

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0022**

In the Matter of the Welfare of the Children of: J. A. K. and R. A. W., Jr., Parents.

**Filed June 7, 2021
Affirmed
Larkin, Judge**

Becker County District Court
File No. 03-JV-20-966

Elizabeth A. Walker, E. Walker Law, PLLC, Detroit Lakes, Minnesota (for appellant-mother J.A.K.)

Joshua E. Haugen, Shoemaker Ziegler & Haugen, Detroit Lakes, Minnesota (for respondent-father R.A.W., Jr.)

Andrew K. Berger, Detroit Lakes, Minnesota (for respondent-children S.K., R.W., and S.W.)

Brian W. McDonald, Becker County Attorney, Lisa Tufts Frederick, Assistant County Attorney, Detroit Lakes, Minnesota (for respondent Becker County Human Services)

Misti Kern, Detroit Lakes, Minnesota (guardian ad litem)

Considered and decided by Larkin, Presiding Judge; Bjorkman, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant-mother challenges the termination of her parental rights, arguing that termination was not in her children's best interests and that respondent-county failed to make reasonable efforts to reunify the family. We affirm.

FACTS

Appellant J.A.K. is the mother of S.K., born in 2004, R.W., born in 2006, and S.W., born in 2008. R.A.W. is the children's father. In May 2020, respondent Becker County Human Services (county) petitioned to terminate the parents' parental rights to the children. Father voluntarily consented to the termination of his parental rights. Mother challenged the termination, and the matter proceeded to trial. The district court took judicial notice of records in three prior juvenile-protection files regarding the children and received testimony from mother, a social worker, an assessment worker, mother's case manager, and the guardian ad litem (GAL).

The record established that the parents have a history of child-protection involvement dating back to 2005, which was prompted by the parents' substance-abuse and domestic-violence issues. One of the children was placed out of home from June 2006 to October 2007, and all three were placed out of home from August 2016 to March 2018. The 2016 removal was based on allegations of drug use and homelessness, and the county ultimately petitioned to terminate mother's parental rights. The county amended that petition and instead sought to transfer legal custody of the children to father. Mother was able to obtain some level of sobriety, and the district court denied the county's request for

a custody transfer. The children were reunited with mother after 567 days in out-of-home placement.

In October 2019, mother moved into a rural home several miles outside of Detroit Lakes, where she resided with a man, J.S., who used methamphetamine and had been convicted of controlled-substance possession. Mother was aware of J.S.'s methamphetamine use when she moved in with him. Mother used methamphetamine while residing with J.S., and the children began to accumulate absences from school.

In January 2020, the county initiated a child-protection investigation based on reports of mother's methamphetamine use and the children's truancy. The county performed hair follicle tests on two of the children, and the tests showed the presence of methamphetamine. Mother admitted to using drugs.

On January 17, the children were removed from the home and placed on a 72-hour hold. On January 23, the county filed a child-protection petition, and the children were adjudicated in need of protection or services five days later.

The county prepared a case plan for mother in January 2020, and mother received and signed the plan in February 2020. Consistent with mother's child-protection history, the primary safety concerns were mother's drug use and lack of stability in the home. Mother was directed to complete an updated social medical history, demonstrate her ability to provide a safe and stable home, visit the children, complete chemical-use and mental-health assessments and follow all recommendations, submit to drug testing, and maintain sobriety.

Mother struggled to complete her case-plan requirements. She did not complete her social medical history until approximately nine months after signing her case plan, and she failed to complete a diagnostic assessment. Mother missed appointments and did not complete a chemical-use assessment until approximately eight months after signing her case plan. The assessment recommended inpatient treatment. The county arranged for mother to enter an inpatient-treatment facility, but because she had used methamphetamine, she was required to complete a detox first, which she refused to do. The county arranged for mother's admission into a second inpatient-treatment facility, but mother failed to appear for intake. Mother testified that she planned to do outpatient treatment. Mother was not able to maintain stable housing, and eventually moved to a shelter facility. Mother did not regularly attend scheduled visits with the children.

In December 2020, the district court filed an order terminating mother's parental rights on three statutory grounds: Minn. Stat. § 260C.301, subd. 1(b)(2) (parental neglect), subd. 1(b)(4) (palpable unfitness), and subd. 1(b)(5) (failure of reasonable efforts to correct conditions leading to out-of-home placement) (2020). The court found that the county made reasonable efforts to reunify the family and that termination of mother's parental rights was in the children's best interests. Mother appeals.

