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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1189**

In the Matter of the Welfare of the Children of:
C. J. L. and M. D. C., Parents.

**Filed March 6, 2023
Affirmed
Johnson, Judge**

Morrison County District Court
File No. 49-JV-22-534

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Considered and decided by Johnson, Presiding Judge; Bratvold, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

The district court terminated a woman's parental rights to two children. We conclude that the district court did not err by finding that the county made reasonable efforts to reunite her with the children, by determining that the county's reasonable efforts failed to correct the conditions that led to the children's out-of-home placement, and by

finding that termination of parental rights is in the children's best interests. Therefore, we affirm.

FACTS

C.J.L. is the biological mother of two children who are eleven and nine years old. The children's biological father presently is incarcerated in Wisconsin and is not a party to this appeal.

Morrison County first received a report regarding C.J.L.'s parenting abilities in early 2012. In June 2012, the county petitioned the district court for an adjudication that the older child was a child in need of protection or services (CHIPS) after C.J.L. admitted to using methamphetamine while parenting him and while pregnant with the younger child. The district court granted the CHIPS petition, and the county took temporary custody of the older child. The district court ordered C.J.L. to follow an out-of-home placement plan. C.J.L. successfully completed the case plan, and the older child was returned to her custody in October 2013.

Over the next several years, the county received several additional reports concerning C.J.L.'s parenting. In 2015, the county conducted an assessment after receiving reports that C.J.L. was using drugs and maintaining poor living conditions at her home. In 2016, the county conducted another assessment after receiving reports of poor living conditions and after C.J.L. was arrested for a drug-court violation. In 2018, the county conducted yet another assessment after receiving a report that C.J.L. had tested positive for methamphetamine and was imprisoned after her probation was revoked. The county completed that assessment after C.J.L. was released from prison in June 2019. In August

2019, the county received a report that C.J.L. had admitted to using methamphetamine on two consecutive days. The county investigated but determined that C.J.L. had found caregivers for the children outside her home during the time that she was using methamphetamine.

In October 2019, the county filed another CHIPS petition, for both children, after learning that C.J.L. had attempted to submit a false sample for a drug test and had evaded law enforcement after the issuance of an arrest warrant. The district court granted the CHIPS petition and ordered the county to take temporary custody of the children. The county created an out-of-home placement plan for C.J.L., which focused on her chemical-dependency and mental-health issues. The plan required C.J.L. to submit to random drug tests, complete chemical-dependency and mental-health evaluations, and follow the recommendations of the evaluations. Between October 2019 and April 2020, C.J.L. failed multiple drug tests. She entered chemical-dependency treatment in April 2020 and was successfully discharged in May 2020. But in June 2020, C.J.L. entered outpatient treatment after she admitted to smoking marijuana. She completed the outpatient program in August 2020.

While the county had temporary custody of the children, C.J.L. had the right to supervised visits with the children. In February 2020, the district court suspended her visitation rights after she missed several visits and required her to provide a negative drug test before reinstating her visitation rights. C.J.L. did not submit a drug test for the next month, and she had unapproved contact with the older child in March 2020. The county revised the out-of-home placement plans in November to allow a trial home visit. The

children were returned to C.J.L.'s custody in late March 2021, and the county closed its file in April 2021. The children spent a total of 525 days in out-of-home placement between October 2019 and March 2021.

In early 2022, C.J.L. and her then-partner and present husband (who is not the children's biological father) left Minnesota and went to South Carolina, looking for work. C.J.L. initially decided to leave the children with her mother so that they could remain enrolled at their elementary school. But C.J.L. later decided to bring the children with her to South Carolina. C.J.L., her husband, and the children remained in South Carolina until April 2022, when they moved to Tennessee. While in South Carolina and Tennessee, the family stayed in hotels, and the children did not attend school because each state did not consider them to be residents for enrollment purposes. While they were in Tennessee, C.J.L.'s husband was arrested for possession of drugs and drug paraphernalia, in the children's presence. C.J.L. submitted to a drug test in Tennessee and tested positive for methamphetamine.

In late April 2022, the county commenced this action for the termination of parental rights (TPR) and filed an *ex parte* motion for emergency custody, which the district court granted. In an order filed after the admit-deny hearing, the district court allowed the county to conduct hair-follicle testing of the children. Both children tested positive for methamphetamine.

In early May 2022, C.J.L. completed a chemical-dependency evaluation, which resulted in diagnoses of alcohol-, cannabis-, and stimulant-use disorders. The evaluator recommended that C.J.L. enter treatment, refrain from using drugs, and continue

submitting to random drug testing. C.J.L. disagreed with the evaluation and sought a different one, which was conducted at the end of May. The second evaluator diagnosed C.J.L. with cannabis- and stimulant-dependence and recommended outpatient treatment and individual mental-health services.

