

*This opinion is nonprecedential except as provided by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
A22-0012**

In the Matter of the Welfare of the Child of:
P. A. T., Parent.

**Filed June 20, 2022
Affirmed
Kirk, Judge***

Nobles County District Court
File No. 53-JV-21-80

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Considered and decided by Reilly, Presiding Judge; Cochran, Judge; and Kirk, Judge.

NONPRECEDENTIAL OPINION

KIRK, Judge

Appealing the district court's termination of her parental rights, appellant-mother argues that the district court abused its discretion when it concluded that: (1) statutory grounds justified termination; (2) the county exercised reasonable efforts to reunify the

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

family; and (3) the best interests of the child favored termination of mother's parental rights. We affirm.

FACTS

Appellant P.A.T. (mother) has been addicted to methamphetamine for six years. She has multiple convictions for drug use, assault and domestic assault, and other crimes.¹ Respondent Nobles County Community Services Agency (the county) provided mother with access to numerous chemical-dependency treatment programs but mother never successfully completed any program.² Instead, mother has a "rather chaotic" history of entering treatment programs and briefly abstaining from illegal drugs, only to relapse shortly thereafter. Mother's history of drug abuse coincided with the termination of her parental rights to four children prior to this case.

In summer 2020, mother became pregnant with B.C.S. (the child). During her pregnancy, mother continued to use methamphetamine and other drugs. On March 28, 2021, mother gave birth to the child. Shortly after the birth, the county spoke with mother about her plan to care for the child; mother indicated that she did not have any plan to care for the child. On March 29, based on mother's lack of a plan to care for the child, mother's drug use while pregnant, and other concerns for the child's safety, the county placed the child in non-relative foster care.

¹ In 2018, mother committed credit-card fraud and was sentenced to probation. She was on probation for this fraud offense during the relevant period underlying this appeal.

² The county's probation agent testified at trial that mother was confrontational with the staff at treatment centers and repeatedly postponed her treatment dates, doing this so often that multiple treatment centers rescinded her admission to their treatment programs.

On March 31, 2021, the county filed a child in need of protection or services (CHIPS) petition. The following day, the district court held an emergency protective-care hearing. The district court found that the county established a prima facie showing that that the child's health and safety would be endangered if the child was released to mother's care and ordered that the child remain in foster care. The district court instructed mother to work with the county to develop a case plan and follow the case-plan recommendations.

Instead of working with the county, mother actively avoided the county. Mother had no contact with the county for three months, did not visit the child, did not answer the county's weekly phone calls, and did not answer the door when county agents attempted to physically locate her at possible residences. Mother continued to use methamphetamine and other drugs during this time. In May 2021, because mother refused to meet or cooperate with the county, the county developed and submitted a case plan without her participation. The case plan recommended that mother obtain stable housing, complete chemical-dependency and mental-health diagnostic assessments, and follow the recommendations of both assessments. Mother did not complete any case-plan recommendation.

On May 19, 2021, the district court held a pretrial hearing on the CHIPS petition. Mother did not attend this hearing. In June 2021, the district court held an adjudication hearing on the CHIPS petition. Mother did not attend this hearing either. The district court granted the county's request to proceed with the hearing in mother's absence and adjudicated the child CHIPS. On July 22, 2021, the county filed a petition to terminate mother's parental rights to the child pursuant to Minn. Stat. § 260C.301 (2020).

Specifically, the county alleged that mother abandoned the child, refused or neglected to comply with the duties imposed upon her by the parent-child relationship, and was palpably unfit to parent the child. *See id.*, subd. 1(b)(1), (2), (4) (2020).

On July 23, the day after the termination-of-parental-rights filing, mother was arrested and booked into jail where she again tested positive for methamphetamine. Although “communication with [mother] was kind of hard while she was . . . in jail,” the county social worker spoke with mother twice during the five days she was in jail. At a hearing shortly thereafter, mother admitted to violating her probation and requested execution of her probationary sentence. Mother was sentenced to a 21-month prison term. The social worker spoke with mother once more during her prison incarceration. The social worker also spoke with mother’s prison case manager about her progress “on a few occasions.”

