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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0968**

In the Matter of the Welfare of the Children of:

J. K. T., J. K., L. S., Parents.

**Filed February 22, 2022
Affirmed
Jesson, Judge**

LeSueur County District Court
File No. 40-JV-21-11

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Considered and decided by Jesson, Presiding Judge; Larkin, Judge; and
Bryan, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Following a police raid at appellant-mother J.K.T.'s home, respondent LeSeuer County Department of Human Services (the county) took custody of her three children. Mother initially resisted complying with the case plan developed by the county to reunify her with the children. But eventually she entered treatment and began to make progress. Despite this, the district court terminated mother's parental rights because it concluded that the county proved four statutory grounds supporting termination. Mother argues that the district court erred by determining that (1) the county made reasonable reunification efforts, and (2) any of the four statutory grounds for termination were met. We affirm.

FACTS

Police officers searched mother's home in February 2020 after a confidential informant conducted three controlled buys of methamphetamine from her. Officers found methamphetamine paraphernalia out in the open, accessible to the children, and methamphetamine in mother's purse. During the search, Child 1 (age 16) and Child 3 (age one) were home, and Child 2 (age 11) was at school. An officer contacted child protection, and a social worker took all three children to a foster placement. Following an emergency hearing, the district court determined that the children were in need of protection or services and granted interim legal custody of them to the county. The court directed the county to create a case plan for mother.

Initial Lack of Progress

At first, mother did not comply with her case plan. She initially refused to discuss the plan with the social worker. And after a court hearing, mother submitted a urinalysis (UA) that tested positive for methamphetamine and marijuana. The district court, however, ordered the county to begin supervised visits between mother and the children in March. But the first supervised visit did not go well. Mother made inappropriate comments about the case and the foster home, and the children were visibly distraught. Mother missed six more UAs in March that were considered presumptive positives.

Mother completed a parental-capacity assessment in April. During the supervised interaction part of the assessment, the social worker explained to mother that Child 3 had special medical needs and could not eat solid foods. Despite the warning, Mother denied Child 3 having medical issues and fed him pizza. Based on records, an interview, and her own observations of mother and the children, the assessor concluded that mother was not fit to parent the children because she had unresolved trauma, was resistant to professional help, and accepted no responsibility for her past actions. And despite mother's denial of Child 3's medical issues, doctors who evaluated him concluded that he was developmentally delayed and found scarring on his eardrums that suggested multiple untreated ear infections while in mother's care.

Between the initial parenting assessment and the next hearing in June, mother made little to no progress on her case plan. While mother completed a chemical-dependency evaluation, she had not yet followed its recommendation to enter treatment. Mother had submitted two negative UAs, but she submitted one that tested positive and twelve other

UAs were considered presumptively positive because she missed eleven and tampered with one. She had not completed a diagnostic assessment or attended a parenting-education class as required. And mother continued to behave inappropriately at visitations.

At a review hearing in June, mother admitted that her issues with mental health, past trauma, and drug use affected her ability to care for her children. The district court adopted the county's case plan in its order and required mother to complete another chemical-dependency evaluation and follow all recommendations, submit to random UAs, complete a diagnostic assessment and follow recommendations, attend parenting education classes, and comply with court orders. The court set the next review hearing for August.

Suspension of Parenting Time

During the summer of 2020, mother continued to behave inappropriately at supervised visitations. Child 1 refused to attend the visits because he did not want to see mother. Children 2 and 3 went to the visits, but the foster parent reported that Child 2 did not want to go either. The county continued sending Child 2 to the visits, but Child 2 reported that mother still complained to her about the case. And at a visit in early August, mother was asked to leave because she started yelling. Law enforcement eventually removed mother, but Child 2 was scared and upset.

After this incident, mother entered chemical-health inpatient treatment. A UA on her admission to treatment tested positive for methamphetamine and marijuana. And when mother entered treatment, she was pregnant with another child.

At the August review hearing, the district court suspended mother's parenting time. The court found that mother had been disruptive during some visits and had missed others.

