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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0515**

In re the Matter of the Welfare of the Child of: A. J. S. and C. L., Parents.

**Filed November 1, 2021
Affirmed
Reyes, Judge**

Big Stone County District Court
File No. 06-JV-20-211

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Considered and decided by Florey, Presiding Judge; Connolly, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

In this appeal involving an involuntary termination of parental rights (TPR), appellant-mother argues that the district court erred by determining that (1) the county met the statutory basis of engaging in reasonable efforts, under Minn. Stat. § 260C.301, subd. 1(b)(5), to support reunification and (2) termination was in the “best interests of the child.” We affirm.

FACTS

Appellant A.J.S. (mother) gave birth to S.S. (child) in May 2020. Immediately after, both mother and child tested positive for methamphetamine, amphetamine, tetrahydrocannabinol (a psychoactive compound found in cannabis also known as THC), and alcohol. Tests also showed that mother had exposed child to drugs during the second and third trimesters of her pregnancy. Big Stone County (the county) filed a child in need of protection or services (CHIPS) petition. At three days old, child went from hospital observation to out-of-home placement with a foster parent.

The county worked with mother to develop a six-month case plan, which she signed on July 17, 2020, two days after she admitted to the CHIPS petition. Mother did not follow the case plan, and the county filed a TPR petition on November 25, 2020. The county alleged the statutory basis for termination that reasonable efforts failed to correct the conditions that led to child's out-of-home placement under Minn. Stat. § 260C.301, subd. 1(b)(5). The district court issued an order on February 18, 2021, following a CHIPS review hearing, requiring mother to complete an updated chemical-use assessment. Mother failed to follow the case plan and the February 2021 court order. The district court found that the presumption had been met that reasonable efforts to reunite the family failed under section 260C.301, subd. 1(b)(5), because (1) child has resided out of the parental home for more than six months and mother has not complied with the out-of-home placement plan; (2) the district court approved the plan; (3) the county made reasonable efforts to support reunification; and (4) those efforts failed to correct the conditions giving rise to child's out-

of-home placement. The district court also found that TPR was in child's best interests. This appeal follows.

DECISION

On appeal from a district court's TPR decision, this court reviews "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), *rev. 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 Welfare of Children of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted); *see In re Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) ("[t]he clear-error standard of review is familiar because it applies across so many contexts"). The district court abuses its discretion if its decision stems from a misapplication of the law or contradicts the facts or logic. *Hesse v. Hesse*, 778 N.W.2d 98, 102 (Minn. App. 2009). "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 did not abuse its discretion by determining that the county proved by clear and convincing evidence that it made reasonable efforts to reunite mother with child under Minn. Stat § 260C.301, subd. 1(b)(5).

Mother first argues that the statutory ground for TPR is not met because the county did not engage in reasonable efforts by focusing on her addiction without considering potential mental-health issues. We disagree.

A district court may terminate a parent’s rights to a child if “following the child’s placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child’s placement.” Minn. Stat. § 260C.301, subd. 1(b)(5) (2020). A district court presumes that reasonable efforts have been made if: (1) the “child has resided out of the parental home under court order for a cumulative period of 12 months”; (2) “the court has approved the out-of-home placement plan”; (3) the “conditions leading to the out-of-home placement have not been corrected” as shown by the parent not “substantially [complying] with the court’s orders and a reasonable case plan”; and (4) “reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.” Minn. Stat. § 260C.301, subd. 1(b)(5)(i)-(iv). Absent an enumerated exception, the district court “shall make findings and conclusions as to the provision of reasonable efforts” in a TPR pursuant to Minn. Stat. § 260.012(h) (2020). In making these findings, the district court must consider whether the services 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.

Id. The ultimate purpose of making these efforts is to “assist in alleviating the conditions that gave rise to the dependency adjudication.” *In re Welfare of H.K.*, 455 N.W.2d 529, 532 (Minn. App. 1990), *rev. denied* (Minn. July 6, 1990). The petitioner must establish by clear and convincing evidence that a statutory ground exists to support the TPR. *In re Welfare of S.Z.*, 547 N.W.2d 886, 893 (Minn. 1996).

