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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0005**

In the Matter of the Welfare of the Children of:
J. M., Parent.

**Filed May 17, 2021
Affirmed
Worke, Judge**

Ramsey County District Court
File No. 62-JV-20-632

Kelly Lawton Rogosheske, Rogosheske Lawton, P.C., St. Paul, Minnesota (for appellant-mother J.M.)

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

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant-mother challenges the district court's termination-of-parental-rights (TPR) order, arguing that the record does not support TPR and that the district court erroneously adopted respondent's proposed findings of fact and conclusions of law. We affirm.

FACTS

Appellant-mother J.M. (mother) gave birth to a son in September 2009. In 2015, mother's son was adjudicated a child in need of protection or services (CHIPS) in Dakota County due to neglect. Mother was reunified with her son in April 2017; however, four months later, in August 2017, respondent Ramsey County Social Services Department (the department) received a report that mother's husband was abusing her during her then-current pregnancy and in the presence of her son. The department also received a report that mother was using heroin.

In October 2017, mother gave birth to a daughter who had high levels of methadone in her system. Mother agreed to work a case plan, but failed to follow through, and the children were consequently adjudicated CHIPS on November 30, 2018. The children's father, mother's husband, had his parental rights involuntarily terminated in January 2019. On February 5, 2019, mother was court-ordered to engage in a case plan. On September 27, 2019, the district court issued an order for emergency protective care of the children. The children have been in out-of-home placement since.

On May 22, 2020, the department filed a petition to terminate mother's parental rights. The department asserted that TPR was in the children's best interests and that three statutory provisions supported TPR: (1) mother failed to comply with the duties of the parent-child relationship, (2) mother is a palpably unfit parent, and (3) reasonable efforts failed to correct the conditions leading to the children's out-of-home placement. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5) (2020).

The district court held a hearing in late 2020. The son's attorney noted that the child was "not in favor of" the petition.

The family's social worker testified that mother's primary issues were related to chemical dependency, domestic violence, lack of parenting skills, and mental health.

The social worker testified that mother "has been actively using . . . heroin, meth, and [unprescribed] prescription medications" since before the social worker's involvement in the case. Mother completed a chemical-dependency evaluation in July 2020 and was referred to inpatient treatment, which she attended for only two days. Mother also failed to submit to any urinalysis (UA) tests.

Mother underwent another chemical-dependency evaluation in September 2020, and the evaluator recommended methadone management and a higher level of care consisting of outpatient services with lodging. Mother did not appear to be following that recommendation, however, because she was addressing only her methadone management. The social worker contacted the counselor who conducted the September evaluation, but had not received verification of mother's treatment plan, UA results, or progress notes. The social worker testified that mother also failed to address her domestic-abuse and parenting-skills issues. The social worker had been meeting mother three or four times a month to give her gift cards to use to get to appointments and for food, but mother never went to her appointments.

The social worker testified that because of mother's issues, the children have had lack of structure and consistency and witnessed the lack of trust between mother and her husband. Mother's issues have caused her son to have low self-esteem and question

whether he is “normal.” Her son worried about mother’s well-being because of her drug use and violent relationships. The social worker stated that mother sometimes misses phone calls or has slurred speech on the phone with the children, which causes her son to become angry and end the calls early. The social worker stated that mother’s son benefits from living in his foster home and receives love, care, and structure. He can also focus solely on being a child, not on the responsibility of caring for his sister. He has learned to build trust and to recognize right from wrong. Mother’s daughter has been in foster care for half of her life. She recognizes mother’s voice but does not know her by sight.

The social worker opined that mother lacks motivation to follow through with a case plan. She stated that mother does not have the skill set to parent the children and that she has shown an inability to lead a sober life, which leads to an unstructured and unsafe environment for the children. She was also concerned about mother’s relationship with mother’s husband and stated that mother’s husband’s involvement with the children would be traumatizing to them.

The guardian ad litem (GAL) testified that she was involved with the children when they were under protective supervision with mother. The GAL had concerns about the well-being of the children. She stated that the children witnessed “a lot of violence” and that the son missed a lot of school. The GAL testified that although she tried to make regular contact with mother, mother did not maintain contact. The GAL expressed concerns about mother’s chemical dependency because mother had been asked to participate in treatment for so long but had not successfully maintained sobriety.