On August 25, 2021, the district court held a review hearing on the CHIPS petition.³ The district court stated: “The [county] should continue trying to work a case plan with mom. I would appreciate it if the social worker would, ah, meet with mom [in prison] . . . and see if they can re-work her case plan to take advantage of some of the services that are available at the . . . women’s prison as there are quite a few.” In its order following the hearing, the district court stated that “[the county] has made reasonable efforts to prevent the initial out-of-home placement and to reunify the child with the mother. The mother has

³ The district court also held an admit/deny hearing on the termination-of-parental-rights petition. Mother was in quarantine at the prison and unable to attend the hearing. Her attorney entered a denial on her behalf.

not cooperated since. [The county] will re-initiate reasonable efforts with the mother.” On September 29, the district court held a pretrial hearing on the termination case, wherein the county informed the district court that “I don’t have anything substantial” to report and noted that the county social worker “is attempting to coordinate video calls between [mother] and [the child].” Mother informed the district court that she was participating in programming, to which the district court replied, “Fantastic.”

On October 15, 2021, the district court held the first day of a two-day trial regarding whether to terminate mother’s parental rights. The district court received testimony from the county probation agent and county social worker assigned to mother. The probation agent testified that mother frequently tested positive for illegal drugs and repeatedly failed to follow through with chemical-dependency treatments. The agent testified that the county “had exhausted all the different treatment facilities” and “we just didn’t have anything else to offer.” The agent testified that mother had shown no signs of being able to capably parent the child; instead, the agent testified that mother has not even “been able to safely care for herself.” The agent recommended termination of mother’s parental rights.

The county social worker similarly testified that mother was not fit to parent the child. The social worker testified that mother’s myriad issues—chemical dependency, mental health, lack of stable housing, and repeated criminal behavior—raised concerns about her ability to parent. Moreover, the social worker testified that mother made no effort to visit the child, comply with her case plan, or abstain from illegal drugs. The social worker testified that the county only successfully located mother once she was incarcerated. The social worker testified that mother stated that “she had been using drugs

the entire case.” The social worker concluded that mother was not capable of parenting the child and recommended terminating her parental rights. Following the social worker’s testimony, mother requested a continuance so that she could provide testimony on a diagnostic assessment scheduled for the following week. The district court approved the continuance request.

On November 4, 2021, the county filed an updated case plan. *See* Minn. Stat. § 260C.212, subd. 1a(b) (2020) (requiring the county to submit an updated case plan within 180 days of the child’s out-of-home placement). The updated case plan stated that reunification was not an appropriate permanency goal. The case plan indicated that the county had contacted mother to discuss the updated case plan and the services that mother was receiving while incarcerated. Mother had not signed the updated case plan.

The following day, November 5, 2021, the district court reconvened trial. Mother testified that she “ha[s] been addicted to meth . . . for six years,” “used drugs . . . while pregnant,” and the county gave her multiple opportunities to rehabilitate herself but she was noncompliant with the county and her case plan.⁴ Mother testified that she would be starting a chemical-dependency treatment the following week, was working with a therapist “on mental health, [and] anger management,” was participating in a prison parenting program, and had been sober since her commitment to prison. Mother acknowledged that her treatment would be a “long road,” described her tentative plans to achieve sobriety, and estimated that she could care for the child “within a year or two.”

⁴ Mother’s testimony indicated that she had not completed the diagnostic assessment for which she requested the continuance.

On December 17, 2021, the district court filed an order and memorandum terminating mother's parental rights. The district court found that "Mother's chemical dependency and mental health issues are long-term and significant," "Mother's proposed long-term plan is appropriately hopeful but does not have a reasonably grounded positive outcome," and "[a]nother 1 1/2 to 2 1/2 years for the Mother to hopefully provide stability for the child is not within a reasonably foreseeable future." The district court found that "[the county] made reasonable efforts in offering services to correct the problems preventing Mother from parenting the child." The district court determined that the county proved each of the alleged statutory theories for termination by clear and convincing evidence—that mother abandoned the child, reasonable efforts to correct the conditions leading to the child's out-of-home placement had failed, and mother is palpably unfit to be a party to the parent-child relationship. The district court noted that although mother has "recently taken responsibility," "the Child has immediate needs for permanent, consistent, emotionally stable caregivers NOW that makes it impossible to delay meeting that need for the unforeseeable length of time it would take for mother to be released from prison and find housing." The district court opined that "returning the Child [to mother] would [not] be safe as . . . there [is] clear and convincing evidence that Mother's history of drug use and homelessness, paired with her current incarceration[,] makes her unfit to parent." The district court also found that termination of mother's parental rights was in the best interests of the child. Mother appeals.⁵

