

*This opinion is nonprecedential except as provided by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
A22-0440**

In the Matter of the Welfare of the Children of:
A. S. and J. H., Parents.

**Filed September 6, 2022
Affirmed
Frisch, Judge**

Murray County District Court
File No. 51-JV-21-40

Jennifer L. Thompson, JLT Law & Mediation, Litchfield, Minnesota (for appellant-mother A.S.)

Travis J. Smith, Murray County Attorney, Kayla M. Johnson, Assistant County Attorney, Slayton, Minnesota (for respondent Southwest Health and Human Services)

Bethany Blegen, Marshall, Minnesota (guardian ad litem)

Considered and decided by Connolly, Presiding Judge; Bratvold, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

Appellant-mother argues that the district court abused its discretion by terminating her parental rights. Because the district court acted within its discretion by determining that termination is supported by a statutory basis and is in the best interests of the children, we affirm.

FACTS

On December 3, 2020, law enforcement conducted a drug raid at the home that appellant A.S. (mother) shared with her children. During the raid, law enforcement discovered methamphetamine and methamphetamine paraphernalia stored in the presence of children and arrested mother.¹ The following day, respondent Southwest Health and Human Services (the county) filed a child in need of protective services (CHIPS) petition on behalf of mother's children, and on December 7, the district court ordered the children into out-of-home placement. Mother admitted that the children were CHIPS, and on December 14, the district court adjudicated them as such.

The county developed a case plan with mother, which included a requirement that mother complete chemical-dependency treatment. In January 2021, mother completed a chemical-dependency assessment. Mother, however, did not begin chemical-dependency treatment until June. The treatment program discharged mother following missed intake appointments, and on June 24, law enforcement arrested mother after she admitted to using methamphetamine. Later in June, mother enrolled in another treatment program. In August, mother was admitted to drug court. In September, mother was discharged from the treatment program when she failed to attend required sessions. In October, mother enrolled in a third treatment program.

On November 8, the county filed a petition to terminate mother's parental rights. The county alleged that four reasons supported termination: mother's failure to complete

¹ Law enforcement subsequently tested the children for methamphetamine; both children tested positive.

treatment, her inability to meet the basic needs of her children, her failure to follow the rules of the child-visitation center, and her failure to maintain sobriety. The petition also noted the existence of a pending investigation of sexual abuse against mother related to her behavior around her children.²

On November 20, mother gained housing at a sober group home despite having previously been discharged from the home. In December, the county approved a plan allowing the children to live in the group home with mother on a trial home-visit arrangement. In January 2022, mother was removed from the group home. Because she was removed from the group home, mother was also discharged from drug court.

In February 2022, the district court held a termination hearing. At the hearing, the director of the group home testified that mother failed to follow the group-home requirements and rules, allowed the children (then-ages two and four) to engage in unsafe behavior, and did not appropriately supervise her children. For example, mother did not adhere to the group home's policies, often missing required events and leaving her room in disarray. Mother also allowed her four-year-old child to smoke a vape pen and laughed about it before later taking it away. Mother did not put the children in car seats, did not secure the children in her car with seat belts, and let one of her small children sit in the front seat of her car. The group home received other complaints about mother's inadequate supervision of the children, including witnessed reports of mother sleeping while the children were still awake. In January 2022, the group-home director gave mother a

² Specifically, the county was investigating allegations that the mother "engaged in sexual acts in front of her children knowingly and repeatedly."

warning and informed her that another violation of house rules would result in mother being removed from the program. The next morning, the director went to mother's room and observed her room in disarray and mother wanting to take a nap while the children played around her.

The county social worker who supervised mother's case also testified. The social worker explained that the same concerns that existed at the creation of mother's case plan remained at the time of the termination hearing. The social worker expressed continuing concerns about mother's parenting skills and the safety of the children. The social worker identified mother's lack of stable housing, lack of stable employment, failure in drug court, failure to take parenting-skills classes, and the potential for mother's incarceration related to the sex-abuse allegations as reasons why the county did not believe mother could resume parenting responsibilities in the near future. The social worker concluded that mother was not in compliance with her case plan.

Mother's chemical-dependency counselor also testified at the termination hearing, noting that mother has been actively working to maintain her sobriety and that mother was in good standing with the program at the time of the hearing. Mother also testified, averring that she was employed, had been accepted into housing, and desired to be reunified with her children. Mother specifically disputed the description of events as described by the group-home director.

In March 2022, the district court terminated mother's parental rights. In its order, the district court found that mother's description of events at the group home was less credible than the testimony of events from the director of the group home, which it found

was credible. The district court found that four statutory grounds existed to justify termination of mother's parental rights and that termination was in the children's best interests. Mother appeals.

DECISION

Mother argues that the district court abused its discretion by terminating her parental rights because (1) there was insufficient evidence to support a statutory ground for termination, and (2) termination was not in the best interests of the children.

“Parental rights are terminated only 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). A district court may order the termination of parental rights if it (1) finds by clear and convincing evidence that a statutory condition exists to support termination, (2) determines that termination is in the child's best interests, and (3) finds that reasonable efforts toward reunification were either made or were not required.³ Minn. Stat. §§ 260C.301, subds. 1(b), 7, 8, .317, subd. 1 (2020); *see also In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). “We review the termination of parental rights to determine whether the district court's findings address the statutory criteria and whether the district court's findings are supported by substantial evidence and are not clearly erroneous.” *S.E.P.*, 744 N.W.2d at 385. In doing so, we “review the district court's findings of the underlying or basic facts for clear error, but we review its determination of

³ Mother does not argue on appeal that the county failed to make reasonable efforts to reunify the family.

whether a particular statutory basis for involuntarily terminating parental rights is present for an abuse of discretion.” *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012).