The GAL stated that the son was worried about mother and asked the GAL to get her help. When the son was with mother, he talked about “harming himself, killing himself” and was in a “constant state of panic.” But in his foster home, he is calm, does not disassociate, has learned to trust adults, and feels safe. For the entirety of the daughter’s life, mother has been offered services, but the GAL testified that nothing changed in those three years. Thus, the GAL did not see anything changing in the reasonably foreseeable future. The GAL testified that it was in the best interests of the children to terminate mother’s parental rights.

Mother testified that she was not using illegal drugs when she was pregnant with her daughter but admitted that she was addicted to pain medication at that time. Mother stated that she was referred to Mothers First to address her chemical dependency. But mother testified that things fell apart when she was raped in front of her children in 2017. Mother began using heroin. In 2020, she was using heroin daily; she also used methamphetamine two times. She stated that she continued to use heroin to avoid withdrawal symptoms. Mother claimed that she was attending outpatient treatment. She stated that she has not followed through with treating her chemical dependency because she has not had “proper help or enough time.”

Mother testified that she initially addressed the domestic-abuse issues by obtaining an order for protection (OFP) against her husband, not because she wanted one, but so that the department would not take her children. But she admitted that she did not follow through with domestic-abuse services because of the pandemic. And at the time of trial, mother was living with her husband. She testified that he received anger-management and

cognitive-skills services, and that he is “a very great father.” Although she did not currently have a home for the children, she claimed that she would have an apartment soon because her husband’s boss was going to rent it to her husband so that the family could stay together. Mother believed that if she had more time, she could complete her case plan. She stated that “when no one . . . in [the department] is offering help to you, it’s hard and overwhelming and overbearing when they come at you with a case plan and they won’t help you to get the services.”

After trial, the district court filed an order terminating mother’s parental rights. The district court determined that reasonable efforts failed to correct the conditions leading to the children’s out-of-home placement—namely, mother’s chemical use, domestic-violence issues, untreated mental-health issues, and lack of parenting skills. *See* Minn. Stat. § 260C.301, subd. 1(b)(5). The district court determined that mother repeatedly refused or neglected to comply with the duties of the parent-child relationship. *See id.*, subd. 1(b)(2). The district court also determined that mother is palpably unfit to parent the children. *See id.*, subd. 1(b)(4). The district court balanced the best-interests factors and concluded that it is in the children’s best interests to terminate mother’s parental rights. This appeal followed.

DECISION

Termination of parental rights

This court will affirm the district court’s TPR order “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 the Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008) (citation 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). A district court’s conclusion that a statutory ground for termination has been proven by clear and convincing evidence will not be overturned unless the appellant demonstrates that the district court abused its discretion. *In re Welfare of the Children of J.R.B.*, 805 N.W.2d 895, 900 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012). “[A] district court abuses its discretion if it acts against logic and the facts on record, or if it enters fact findings that are unsupported by the record, or if it misapplies the law.” *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010) (quotation and citation omitted).

Here, the district court determined that the department proved three statutory grounds for TPR by clear and convincing evidence. Mother challenges the determinations that she failed to satisfy her parental duties and is palpably unfit. She does not appeal the determination that reasonable efforts failed to correct the conditions leading to the children’s out-of-home placement. *See* Minn. Stat. § 260C.301, subd. 1(b)(5). Because mother does not challenge this determination, and because we will affirm the district court’s TPR order “when at least one statutory ground for termination is supported by clear and convincing evidence,” we conclude that this statutory ground is established and supports TPR. *S.E.P.*, 744 N.W.2d at 385.

Although the presence of one statutory ground for TPR would support affirmance of the district court's order, we will review mother's arguments regarding another statutory ground—whether she failed to comply with her parental duties.

Mother argues that the district court erroneously concluded that she failed to comply with her parental duties because (1) she completed “all or a substantial portion of her case plan,” (2) her domestic-abuse classes were disrupted by the pandemic, (3) she has a strong bond with her son, (4) she cared for the children during the protective-supervision period, (5) she was in treatment at the time of trial, and (6) she maintained visits with the children.

A statutory basis for TPR exists when:

the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to 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). The district court concluded that mother refused or neglected to comply with her parental duties because she prioritized her chemical use, which led to dangerous situations for the children, including abuse inflicted by her husband.

The record supports the district court's determination. Mother admittedly used drugs throughout her pregnancy with her daughter, was abused by her husband and other men in front of her children, did not send her son to school, and does not have a safe home for the children.