⁵ On February 17, 2022, at the county's request, the district court issued an amended order terminating mother's parental rights, newly stating that "[g]uardianship of the child is

DECISION

Parental rights may only be terminated for “grave and weighty reasons.” *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). Whether to terminate parental rights is discretionary with the district court. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136 (Minn. 2014). Although we “give considerable deference to the district court’s decision to terminate parental rights,” “we closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing.” *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). To terminate mother’s parental rights, the district court must determine that clear and convincing evidence established: (1) at least one statutory basis for termination; (2) the county made reasonable efforts to reunite the family; and (3) termination is in the child’s best interests. *In re Welfare of Child. of T.A.A.*, 702 N.W.2d 703, 708 (Minn. 2005).

We conduct a two-step analysis to review a termination decision. First, we “review the district court’s findings of the underlying or basic facts for clear error.” *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). Findings are clearly erroneous “when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted); *see also*

ordered to the Commissioner of Human Services.” *See In re Welfare of Child of P.A.T.*, No. A22-0240, slip op. at 1-2 (Minn. App. Mar. 15, 2022) (ord.). Mother appealed this order as well. *See id.* We dismissed this appeal, concluding that the district court’s December order was the proper appellate vehicle because the February order did not affect mother’s substantial rights. *Id.* at 3. Our March 15, 2022, order does not affect this appeal.

In re Welfare of Child of J.H., 968 N.W.2d 593, 601 n.6 (Minn. App. 2021) (applying *Kenney* to a termination appeal), *rev. denied* (Minn. Dec. 6, 2021). Second, we review the district court’s determination “of whether a particular . . . basis for involuntarily terminating parental rights is present for an abuse of discretion.” *J.R.B.*, 805 N.W.2d at 901. Evidence supporting termination of parental rights must relate to the conditions as they existed at the time of trial and which are likely to continue for a “prolonged and indeterminate” period. *Ramsey Cnty. Welfare Dept. v. Beck (In re Welfare of Chosa)*, 290 N.W.2d 766, 769 (Minn. 1980). A district court abuses its discretion if it misapplies the law, makes findings unsupported by the record, or resolves discretionary questions in a manner that is contrary to logic and the facts on record. *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022).

Mother argues that the district court abused its discretion by determining that: (1) a statutory basis for termination existed; (2) the county made reasonable efforts to reunite the family; and (3) termination was in the best interests of the child. We address each argument in turn.

I. The district court did not abuse its discretion by concluding that statutory grounds justified terminating mother’s parental rights.

Mother argues that the district court abused its discretion when it held that there were statutory grounds to terminate her parental rights. Mother specifically argues that the district court abused its discretion by concluding that she abandoned the child. Mother concedes that she did abandon the child after birth but argues that the record does not

support the district court's determination that she intended to abandon the child *at the time of trial*. We disagree.

The existence of a statutory condition permitting the termination of parental rights must be proved by clear and convincing evidence. Minn. Stat. § 260C.317, subd. 1 (2020); Minn. R. Juv. Prot. P. 58.03, subd. 2(a). The county bears the burden of proving the grounds for termination. *See In re Welfare of Child of H.G.D.*, 962 N.W.2d 861, 870 (Minn. 2021).

A district court may terminate parental rights if “the parent has abandoned the child.” Minn. Stat. § 260C.301, subd. 1(b)(1). Abandonment occurs when “the parent has actually deserted the child and has an intention to forsake the duties of parenthood.” *In re Welfare of Child. of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004) (quotation omitted). “[A] separation of child and parent due to misfortune and misconduct alone, such as incarceration of the parent, does not constitute intentional abandonment.” *Hennepin Cnty. Welfare Bd. v. Staat (In re Staat)*, 178 N.W.2d 709, 713 (Minn. 1970). However, “the fact of imprisonment may combine with other factors, such as parental neglect and withholding of parental affection, so as to lend support to a finding that the parent has relinquished all parental claims to [her] child.” *Id.*; *see also id.* (“[I]f a parental relationship existed prior to a [parent’s] imprisonment and [s]he continued this relationship to the best of [her] ability during incarceration . . . [her] parental rights would be preserved.”).