Here, the district court found that the county engaged in the following efforts to reunite mother with child under the case plan:

- The county and mother developed a case plan in May 2020;
- The plan sought to help mother with her chemical addiction;
- The county brought child to regular visits with mother;
- The plan authorized child to be placed with mother if she entered an accommodating in-patient chemical-treatment program;
- Mother had many treatment program opportunities;
- The county arranged for mother's assessments, including four chemical-use assessments;
- The county helped arrange mother's admission dates and treatment beds to multiple treatment programs;
- Mother's social worker communicated with mother often, discussing mother's options with her, encouraging mother, and informing mother of the consequences should she continue to avoid treatment;
- The social worker offered transportation options to mother; and
- The social worker helped set up and reschedule mother's parenting assessment.

The record supports the district court's findings that the county presented clear and convincing evidence that it engaged in reasonable efforts to reunite mother with child. Mother does not argue that the district court's findings were clearly erroneous. Rather, she appears to argue that the district court abused its discretion by determining that those efforts were reasonable. *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 322-23 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015) (using two-part standard of review: clear error for district court's underlying findings of fact and abuse of discretion for district court's determination of whether efforts were reasonable). In *D.L.D.*, the mother failed to

articulate how the county's reasonable efforts failed to address the condition that led to the child's removal from the mother's home. *Id.* Similarly here, mother fails to articulate how the county's reunification efforts failed to address her potential mental-health issues. Mother's case plan called for her to complete a parenting assessment, which included a psychiatric examination specifically for a mental-health evaluation. The county helped arrange the assessment. Mother cooperated with the interview portion of the assessment but left before finishing the psychiatric portion of the exam. And though the county made an effort to help mother reschedule the remaining portion, mother never went back to complete the assessment. Even still, the assessor diagnosed mother with bipolar disorder and *recommended mother maintain sobriety first* in order to fully deal with the mental-health issues. Additionally, mother's social worker discussed mother's potential mental-health issues with her and referred her to a clinic for mental-health services. Accordingly, we conclude that the district court did not clearly err in its findings identifying the efforts the county made to assist in reunification. And because the county addressed mother's addiction in a case plan that mother agreed to, provided services to mother which included a parenting assessment with a psychiatric evaluation, and deferred to the parenting assessor's recommendations, which clearly discussed mother's mental health and need to maintain sobriety, we discern no abuse of discretion by the district court's determination that these efforts were reasonable.

II. The district court did not abuse its discretion by determining that termination of mother's parental rights was in the best interests of child.

Mother argues that the district court's best-interests findings were not independent from the statutory grounds for termination. Mother's argument fails.

In analyzing the best interests of the child, the district court must consider and balance “(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 interest of the child.” *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992); Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). “During this balancing process, the interests of the parent and child are not necessarily given equal weight.” *R.T.B.*, 492 N.W.2d at 4. “Competing interests include health considerations, a stable environment, and the child's preference.” *In re Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012); see also *In re Welfare of K.T.*, 327 N.W.2d 13, 18 (Minn. 1982) (“In considering the best interests of a child, stability is a factor which must be given high priority”). If the parent's and child's interests conflict, “the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7. “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 92 (quotation omitted). A district court must make findings on the best interests of the child. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004) (holding that findings regarding best interests of child, without findings on existence of at least one statutory ground, was inadequate to support involuntary termination). Finally, “[appellate courts] review a district court's ultimate

determination that termination is in a child's best interest for an abuse of discretion.”
J.R.B., 805 N.W.2d at 905.

Here, in addition to presenting separate legal standards under separate headings of “reasonable efforts” and “best interests of the child,” the district court made separate factual findings.