I. The district court acted within its discretion by concluding that a statutory ground existed to terminate mother’s parental rights.

The district court found that four statutory grounds existed to support the termination of mother’s parental rights: failure to comply with parental duties, palpable unfitness to parent, failure of reasonable efforts to correct the conditions leading to the children’s out-of-home placement, and that the children were neglected and in foster care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), (8). Mother argues that the district court clearly erred by making certain findings of fact and abused its discretion by concluding that the evidence in the record was sufficient to support the statutory grounds for termination. We disagree.

“[W]e closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing.” *S.E.P.*, 744 N.W.2d at 385. “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 Child. of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted). “In applying the clear-error standard, we view the evidence in a light favorable to the findings. We will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation and citation omitted). We must “fully and fairly consider the evidence, but so

far only as is necessary to determine beyond question that [the evidence] reasonably tends to support the findings of the factfinder.” *Id.* at 223 (quotation omitted). Thus, “[w]hen the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* (quotation omitted). Only one properly supported statutory ground is needed for us to affirm a termination order. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012).

The record supports the district court’s determination that mother neglected to comply with her parental duties. A district court may terminate parental rights if it finds “that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship.” Minn. Stat. § 260C.301, subd. 1(b)(2). The requirements of the parent-child relationship “include[e] but [are] not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child’s physical, mental, or emotional health and development, if the parent is physically and financially able.” *Id.* “Failure to satisfy requirements of a court-ordered case plan provides evidence of a parent’s noncompliance with the duties and responsibilities under section 260C.301, subdivision 1(b)(2).” *In re Welfare of Child. of K.S.F.*, 823 N.W.2d 656, 666 (Minn. App. 2012). When reviewing evidence of a parent’s neglect of their parental duties, we address the conditions present at the time of termination. *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 603 (Minn. App. 2021) (citing *In re Welfare of Chosa*, 290 N.W.2d 766, 769 (Minn. 1980)), *rev. denied* (Minn. Dec. 6, 2021).

At the time of the termination trial, mother had failed to complete requirements in her case plan. She did not accept the parenting-skills services provided to her by the county. Mother also struggled to maintain stable and consistent housing. Despite the opportunity to live with her children on a trial basis at the group home, mother did not follow the rules at the group home, did not provide safe or adequate supervision of her young children, did not maintain a clean living space, and was ultimately removed from the group home. Mother had exposed her children to methamphetamine and allowed one of her children to “vape” and reportedly laughed about it. Mother was also reportedly sleeping in the middle of the day while her two- and four-year-old children played without supervision and drove her children while using neither car seats nor seat belts for the children.

Although mother denies that these events occurred, the district court expressly found her testimony less credible than the group-home director, whose testimony it expressly found was credible. We do not overturn credibility determinations when supported, as here, by the factual record. *See In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992) (stating that we must defer to the district court’s determinations regarding the weight of evidence and testimony); *see also In re Welfare of the Child of D.L.D.*, 771 N.W.2d 538, 545 (Minn. App. 2009) (deferring to a district court’s credibility determination in a termination-of-parental-rights proceeding). Accordingly, the record supports the district court’s conclusion that mother is not presently able to properly care for her children, and we discern no abuse of discretion in the district court’s termination of mother’s parental rights.

Mother argues that other evidence in the record shows that she did not neglect her parental duties. She claims she had been accepted to a different housing program that would allow her to live with her children and that she has maintained her sobriety. But the record also establishes that mother's stability is far from certain given her repeated failures at maintaining housing and the potential sex-abuse charges. And while we commend mother for her continued sobriety, the record also demonstrates that mother nevertheless failed to properly care for or supervise the children.

The record reasonably supports the district court's findings of fact and we discern no abuse of discretion in the district court's conclusion that those findings of fact show that mother neglected to comply with her parental duties. Because we conclude that one statutory ground to support termination exists, we decline to address the other statutory grounds the district court concluded supported its termination decision. *J.K.T.*, 814 N.W.2d at 92.

II. The district court acted within its discretion by finding that termination is in the best interests of the children.

A district court may terminate parental rights only if it is in the children's best interests. *S.E.P.*, 744 N.W.2d at 385. When a statutory basis to terminate parental rights under Minn. Stat. § 260C.301, subd. 1, exists "the best interests of the child must be the paramount consideration." Minn. Stat. § 260C.301, subd. 7. When addressing the best interests of the children in a termination proceeding, the district court must consider (1) "the child's interests in preserving the parent-child relationship," (2) "the parent's interests in preserving the parent-child relationship," and (3) "any competing interests of

the child.” Minn. R. Juv. Prot. P. 58.04(c)(2)(ii); *see In re Welfare of Child. of J.C.L.*, 958 N.W.2d 653, 656-57 (Minn. App. 2021) (distinguishing best-interests test for termination matters from best-interests test for non-termination matters), *rev. denied* (Minn. May 12, 2021). Where the interests of the parent and the child conflict, the interests of the child are paramount. Minn. Stat. § 260C.301, subd. 7. We review a district court’s best-interests determination for an abuse of discretion. *In re Welfare of Child of J.R.R.*, 943 N.W.2d 661, 669 (Minn. App. 2020).

Mother summarily argues that the district court made no findings regarding the best interests of the children. That is incorrect. The district court expressly found that, although the children and mother love each other and want to be together, the competing interests of the children’s health and well-being supported termination of mother’s parental rights. The district court specifically cited the guardian ad litem’s report to support its conclusion, noting that the children require a predictable home life with stable and safe housing, a sober caregiver, and nurturing and consistent care. The guardian ad litem report, along with the testimony from the social worker, support the district court’s finding that it is not in the best interests of the children to remain in mother’s care. Thus, we discern no abuse of discretion.

Affirmed.