And the court relied on the guardian ad litem's opinion that visits with mother were detrimental to the children's wellbeing. The court ordered that mother's parenting time could resume after she completed a diagnostic assessment and a neuro-psychological assessment, followed the recommendations of both assessments, and made significant progress in addressing her mental health.

In September, the county updated the district court on mother's progress. At this point, mother had been in chemical-dependency treatment for around 40 days. Upon the county's recommendation, the district court permitted remote video visits to allow mother to rebuild trust with the children with the ultimate goal of resuming in-person visits. The district court later required mother to complete an updated parental-capacity assessment. And in October, the court allowed mother to have bi-weekly in-person visits with Child 3 at the treatment center.

In December, mother participated in another supervised parent-child observation with Child 3 for an updated parenting assessment. Mother exhibited appropriate parenting behaviors during the observation. But Child 3 did not demonstrate attachment to her: he did not make eye contact with her and showed no distress when she left the room. The parenting assessor also visited Child 3 at the foster home and observed that he was attached to the foster parent. And the foster parent relayed that Child 3's behavior was substantially worse following visits with mother. The parenting assessor concluded that permanency for the children should be established outside of mother's care because the older two children did not want to live with mother, and Child 3 was not attached to her.

Termination Petition

In January 2021, the county petitioned to terminate mother's parental rights to all three children. The county acknowledged that mother had made some progress on her case plan but noted that the parenting assessors concluded that her progress in treatment was not sufficient to enable her to meet the children's needs. At this point, mother lived in sober housing through an outpatient treatment program. But Child 1 was too old to live with her there, and the guardian and assessors recommended against separating the siblings.

On February 1, 2021, mother completed a final parental-capacity assessment. Children 1 and 2 refused to participate, so the evaluator saw mother interact only with Child 3. At this time, mother was close to giving birth to the new baby. At a supervised observation, Child 3 again displayed little evidence of attachment to mother. But he began to warm up to mother towards the end of the observation session, and mother displayed improved parenting skills. The assessor opined that moving Child 3 from the foster home back to mother would harm the child because mother would not be able to meet his special needs.¹

On February 4, 2021, the district court suspended all visitation with the children. In an update, the social worker had informed the court that Child 3 had reacted negatively to a video visit with mother. The court relied on information from the social worker, the

¹ The assessor recommended that mother be allowed to parent her not-yet-born child, because she had made substantial improvements to her stability, and the new child presented a chance for a fresh start.

guardian ad litem, both parenting assessors, and the preferences of Children 1 and 2 in concluding that all visits should cease. The court allowed the older children to resume video visits at their own discretion, but it relied on the guardian's opinion that video visits with Child 3 were detrimental to him.²

Trial

In June, the matter proceeded to trial. The county called the social worker, the guardian ad litem, both parenting assessors, Child 3's pediatrician, the children, and mother, among others, to testify. The social worker testified about mother's initial lack of progress on the case plan and the children's medical and mental health issues. The guardian ad litem testified that remaining in the foster home was in the children's best interests, and that mother lacked insight into how she had traumatized the children. The first parenting assessor testified that the children were not attached to mother but were strongly bonded to each other and should not be separated. And the second assessor testified that mother's denial of responsibility and lack of empathy for the children showed that she lacked the capacity to safely parent them. Child 3's pediatrician testified about Child 3's many medical needs and opined that the root cause of his developmental delay was prenatal exposure to methamphetamine.

Children 1 and 2 testified about their lives prior to removal. Child 1 testified that mother beat him and Child 2, and that she always left marks when she did so. Both children

² In a later update, the social worker relayed that Child 3's behavior had improved after the video visits stopped. And in a third update in March, the social worker again reported that Child 3 had shown significant progress in health and behavior.

often had to care for Child 3 while mother was away, and Child 1 frequently missed school as a result. Mother gave Child 1 marijuana as compensation for childcare. Child 2 also testified about having marks or bruises from physical discipline, and that the children often did not have enough food to eat or clothes to wear that fit them properly. Mother did not take the children to doctor's appointments. And both children testified that mother had been involved in multiple domestic disturbances in front of them. Finally, both children testified that they wanted to remain in the foster home instead of returning to mother.