DECISION

Minnesota courts presume that "a natural parent is a fit and suitable person to be entrusted with the care of his or her child." *In re Welfare of A.D.*, 535 N.W.2d 643, 647 (Minn. 1995). Thus, Minnesota courts will terminate parental rights only for "grave and weighty reasons." *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). A

petitioner bears the burden of producing clear and convincing evidence that a statutory ground for termination exists. *In re Welfare of C.K.*, 426 N.W.2d 842, 847 (Minn. 1988).

Appellate courts “review the district court’s findings of the underlying or basic facts for clear error, but we 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); *see In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321-22 (Minn. App. 2015) (citing *J.R.B.*, 805 N.W.2d at 900-01), *review denied* (Minn. July 20, 2015). We will affirm the district court’s decision to terminate parental rights if at least one statutory ground for termination is proved, termination is in the child’s best interests, and the county made reasonable efforts to reunify the family if reasonable efforts were required. *In re Children of T.A.A.*, 702 N.W.2d 703, 708 (Minn. 2005); *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004); *see* Minn. Stat. § 260.012 (2020) (concerning reasonable efforts); *see also* Minn. Stat. § 260C.301, subd. 8 (2020) (concerning termination of parental rights).

I.

Mother contends that the district court erred in terminating her parental rights because she has a “bonded relationship with her children.” At oral argument before this court, counsel for mother asserted that her bonding contention is a challenge both to the district court’s conclusion that there was clear and convincing evidence of a statutory ground for termination and its determination that termination was in the children’s best interests. But counsel could not identify any legal connection between her bonding

contention and the statutory bases found for termination, stating simply that “the children deserved to be with their parent.”

Because mother does not explain, and we cannot discern, how her bonding contention relates to the district court’s conclusion that, under the applicable law, the county proved the existence of certain statutory grounds for termination, we construe her bonding contention as a challenge that is limited to the district court’s best-interests determination.¹ See *In re Welfare of J.J.B.*, 390 N.W.2d 274, 280 (Minn. 1986) (stating that when conducting a best-interest analysis, “judicial caution in severing the family bonds is imperative”).

In every termination proceeding, “the best interests of the child must be the paramount consideration.” Minn. Stat. § 260C.301, subd. 7 (2020). Even if a statutory ground for termination exists, the district court must still find by clear and convincing evidence that termination of parental rights is in the child’s best interests. *T.A.A.*, 702 N.W.2d at 708.

In considering the child’s best interests, the district court must balance the child’s interest in maintaining the parent-child relationship, the parent’s interest in maintaining the relationship, and any competing interest of the child. Minn. R. Juv. Prot. P. 58.04(c)(2)(ii); *In re Welfare of Children of M.A.H.*, 839 N.W.2d 730, 744 (Minn. App. 2013); see *J.J.B.*, 390 N.W.2d at 279 (“[T]he legislature intended to balance the interests of both parent and

¹ Although the issue is not raised in this appeal, our review of the record satisfies us that the district court did not abuse its discretion in concluding that the county proved the existence of a statutory ground for termination by clear and convincing evidence.

child in determinations to continue or terminate the relationship.”). “Competing interests include such things as a stable environment, health considerations and the child’s preferences.” *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). But, “[w]here the interests of parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7. On appeal, “a district court’s best-interests analysis is reviewed for an abuse of discretion.” *In re Welfare of Child of J.R.R.*, 943 N.W.2d 661, 669 (Minn. App. 2020).

In determining that the best interests of the children would be served by terminating mother’s parental rights, the district court found:

Clear and convincing evidence establishes that it is in the children’s best interests to terminate [mother’s] parental rights. The children have an interest in preserving the parent-child relationship, but they also recognize that [mother] has not been able to provide for their basic needs. Their visits have been sporadic and inconsistent. Although [mother] wants to parent the children, she also recognizes that she cannot actively work her case plan, that she has not regularly maintained visits with the children, and that she has not completed her case plan. She further recognizes that it is not in her children’s best interests to be returned to her at this time. Thus, the children’s competing need for safety and stability—which they have had outside of [mother’s] care—sufficiently outweighs the interest in maintaining the parent-child relationship.

The record supports the district court’s best-interests findings and determination. For example, the children, through their attorney, informed the district court that they were aware of a potential relative placement that could lead to their adoption, that they had met with the prospective adoptive parent recently, and that they were in favor of the parties and the court moving toward that outcome. Likewise, mother testified that she preferred

placement with that relative over reunification because “to get [the children] back isn’t the best thing for them.” In addition, mother admitted at trial that her drug use continued until the month before trial and that she had been unable to provide a safe home for her children.

