's dishonesty showed that she "is not capable of keeping her children safe."

This record refutes mother's argument that her decision to let this man care for her children during the trial home visit was a singular mistake. Rather, the record supports the district court's findings that mother repeatedly failed to make responsible choices about the people she brought into her children's lives and is unable to keep them safe. The district court therefore did not abuse its discretion in determining that mother is unable to comply with the duties of the parent-child relationship. Because the record permits termination on this one statutory ground alone, we do not address the other ground on which the district court relied. *See S.E.P.*, 744 N.W.2d at 385 (explaining termination will be affirmed on clearly convincing evidence of at least one statutory ground).

II. The district court did not abuse its discretion in concluding that termination is in the children's best interests.

Mother appears to challenge the district court's best-interests determination by emphasizing her understanding of the children's needs and the bond they share. A district court cannot terminate parental rights unless it is in the best interests of the children. *J.R.B.*, 805 N.W.2d at 905. In analyzing the children's best interests, the district court balances the interests of both the parent and children in preserving the parent-child relationship, as well as any competing interests of the children. *Id.* "Competing interests include such things as a stable environment, health considerations and the [children's] preferences." *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). If a statutory basis for terminating parental rights is present and the interests of the parent and the children conflict, "the interests of the [children] are paramount." Minn. Stat. § 260C.301, subd. 7 (2020).

We review the district court's determination that termination is in the children's best interests for an abuse of discretion. *J.R.B.*, 805 N.W.2d at 905. "Because the best-interests analysis involves credibility determinations and is 'generally not susceptible to an appellate court's global review of a record,' we give considerable deference to the district court's findings." *J.K.T.*, 814 N.W.2d at 93 (quoting *In re Tanghe*, 672 N.W.2d 623, 625 (Minn. App. 2003)).

Here, the district court determined that termination is in the children's best interests, reasoning that mother's "continuous acts of putting the children into danger clearly show she cannot safely care for her children," and that "her dishonesty and refusal to take

accountability for her actions putting the children in danger show she is not willing or capable of safely caring for her children in the future.” The district court also found that mother’s personality disorder would “lead[] to a lifetime of uncertainty, ups and downs, and situations that would not be fair or safe for the children.”

Mother does not appear to challenge any of the district court’s specific findings as clearly erroneous, but she seemingly contends that termination is not in the children’s best interests because she has a strong bond with her children and because she has a “good understanding [of] her children’s medical needs and [their] mental health needs.”

While a parent’s bond with a child does weigh in favor of reunification, *see In re Welfare of A.J.C.*, 556 N.W.2d 616, 620 (Minn. App. 1996), we have stated that a parent’s love and desire to regain custody will not be enough to prevent termination where these interests of the parent are outweighed by other interests. *See J.K.T.*, 814 N.W.2d at 92-93 (concluding that mother’s inability to manage her child’s complex medical needs outweighed her love and desire to maintain the parent-child relationship); *see also A.J.C.*, 556 N.W.2d at 622 (concluding that despite the mother’s love for and bond with her children, her inability to comply with parental duties due to alcoholism and drug addiction warranted termination). In this case, the district court specifically noted mother’s love for her children, but it nonetheless found that mother’s love did not outweigh her present and future inability to care for her children and the children’s interest in stability. Additionally, while mother may indeed have a good understanding of her children’s medical and mental health needs, mother does not explain why this fact alone would demonstrate that the

district abused its discretion in ruling that termination of her parental rights is in her children's best interests.

Above all, the district court's findings were based on mother's long history of unsuccessful mental health treatment, testimony from several social workers and a guardian ad litem expressing concerns about mother's unsafe romantic relationships, and mother's own testimony, which the district court found demonstrated her inability to take responsibility for her actions. Based on this record and the centrality of credibility in a best-interests analysis, the district court did not abuse its discretion by determining that termination of mother's parental rights is in the children's best interests.

III. The district court did not err in determining that BCHS made reasonable efforts to reunify mother and the children.

Mother also challenges the district court's finding that BCHS made reasonable reunification efforts. The district court must make specific findings that BCHS made reasonable efforts to reunify the children and the parent or that reasonable efforts for reunification were not required as set out in Minnesota Statutes section 260.012 (2020). Minn. Stat. § 260C.301, subd. 8 (2020). The district court must make "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." *Id.*, subd. 8(1).