In late May 2022, the district court approved two out-of-home placement plans—one for each child. The plans required C.J.L. to submit to chemical-dependency and mental-health evaluations, follow the recommendations of the providers, and submit to random drug tests. The county provided referrals for evaluations and treatment.

C.J.L. tested positive for marijuana shortly after returning to Minnesota, but she tested negative on all subsequent drug tests and did not miss a test without an excuse. C.J.L. also completed a mental-health diagnostic assessment, which resulted in a diagnosis of depression, post-traumatic stress disorder, borderline-personality disorder, and multiple substance-abuse disorders. The evaluator recommended individual therapy, a psychiatric assessment, and mental-health case management.

C.J.L. attended several chemical-treatment programs while in Minnesota, some of which she completed. She initially attended ANEW, a chemical-dependency treatment program, but left on the same day she entered. She later entered treatment at Safe Harbor, where she remained for seven days. The county then referred C.J.L. to two outpatient programs with waitlists. One program had an opening shortly after the referral, but C.J.L. did not enter outpatient treatment until early July. At the time of trial, C.J.L. was engaging in individual therapy. C.J.L. had supervised visitation with the children. A visitation

supervisor noted that, during her visits, C.J.L. did “not look[] out for the emotional well-being of the children” but instead focused on her own wants and needs.

The case was tried on two days in July 2022. The district court heard the testimony of eight witnesses, including C.J.L., and received 36 exhibits. In August 2022, the district court filed an order in which it concluded that the county proved three statutory grounds for termination: that C.J.L. refused or neglected to comply with her parental duties, that C.J.L. is palpably unfit to be a parent, and that reasonable efforts have failed to correct the conditions that led to the children’s out-of-home placement. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5) (2022). Accordingly, the district court granted the county’s TPR petition and terminated C.J.L.’s parental rights to the children. C.J.L. appeals.

DECISION

C.J.L. argues that the district court erred by terminating her parental rights. This court reviews an order terminating 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.” *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). “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), but this court gives “considerable deference to the district court’s decision to terminate parental rights,” *S.E.P.*, 744 N.W.2d at 385.

I. Reasonable Efforts

We begin by considering C.J.L.’s argument that the district court erred by finding that the county made reasonable efforts to reunite her with the children.

After a CHIPS adjudication, a county social services agency “shall ensure that reasonable efforts . . . are made to prevent placement or to eliminate the need for removal and to reunite the child with the child’s family at the earliest possible time.” Minn. Stat. § 260.012(a) (2022). In a proceeding to terminate parental rights, a district court “shall make specific findings . . . that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made including 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.” Minn. Stat. § 260C.301, subd. 8(1). In determining whether a county made reasonable efforts, a district court “shall consider” various statutory factors. Minn. Stat. § 260.012(h). The reasonable efforts required of a county social service agency depend on the facts and circumstances of the case. *See In re Children of T.A.A.*, 702 N.W.2d 703, 709 (Minn. 2005); *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 663 (Minn. App. 2018). This court applies a clear-error standard of review to a finding that a county made reasonable efforts to reunite a parent and a child. *See S.E.P.*, 744 N.W.2d at 387.

In this case, the district court made the following findings of fact:

[The county] has provided reasonable efforts to the family. The efforts include: supervised visitation, chemical dependency evaluations, referral for residential chemical dependency treatment, outpatient chemical dependency treatment, random testing, support group meetings, diagnostic assessment, individual therapy, referral for ARMHS services, referral for ICTS services, transportation, parent education, medication management, family safety plan, family group decision making meeting, in-home individual skills for the children, diagnostic assessments for the children, medication management for the children, individual therapy for the

children, transportation of returning the children to Minnesota, medical services and appointments for the children, and on-going case management services.

The district court also found that a county social worker talked to C.J.L. daily, sometimes as many as ten times per day, and that the county provided C.J.L. with gas cards worth more than \$300. In its conclusions of law, the district court reasoned that the county's efforts satisfied the statutory criteria because its services "were relevant to the safety and protection of the children, adequate to meet the needs of the children and the family, culturally appropriate, available and accessible, consistent and timely, and realistic under the circumstances."