Mother failed to seek recommended inpatient treatment for her chemical dependency. Mother testified that she was receiving outpatient treatment, but the record

only shows that mother was receiving daily methadone for maintenance. She did not indicate what treatment she received other than that. The social worker testified that mother's most recent evaluation recommended treatment at a higher level of care, but mother did not follow that recommendation.

Moreover, mother's husband had his parental rights involuntarily terminated. Mother admitted that he was abusive and that he abused her in front of the children. But mother obtained an OFP only because she did not want the children removed, and she failed to follow through with addressing the domestic-abuse issues. Indeed, mother was staying with her husband at the time of trial and stated that she planned for the family to live together. The social worker and the GAL both stated that it was not in the children's best interests to have mother's husband in their lives; the social worker stated that it would be "traumatizing" for the children.

Because the record shows that mother failed to comply with her parental duties by continuing to use chemicals and maintaining an unhealthy and dangerous relationship with her husband, the district court appropriately determined that this factor supports TPR.

Mother also challenges the district court's determination that she is a palpably unfit parent. Because only one statutory ground is necessary for TPR, and because we have concluded that two statutory grounds support TPR, we need not address this statutory ground for TPR.

Finally, mother argues that TPR is not in the children's best interests because the children love her, the children were traumatized by the removal, and her son contested the

petition. Mother claims that with more time she can correct the conditions leading to the out-of-home placement.

Three factors must be analyzed in determining whether TPR is in a child's best interests—the child's interest in preserving the parent-child relationship, the parent's interest in preserving the relationship, and any competing interests of the child. *J.R.B.*, 805 N.W.2d at 905; Minn. R. Juv. Prot. P. 58.04 (c)(2)(ii). “Competing interests include such things as a stable environment, health considerations and the child's preferences.” *J.R.B.*, 805 N.W.2d at 905 (quotation omitted). When a statutory basis for TPR exists, if the interests of the parent and those of the child conflict, the child's interests are paramount. Minn. Stat. § 260C.301, subd. 7 (2020). We give considerable deference to a district court's best-interests findings because the analysis involves credibility determinations. *In re Welfare of the Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012).

The district court found that mother loves the children and wants to have them returned to her. The district court also found that the son loves mother and, at times, expresses his desire to return home. The daughter is too young to express a preference, and the record shows that she has been in out-of-home placement for almost half of her young life and recognizes only mother's voice.

The district court found that the children's competing interests were overwhelming. They need stability and a bond with a caregiver. The children need a caregiver who values education, is able and willing to teach them basic values, tends to their developmental needs, and keeps them safe. The evidence presented to the district court demonstrated that mother expected her son to provide care for his infant sister, did not take her son to school,

and had strange men in her apartment. Similarly, the evidence showed that the son worried about mother's drug use, violent relationships, inability to provide basic needs, and unwillingness to follow her case plan. The district court properly prioritized the children's competing interests in concluding that TPR is in the children's best interests.

Proposed findings

Mother also argues that the district court violated her due-process rights by adopting, nearly verbatim, the department's proposed findings.

A proper TPR order includes detailed, specific, and sufficient findings that provide an appellate court with a meaningful opportunity for review. *In re Welfare of M.J.L.*, 582 N.W.2d 585, 588 n.3 (Minn. App. 1998). Preferred practice is “for a [district] court to independently develop its own findings” to “reflect the court's independent assessment of the evidence.” *In re Children of T.A.A.*, 702 N.W.2d 703, 707 n.2 (Minn. 2005) (quotation omitted). But a district court is not prohibited from adopting proposed findings; thus, the verbatim adoption of proposed findings does not itself compel reversal. *See Pederson v. State*, 649 N.W.2d 161, 163 (Minn. 2002).

A majority of the district court's findings come directly from the department's proposed findings. But the district court's findings do not follow the proposed findings verbatim, specifically in the best-interests section. Moreover, the record demonstrates that the district court was involved throughout the trial by questioning witnesses and taking notes.

The changes that the district court made in its order and the court's active participation in the proceedings demonstrate that the district court independently assessed

the evidence as required by caselaw. *See T.A.A.*, 702 N.W.2d at 707 n.2 (“[T]he district court’s findings should reflect the court’s independent assessment of the evidence . . .”). Further, the record supports the district court’s findings. Therefore, we see no error on this point. *See Dukes v. State*, 621 N.W.2d 246, 258-59 (Minn. 2001).

Affirmed.