In determining whether reasonable efforts have been made, the district court must consider whether the services provided to the child and family were "(1) relevant to the safety and protection of the child; (2) adequate to meet the needs of the child and family; (3) culturally appropriate; (4) available and accessible; (5) consistent and timely; and

(6) realistic under the circumstances.” Minn. Stat. § 260.012(h) (2020). Reasonable efforts “must go beyond mere matters of form so as to include real, genuine assistance.” *In re Welfare of H.K.*, 455 N.W.2d 529, 532 (Minn. App. 1990), *review denied* (Minn. July 6, 1990). We review a district court’s factual findings regarding reasonable efforts for clear error and its ultimate determination as to those efforts for an abuse of discretion. *J.K.T.*, 814 N.W.2d at 87 (clear error); *see In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 323 (Minn. App. 2015) (abuse of discretion).

In determining that BCHS made reasonable efforts, the district court found that the resources BCHS offered mother included mental health and chemical health evaluations and services, parenting education, and help with housing and transportation. The district court found that these services met mother’s identified needs and that they were “adequate, accessible, consistent, and realistic, as evidenced by the fact that a Trial Home Visit was eventually implemented.”

Mother’s challenge to the district court’s reasonable-efforts determination is based on two assertions. First, she contends that that her caseworker “thwarted reunification efforts.” Second, mother argues that BCHS allowed her to have only minimal contact with her children after the trial home visit and that these efforts were not genuine reunification efforts.

Regarding her caseworker, mother contends that she had only limited contact with the caseworker and that the caseworker did not provide enough notice for mother to prepare for the trial home visit. Mother maintains that she only allowed the unapproved sex offender to watch her children—the mistake that ended the trial home visit—because her

caseworker failed to provide sufficient notice that the children would be coming home and mother needed to ready the home environment.

At trial, mother's caseworker testified that she had frequent contact with mother and informed her that the trial home visit could happen quickly. Moreover, the caseworker testified that mother had been "really excited" about a trial home visit. According to the caseworker, when mother had agreed she would be ready for a trial home visit, mother was provided notice that the children would be brought to mother's home the next morning. The caseworker testified that mother never communicated that she was not ready for the trial home visit. On the other hand, mother testified that she could not recall the caseworker giving her notice of the trial home visit.

At best, there is conflicting evidence regarding the caseworker's communication with mother before the trial home visit. However, the 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). And here, the district court found mother not credible, stating that she "lied and continued to make excuses" concerning the events surrounding the trial home visit. Mother's argument that her caseworker's conduct before the trial home visit "thwarted" reunification thus lacks merit.

The second part of mother's challenge to the reasonable-efforts determination centers on mother's assertion that she was allowed only minimal contact with the children after the trial home visit. The district court found that BCHS "continued to offer the same services and support" after the trial home visit, despite scheduling difficulties resulting from the COVID-19 pandemic. Mother's caseworker provided detailed testimony at trial

about the children's visits with mother after the trial home visit, which included video and in-person visits. Mother asserts that this contact with her children was limited because she was only allowed to see the children once or twice a week for two hours and her visits were terminated two weeks before trial. While the visits may have been inhibited due to the pandemic, the district court's finding that BCHS continued to offer the same services and support is not clearly erroneous.

Mother also contends that BCHS's reunification efforts were not genuine after the trial home visit. She argues that the visits with the children were "orchestrated" to suggest that reasonable efforts were being made, but that BCHS had already decided reunification would not occur. Mother's caseworker acknowledged at trial that she believed reunification was not in the children's best interests once the trial home visit was terminated. However, the caseworker also testified that it is BCHS's practice to continue reunification efforts in most cases even after a permanency petition has been filed. Given this testimony, the district court did not clearly err in finding that BCHS's reunification efforts after the trial home visit were genuine. Mother has not established that the district court's factual findings are clearly erroneous or that the reasonable-efforts determination is an abuse of discretion.

In sum, our careful review of the record convinces us that the district court did not abuse its discretion in concluding that BCHS proved at least one statutory ground for termination, that termination was in the children's best interests, and that BCHS made reasonable efforts to reunify mother and the children. Although mother clearly loves her

children, we find no error in the district court's ultimate decision to terminate mother's parental rights.

Affirmed.