Mother refuted the majority of the allegations of neglect at trial. She denied ever physically injuring Child 1 or 2. She denied using controlled substances while pregnant with Child 3. And she denied ever neglecting the children's medical needs. But mother admitted that her drug use had traumatized her children. She testified that she would be able to meet the children's needs if they were returned to her care. Because Child 1 was too old to live with her at her sober housing, mother supported splitting up the siblings so Children 2 and 3 could be returned to her.

Termination Order

After the trial, the district court terminated mother's parental rights to the three children. The court concluded that the county's reunification efforts were reasonable because it provided mental- and chemical-health treatment, assistance with housing, and parenting classes and assessments to mother. Then the district court concluded that the county had shown four statutory grounds supporting termination: (1) that mother neglected her parental duties, (2) that mother was palpably unfit to be a parent, (3) that reasonable efforts had failed to correct the conditions leading to the children's removal, and (4) that

mother had caused egregious harm to her children. Finally, the court concluded that terminating mother's parental rights was in the children's best interests.

Mother appeals.

DECISION

A district court may terminate parental rights if (1) at least one statutory ground for termination is supported by clear and convincing evidence, (2) the county made reasonable reunification efforts, and (3) termination is in the children's best interests. *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008); *see* Minn. Stat. § 260C.301, subd. 1(b) (2020) (listing statutory grounds for involuntary termination of parental rights). In reviewing a termination order, we review the underlying findings of fact for clear error and the determination of whether a statutory ground for termination exists, as well as the court's ultimate decision to terminate parental rights, for an abuse of discretion. *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021). With these standards in mind, we turn first to whether the county made reasonable reunification efforts and second to whether it proved one of the statutory grounds supporting termination.

I. The county's reunification efforts were reasonable.

Mother argues that the county's efforts were not reasonable because it did not provide her enough visitation opportunities and it did not offer her services to remedy either the children's attachment issues or her use of physical discipline.

When evaluating the reasonableness of a county's reunification efforts, 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.

Minn. Stat. § 260.012(h) (2020). Additionally, the district court must consider the length of time that the county was involved and the quality of its efforts. *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 655 (Minn. App. 2018). And because we review the court's factual findings for clear error, we will not reverse unless we are left with a "definite and firm conviction that a mistake has been made." *Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019) (quotation omitted); *J.H.*, 968 N.W.2d at 601 n.6 (applying clear error review in termination of parental rights appeal).

Here, the district court found that the county made the following reunification efforts: chemical-dependency evaluations for mother, parenting education, counseling and therapy, a mental-health assessment, parenting-capacity assessments, attempts to help mother secure housing, transportation and gas cards, supervised visits, and out-of-county UAs. The court concluded that these services were reasonable.

The record supports this conclusion. The county provided drug-testing services to mother, facilitated a chemical-dependency evaluation, and encouraged her to attend inpatient treatment as recommended for several months before she entered the program. The county offered mental-health assessments to assist mother in resolving her own

underlying trauma and parenting classes with the aim of enabling her to better meet the children's needs. The mental-health support and parenting education reasonably attempted to remedy the attachment issues and mother's use of physical discipline.

And the record shows that much of the lack of visitation was due to mother's behavior. She cancelled multiple visits, sometimes after learning that she would be required to submit a UA before the visit began. The court first suspended parenting time after mother had to be removed from the supervised-visit location by law enforcement. Later, the court—at the county's recommendation—allowed mother to resume video visits with the goal of returning to in-person visits. And after mother had been in treatment for about two months, the court allowed her to have in-person visits with Child 3 again. But those in-person visits proved detrimental to Child 3's behavior and wellbeing. The district court, following the recommendations of the parenting evaluators and the guardian ad litem, then suspended all visits.

Viewing the record as a whole, the district court did not clearly err by concluding that the county's efforts were reasonable under the circumstances.