“[P]arental rights are not absolute and should not be unduly exalted and enforced to the detriment of [a] child’s welfare and happiness. The right of parentage is in the nature of a trust and is subject to parents’ correlative duty to protect and care for the child.” *In re Child of P.T.*, 657 N.W.2d 577, 583 (Minn. App. 2003) (quotation omitted), *review denied* (Minn. Apr. 15, 2003). The district court properly determined that the interests of the children in obtaining a safe and stable home outweighed preservation of the parent-child bond. As noted in the county’s brief and reflected in the district court’s order, mother has a “loving relationship” with the children, “but clearly not a parent-child relationship.”

In sum, the district court did not abuse its discretion in determining that termination of parental rights was in the children’s best interests.

II.

Mother contends that the district court erred in determining that the county made reasonable reunification efforts. The district court must make “specific findings” in every termination-of-parental-rights proceeding “that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made” or “that reasonable efforts for reunification [were] not required” as set forth in Minn. Stat. § 260.012. Minn. Stat. § 260C.301, subd. 8. If reasonable efforts are required, 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 the county made reasonable efforts, the district court must consider whether the county offered services that 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). We review a district court’s reasonable-efforts findings for clear error. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 386 (Minn. 2008).

In determining that the county’s efforts were reasonable, the district court found that the county provided and monitored mother’s case plan and made timely referrals for relevant services, including chemical-use and mental-health treatment. The county also established supervised visitation and provided mother with transportation. The district court noted that “[m]any, if not all, of these services ha[d] been previously provided to [mother].” The record supports the district court’s findings regarding the county’s reunification efforts.

Mother argues that the county was difficult to work with because it decided to terminate her parental rights at the outset of the underlying proceeding. Although the county petitioned to terminate mother’s parental rights approximately four months after the children were adjudicated in need of protection of services, the children had been placed out of the home for an accumulated total of over 900 days at the time of termination. Indeed, the children were previously placed out of home from August 2016 to March 2018.

Generally, a permanency or termination petition must be filed at or prior to the time a child has been in foster care for 11 months. Minn. Stat. § 260C.505(a) (2020). The district court must begin proceedings to establish permanency within 12 months of the child being placed outside the home. Minn. Stat. § 260C.503, subd. 1 (2020). The 12-month period is calculated by totaling all time within the past “five years” that the child has been placed in foster care. *Id.*, subd. 3(b)(2) (2020). Given the significant amount of time that the children had been placed out of home prior to initiation of the underlying child-protection proceeding, the county was required to quickly find a permanent home for the children. We are not persuaded that the county’s efforts to do so reflected bias toward mother or that the county was difficult to work with as a result.

Mother also argues that the county provided only “limited” solutions. We disagree. The record supports the district court’s findings that the county provided services to address mother’s substance-abuse and mental-health issues. But mother did not utilize the inpatient-treatment options that the county arranged, and she failed to complete a diagnostic assessment. Although mother complained that the county did not contact her until approximately three weeks after the children were adjudicated in need of protection or services, the county’s case manager testified that she tried to contact mother “several times and ended up having to develop the case plan on [her] own.” Moreover, the district court found that when the county attempted to meet with mother after the children were removed from her care, mother refused and told the county to “talk to [her] lawyer.” Mother herself testified that she did not have contact with a county social worker for a

three-month period because she “had a lot more going on trying to deal with things inside [herself].”

As an example of the county’s alleged inadequate reunification efforts, mother notes that she told the county that she felt suicidal and that the county offered only “a hot line number.” But mother does not identify additional resources that could or should have been provided. We fail to see why referral to a suicide “hot line” was not a reasonable effort to immediately and appropriately address the situation and to assist mother in obtaining necessary aid.

Mother also argues that the Covid-19 pandemic hindered her ability to work on her case plan. The district court rejected this argument, and the record supports that rejection. Mother testified at trial that the pandemic caused her to miss visits with her children. But the case manager testified that initially mother did not want visitation because she wanted to first undergo mental-health therapy, and when mother later decided that she wanted visitation, the county arranged transportation. Moreover, the district court found, and the record supports, that mother did not utilize available virtual appointments or inpatient treatment opportunities that the county arranged for her.

In sum, the district court did not err in determining that the county made reasonable reunification efforts.

Affirmed.