On this record, we conclude that the district court acted within its discretion by ruling that mother abandoned the child and by terminating mother’s parental rights because she abandoned the child. Based on mother’s complete lack of a relationship with the child,

the district court ruled that the statutory basis of parental abandonment for terminating parental rights was present because mother both deserted the child and intended to forsake the duties of the parent-child relationship.⁶ While the record indicates that mother, once incarcerated, stated for the first time that she intended to parent the child, other evidence supports the district court's determination that mother's alleged intention was neither credible or realistic, given the context.

First, the record supports the district court's finding that "there [was] no evidence of a parental relationship [between mother and the child] before her incarceration" and thus "[t]here was no parental relationship to continue after Mother was incarcerated." *See id.* (indicating that parental rights will not be preserved when the parent does not have a relationship with the child prior to incarceration); *see also Adoptive Couple v. Baby Girl*, 570 U.S. 637, 651-52 (2013) (concluding in a plurality opinion that when the parent abandons a child prior to birth in an Indian Child Welfare Act (ICWA) case, there is no "relationship" to later be "broken up" or "discontinued"). Here, the record supports the district court's finding that mother had no preexisting relationship with the child at the time of her incarceration, and that mother never even met the child following birth.

Second, the record supports the district court's finding that mother's historical approach to treatment has been cyclical: mother proclaims that she will rehabilitate herself,

⁶ The district court also found that abandonment was presumed because mother had "no contact with the child on a regular basis and [had] not demonstrated consistent interest in the child's well-being for six months." *See* Minn. Stat. § 260C.301, subd. 2(a)(1) (2020). We need not address this presumption of abandonment because we conclude that the evidence supports the district court's determination that mother actually abandoned the child.

enters treatment, and then fails to successfully complete treatment. This same pattern appears to have played out with respect to the termination of mother's parental rights to her older children. Here, the district court found that "Mother's demonstrated avoidance behaviors in this case are consistent with her past conduct" and "[h]er engagement in services in the controlled environment of prison is not predictive of her future engagement and follow-through with services upon release." The district court also found that "Mother's proposed long-term plan is appropriately hopeful but does not have a reasonably guaranteed positive outcome." The district court thus implied that mother was not credible—or was at least overly optimistic—with respect to her ability to remain sober and complete treatment following her release from prison. The district court's order appeared to be similarly skeptical of mother's ability to sustain her alleged intent to parent the child following her release from prison when mother had not demonstrated such follow through with any of her older children or past chemical-dependency treatments.

We do not mean to disparage mother. Rather, we commend her embarking upon the path to recovery. But as the district court found, the child needs stability, consistent caretakers, and the absence of proximate drug use. We cannot conclude that the district court clearly erred by finding that mother intended to abandon the child. Nor can we conclude that the district court abused its discretion by determining that mother abandoned the child. Therefore, the district court acted within its discretion when it determined that

mother's conduct met the statutory basis of abandonment and terminated her parental rights to the child.⁷

II. The district court did not abuse its discretion by determining that the county made reasonable efforts to reunite the family and, in the alternative, any error made by the district court was harmless.

Admitting that the county made reasonable efforts to reunite the family prior to her incarceration, mother next argues that the county failed to provide reasonable efforts to reunite the family once she was incarcerated.

In proceedings to terminate parental rights, the district court must address whether “reasonable efforts to finalize the permanency plan to reunify the child and the parent were made.” Minn. Stat. § 260C.301, subd. 8 (2020); *see* Minn. Stat. § 260.012(a) (2020) (“Reasonable efforts . . . [for] reunification are always required.”).⁸ “Reasonable efforts . . . are services that go beyond mere matters of form so as to include real, genuine assistance.” *In re Welfare of Child. of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quotation omitted), *rev. denied* (Minn. Mar. 28, 2007). Such efforts depend on the facts and circumstances of the case. *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 663 (Minn. App. 2018) (citing *In re Welfare of S.Z.*, 547 N.W.2d 886, 892 (Minn. 1996)). A parent's incarceration does not excuse the county from making reasonable efforts to reunify

⁷ We need not to consider the district court's other statutory-termination determinations because “we need only one properly supported statutory ground in order to affirm a termination order.” *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012).