II. The county proved that mother neglected the children.

Mother argues that the county did not prove that she neglected her children because the district court's findings centered around her past behavior instead of her present circumstances. We “closely scrutinize the sufficiency of the evidence supporting a statutory ground for termination to determine whether the evidence is clear and convincing.” *J.H.*, 968 N.W.2d at 602. Although the district court concluded that the county proved four statutory grounds, we need only conclude that one ground is supported

to affirm. *In re Welfare of P.R.L.*, 622 N.W.2d 538, 545 (Minn. 2001). We turn to the statutory ground of neglect of parental duties.

A district court may terminate parental rights if “the parent has substantially, continuously, or repeatedly refused or neglected to comply with” their parental duties and reasonable efforts by the county have failed to correct the conditions that led to the termination petition. Minn. Stat. § 260C.301, subd. 1(b)(2). Parental duties include providing necessities such as food, clothing, shelter, and education as well as facilitating the children’s physical, mental, and emotional health and development. *Id.* In reviewing evidence of neglect, we address the conditions at the time of the termination hearing and whether the conditions are expected to continue for the foreseeable future. *In re Welfare of Chosa*, 290 N.W.2d 766, 769 (Minn. 1980).

Here, the district court found that mother neglected her parental duties because she did not demonstrate an understanding of her children’s medical needs, did not facilitate the children going to school, ignored medical advice relating to the youngest child, did not take the children to medical appointments, and did not provide adequate food or clothing. And the court concluded that mother’s refusal to accept responsibility showed that she was not able to fulfill these parental responsibilities in the future. As a result, the district court determined that her neglect was likely to continue for an indeterminate period. Accordingly, the court concluded that the county established by clear and convincing evidence that mother neglected her parental duties.

The record supports the court’s determination. Mother failed to adequately care for the children while they were in her care. She did not acknowledge the children’s medical

needs and did not take them to doctor's appointments. Child 3 has extensive medical problems and developmental delays caused by mother's use of methamphetamine while he was in the womb and worsened by her failure to seek treatment for him. Mother routinely left the home, forcing Children 1 and 2 to care for Child 3 while she was away. Child 1 often missed school as a result. And the children did not always have enough food to eat and lacked clothing that would fit them.

Further, the parenting assessments indicate that mother has not demonstrated sufficient progress to show that she would be better able to care for the children if they were returned to her care. At trial, mother denied most of the above allegations of neglect. A persistent theme of the parenting assessments was that mother's denial of accountability for the conditions that initially led the children to be removed from her care showed that she was not capable of addressing those conditions. Mother's own mental-health issues and unresolved trauma prevents her from understanding or empathizing with her children's needs. Even the improved parenting skills she demonstrated later in this case were insufficient to address the second parenting assessor's concerns because mother was still not able to accept the reality of Child 3's medical needs, nor the extent to which she caused his developmental issues.

And despite her progress in treatment, the record shows that mother is not in a position to provide a safe home for the children. Mother has not demonstrated the ability to remain sober outside of a controlled setting such as treatment. She is not working and has no means to provide for the children. And while she has housing for herself, she is not able to house all three children. Everyone who opined on the matter besides mother

testified that the children should not be split up because they are closely bonded with each other. Accordingly, the record contains clear and convincing evidence supporting the district court's findings that the county proved the statutory ground of neglect by clear and convincing evidence.

Still mother argues that because she is capable of parenting her newborn child, she is capable of parenting her older children and that the district court "failed to acknowledge this critical evidence." But the newborn child is not similarly situated to the older three children. The social worker testified that the older children "have a history of exposure, trauma [inflicted] by [mother], neglect by [mother], when she was in active use [of chemicals]," but that the new baby would not have this trauma because mother has been sober and living in a supportive environment since his birth. And the second parenting assessor opined that mother may be able to use her improved parenting skills to meet the new baby's needs in a way that she was unable to do for her older children. Accordingly, the second parenting assessor recommended that mother initially keep custody of the new baby, but not the older children.

In sum, the district court did not abuse its discretion by terminating mother's parental rights because the county showed that mother's neglect of her children was likely to continue for the foreseeable future.

Affirmed.