The district court made detailed findings regarding the county's efforts to support reunification and determined that those efforts were reasonable. The district court also found that mother exposed child to drugs while pregnant and, as a result, child was born with those drugs in its system. Accordingly, the district court found that the county had correctly identified mother's addiction issues and the need for sobriety before reunification with child. Finally, the district court addressed mother's failure to obtain sobriety despite mother knowing that her continued drug use could lead to termination of her parental rights: mother minimized her addiction at trial; mother denied her drug use harmed child; mother failed to complete a parenting assessment; mother refused on at least seven occasions to enter a chemical-dependency-treatment program; mother failed to complete two outpatient programs; mother failed numerous drug tests; and mother admitted to using methamphetamine two weeks before trial.

In considering the child's best interests, the district court found that child needed to have a safe and stable home. Further, the district court noted that child has lived in the same foster home and mostly has had consistent visits with mother. And although the district court noted mother's interest in having a relationship with child, it found mother used drugs while pregnant, continued to use drugs after child had been placed out-of-home,

refused to seek treatment, failed to understand the harm her addiction poses, and placed her desires over child's needs.

Mother next argues, without citing to any legal authority for the proposition, that the district court could not use the same findings in its "reasonable efforts" and "best interests of the child" analysis. We may decline to reach issues that are inadequately briefed. *See State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997); *see In re P.T.*, 657 N.W.2d 577, 586 n.1 (Minn. App. 2003) (applying *Wintz* in TPR appeal); *State v. Modern Recycling, Inc.*, 558 N.W.2d 770, 772 (Minn. App. 1997) (holding appellate courts may decide not to entertain an argument when party fails to cite legal authority unless prejudicial error is "obvious on mere inspection"). Nevertheless, this argument fails on the merits. There is a certain amount of overlap in the district court's findings on reasonable efforts and best interests. But this overlap is inevitable given how intertwined the issues are. That is, some facts establishing how the county's reasonable efforts failed to correct the conditions leading to the child's out-of-home placement are also necessary facts to consider in a best-interests analysis.

Mother also appears to argue that the district court's analysis was inadequate because it failed to consider best-interests factors outside of Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). Mother fails to cite caselaw to support her argument. Mother also ignores both established Minnesota caselaw and a rule which set forth the proper factors a district court must consider when analyzing the best interests of the child in a *termination* proceeding. *See R.T.B.*, 492 N.W.2d at 4 (holding district court's best-interests analysis must balance "(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 interest of the child”); Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (identifying same factors as factors that must be considered when district court addresses whether to terminate parental rights). Here, the district court correctly analyzed the appropriate best-interests factors under Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) and Minnesota caselaw.

Alternatively, mother argues that the district court failed to make findings on her fitness in the foreseeable future. Mother’s argument is difficult to understand, but it appears she is trying to insert a statutory factor into the best-interests analysis. Mother once again fails to provide legal support for this assertion.

In *In re Welfare of Chosa*, the Minnesota Supreme Court held “evidence relating to termination must address conditions that exist at the time of the hearing . . . and that it must appear that the present conditions of neglect will continue for a prolonged, indeterminate period.” 290 N.W.2d 766, 769 (Minn. 1980). The supreme court addressed *Chosa*’s holding in *In re Welfare of P.R.L.*, noting that respondent’s long history of refusing to correct the conditions that led to the child’s out-of-home placement “suffices to meet any such requirement that might exist.” 622 N.W.2d 538, n.8 (Minn. 2001). Consequently, the supreme court affirmed the district court’s determination that a presumption under Minn. Stat. § 260C.301, subd. 1(b)(5)(ii), had been met because respondent repeatedly failed to comply with the district court’s orders and an approved case plan. *Id.* at 545 (“There is no indication that . . . the condition that led to P.R.L.’s out-of-home placement, has changed”).

Here, the district court properly found that the presumption had been met and was therefore not required to explicitly consider mother's fitness in the foreseeable future. Accordingly, we conclude that the district court did not abuse its discretion by determining that termination of mother's parental rights was in the best interests of the child.

Affirmed.