⁸ Alternatively, the county can petition the district court to find that reasonable efforts would be futile. Minn. Stat. § 260C.012 (a)(7) (2020). The county did not request such a finding of futility here.

the family. *In re Welfare of Child. of A.R.B.*, 906 N.W.2d 894, 899 (Minn. App. 2018). However, incarceration “might change what qualifies as ‘reasonable’ under the county’s duty to make ‘reasonable efforts.’” *Id.* Determining whether efforts were reasonable also requires “consideration of the length of the time the county was involved and the quality of effort given.” *In re Welfare of H.K.*, 455 N.W.2d 529, 532 (Minn. App. 1990), *rev. denied* (Minn. July 6, 1990). “The county’s efforts must assist in alleviating the conditions that gave rise to” the out-of-home placement.⁹ *Id.*

We review the district court’s determination of whether a county’s reunification efforts were reasonable for an abuse of discretion. *In re Welfare of Child. of A.D.B.*, 970 N.W.2d 725, 730 (Minn. App. 2022). However, even if we conclude that the district court abused its discretion, we will not reverse if the error was harmless. *Id.* at 730-31. An error is harmless “[w]hen there is no reasonable possibility that it substantially influenced the [fact-finder’s] decision.” *State v. Harvey*, 932 N.W.2d 792, 810 (Minn. 2019) (quotation omitted). The party asserting error has the burden to demonstrate that the error was prejudicial. *In re Welfare of D.J.N.*, 568 N.W.2d 170, 176 (Minn. App. 1997).

Even assuming that the county could have made some additional efforts to reunify mother and the child once mother was incarcerated and assuming that the district court could have conducted a more-thorough analysis of the county’s reasonable efforts

⁹ When evaluating whether the county made reasonable efforts, the district court must consider whether services 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).

following mother's incarceration, we still cannot conclude that the district court abused its discretion by holding that the county made reasonable efforts to reunite the family. On this record, the efforts that the county made to reunite mother with the child, while not comprehensive, were reasonable under the circumstances. The COVID-19 pandemic severely hindered the county's ability to communicate and meet with mother and the record indicates that there was little more that the county could have offered mother given these circumstances.

Moreover, the reasonableness of the county's efforts is informed by context, including its past efforts and mother's past behavior. *See A.M.C.*, 920 N.W.2d at 663. The district court found that "[t]he [county] has offered Mother a variety of services aimed at correcting the issues" and "[t]he goals of these services have been *completely frustrated* by Mother's actions." (Emphasis added.) It found that mother "actively avoid[ed] probation," used drugs during her pregnancy and following the birth of the child, and "Mother's chemical dependency and mental health issues are long-term and significant." The record supports that there is little more that the county could have done for mother to correct the conditions that led to the child's out-of-home placement. The county provided mother with access to numerous chemical-dependency treatment programs, which mother repeatedly failed or refused to complete. The probation agent testified that "there had been so many attempts [at treatment] without successful completions" that "we had exhausted all the different treatment facilities." Between the context of mother's historical noncompliance with the county, repeated failure to successfully complete treatment, and the COVID-19

pandemic, we cannot say that the district court abused its discretion by ruling that the county's efforts at reunification were reasonable, given the circumstances.¹⁰

Alternatively, even if the district court abused its discretion by holding that the county made sufficiently reasonable efforts to reunite the family, such error was harmless. Had the county made additional efforts at reunification, as mother argues it should have done, such efforts would not have corrected the conditions leading to the out-of-home placement in the reasonably foreseeable future. The record evidence demonstrates that mother is addicted to methamphetamine and has repeatedly attempted treatment without success. Moreover, as the district court found, mother's attempts at treatment in prison are "not predictive of her future engagement and follow-through with such services upon release," mother's plan "does not have a reasonably guaranteed positive outcome," and the "length of time it would take for mother to be released from prison and find housing" is "unforeseeable." Although mother predicted that she would be able to resume parenting the child "within a year or two," the district court concluded that mother's timeframe to be reunited with the child was "not within a reasonably foreseeable future."¹¹

¹⁰ We also question the extent to which the county's reasonable efforts were required here. The statute requires that the county must provide services for the purpose of *reunification*. Minn. Stat. § 260C.012(a). However, mother abandoned her child immediately after birth. As noted herein, mother never even met the child. Thus, is it questionable whether there was any family to "reunify" here. *Cf. Baby Girl*, 570 U.S. at 651-52. (concluding in a plurality opinion in the context of an ICWA appeal that the active-efforts requirement to "prevent the breakup" of a family prior to the adoption of an Indian child does not apply when "there is no 'relationship' that would be 'discontinued'" because the "'breakup of the . . . family' has long since occurred" (citing 25 U.S.C. § 1912(d) (2012))).

¹¹ Mother also argues that the county failed to provide reasonable efforts because it did not prepare her a case plan. But the county *did* prepare a case plan for mother while she refused

We also note that the county filed its petition to terminate parental rights *prior* to mother's incarceration. Under the unique facts of this case, we conclude that nothing would have changed had the county pursued additional efforts at reunification. Again, we wish mother the best of luck on her path to recovery. But we conclude that the district court did not abuse its discretion by ruling that the county provided reasonable efforts to reunite the family and, in the alternative, that even had the county made additional efforts to reunify, such efforts would not have foreseeably reunited the family. Thus, we must conclude that any failure by the county to make additional efforts here was harmless.¹²

III. The district court's application of the incorrect best-interest factors was harmless.

Lastly, mother argues that the district court committed reversible error by applying the incorrect legal standard to the requisite best-interest analysis. The county concedes that the district court erred but contends that the district court's error was harmless. We agree that such error was harmless.

to work with the county. Even so, we are troubled by the county's failure to promptly provide mother with an updated case plan after she was incarcerated. We have emphasized the importance of providing case plans to incarcerated parents. *See A.R.B.*, 906 N.W.2d at 900. On this record, however, we still cannot conclude that the county's failure demonstrated a lack of reasonable effort or that any error was not harmless.

¹² Mother relies heavily on *A.D.B.*, which stands for the proposition that a district court cannot make a posttrial finding of futility. 970 N.W.2d at 726. However, mother does not argue that the district court made such a posttrial futility finding here. Mother also relies on *In re Welfare of Child. of A.L.H.*, a recent nonprecedential decision. No. A21-0966, 2022 WL 519228 (Minn. App. Feb. 18, 2022). But nonprecedential cases are nonbinding and have only persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

The child's best interests must be the paramount consideration in any termination proceeding. Minn. Stat. § 260C.301, subd. 7 (2020). When determining whether a termination of parental rights is in a child's best interest, the district court must balance three factors: "(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 interests of the child." *J.R.B.*, 805 N.W.2d at 905 (quotation omitted); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). We review a district court's best-interests determination 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, this court gives considerable deference to the district court's findings." *J.K.T.*, 814 N.W.2d at 92 (quotation omitted).

Here, the district court primarily applied the best-interests factors set forth in Minnesota Statutes section 260C.212, subd. 2(b) (2020), relating to child-custody determinations, when it concluded that the best interests of the child were served by terminating mother's parental rights. These are not the best-interest factors that a district court is required to evaluate when addressing whether to terminate parental rights. *See* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (listing factors to be considered by the district court when addressing whether to terminate parental rights to a child who is not an Indian child); *J.R.B.*, 805 N.W.2d at 905 (same); *see also In re Welfare of Child. of M.L.S.*, 964 N.W.2d 441, 452 n.6 (Minn. App. 2021) (noting that the factors a district court must consider when addressing a child's best interests depends on the purpose for which the child's best interests are being assessed). However, in its memorandum attached to the termination

order, the district court also expressly listed and analyzed the correct termination best-interest factors, albeit briefly. The district court's inclusion of the proper best-interest factors in its memorandum incorporated those factors by reference into its order and demonstrates that the district court *did* consider the proper factors.

Moreover, even if we agree with the parties that the district court erred by considering the incorrect factors, such error was harmless. Had the district court conducted a more thorough balancing test, this record is clear that it would undoubtedly still have ruled that termination was in the best interests of the child. As discussed herein, there was no parent-child relationship to be “preserv[ed]” because mother abandoned the child immediately after birth. And the district court found that child’s foster mother has the “ability to meet the Child’s needs,” “[t]he Child appears comfortable with her foster mother,” and “[t]he Child has not had *any* contact with Mother since being discharged from the hospital into foster care.” (Emphasis added.) As it stands, the district court concluded in its memorandum that: “It is absolutely not in the best interests of the children to continue to experiment with their young lives so that their parents can exhaust every possible unrealistic alternative to termination of parental rights.” (quoting *In re Welfare of A.V.*, 593 N.W.2d 720, 721 (Minn. App. 1999)).

To the extent that the district court erred by primarily analyzing the custody best-interest factors, this record demonstrates that such error was harmless both because the district court did in fact address the correct factors, and because those factors favored termination of mother’s parental rights to the child.

Affirmed.