The record supports the district court's findings and conclusions. The county removed the children from C.J.L.'s home due to concerns with her chemical-dependency and mental-health issues. During the previous out-of-home placements, the county provided several evaluations and services to address C.J.L.'s chemical-dependency and mental-health issues. *See In re Welfare of Children of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (considering services provided in prior case plans when determining whether reasonable efforts were made), *rev. denied* (Minn. Mar. 28, 2007); *see also In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 88 (Minn. App. 2012). The county provided similar services in 2022. To address C.J.L.'s chemical-dependency and mental-health issues, the county referred her to multiple evaluations and diagnostic assessments. After the evaluations and assessments, the county referred C.J.L. to several different treatment centers. At the time of trial, C.J.L. had entered a treatment facility, where she was receiving chemical-dependency and mental-health treatment. The county's case manager testified

that she talked “almost daily” with C.J.L. and also provided her with “reminders, supervised visitation, gas cards, [and] rides.” The efforts the county made are consistent with efforts that have been deemed reasonable in other cases. *See, e.g., T.A.A.*, 702 N.W.2d at 710; *In re Welfare of D.T.J.*, 554 N.W.2d 104, 109 (Minn. App. 1996); *In re Welfare of J.S.*, 470 N.W.2d 697, 703 (Minn. App. 1991), *rev. denied* (Minn. July 24, 1991).

C.J.L. contends that the district court erred by not considering the statutory factors in section 260.012(h). The district court did not make express findings concerning each statutory factor. But express findings are not required. What is required is that the district court “consider” the statutory factors. *See* Minn. Stat. § 260.012(h); *cf. Hansen v. Todnem*, 908 N.W.2d 592, 597-98 (Minn. 2018) (holding that district court must consider best-interest factors in section 518.175, subdivision 8, but need not make findings on each factor). C.J.L. does not identify any particular reason to believe that the district court did not consider the statutory factors. She merely speculates that the district court did not do so.

C.J.L. also contends that the county did not fulfill its duty to make reasonable efforts because many of the services to which she was referred were not accessible to her, sometimes because of waitlists. C.J.L.’s contention focuses on referrals that occurred shortly before trial. Her contention ignores referrals that were made in earlier time periods, when C.J.L. actually accessed services. Also, the county’s case manager testified that C.J.L. delayed entering a treatment program for three months in 2022 despite an opening at a facility to which she was referred.

C.J.L. contends further that the county did not fulfill its duty to make reasonable efforts because the county did not allow a trial home visit in 2022. The applicable law does not guarantee a trial home visit in every case. Rather, the county was required to “exercise . . . due diligence . . . to meet the individualized needs of the child and the child’s family.” *See* Minn. Stat. § 260.012(f). The county allowed twice-a-week supervised visits between C.J.L. and the children. The visit supervisor testified that C.J.L. did some things well during the weekly visits, but she also testified that C.J.L. was not attuned to the children’s emotional needs and sometimes relied on the children to help her with her emotional needs. In addition, the county did allow a trial home visit in November 2020, but it did not result in stability.

Thus, the district court did not err by finding that the county made reasonable efforts to reunite C.J.L. with the children.

II. Statutory Grounds

We continue by considering C.J.L.’s argument that the district court erred by determining that the county proved three statutory grounds for termination of her parental rights. We first consider C.J.L.’s challenge to the district court’s determination that reasonable efforts have failed to correct the conditions that led to the children’s out-of-home placement.

A district court may terminate parental rights to a child if it finds that “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). A district court may presume that reasonable efforts have failed to correct

the conditions leading to a child’s out-of-home placement if four facts are proved: (1) the “child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 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 compl[ying] 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). We apply a clear-error standard of review to a district court’s findings of historical fact and an abuse-of-discretion standard of review to a district court’s ultimate determination. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012).

In this case, the district court applied the statutory presumption and determined that all four prerequisites were proved. On appeal, C.J.L. challenges only the third and fourth prerequisites. We have concluded that the county made reasonable efforts to reunify C.J.L. with the children. *See supra* part I. Accordingly, the fourth prerequisite is satisfied. The remaining issue is whether the “conditions leading to the out-of-home placement have not been corrected.” *See* Minn. Stat. § 260C.301, subd. 1(b)(5)(iii).

The district court analyzed that issue as follows:

The conditions leading to [the children’s] removal in 2019 concerned the mother’s use of controlled substances and her failure to manage her mental health symptoms. After the children were returned to her care, the mother maintained for not even five months before she admitted she began struggling and her children were sent to live with an unsafe caregiver. The mother became more overwhelmed and coped by using

controlled substances. Moreover, she exposed her children to the methamphetamine and they both ingested the substance.

The record supports the district court's factual statements. The case plan approved in June 2022 states that the children's out-of-home placement is due to C.J.L.'s ongoing drug use and mental-health condition. C.J.L. did not fully resolve her chemical-dependency issues. She failed a drug test in May 2022. C.J.L. started an inpatient treatment program but left on the first day and did not complete any treatment program before trial. She admitted in May 2022 that she was using drugs and struggling with her mental-health issues. Both children tested positive for methamphetamine, which caused the district court to find that the child had somehow ingested it. This evidence supports the district court's finding on the third prerequisite of the presumption in section 260C.301, subd. 1(b)(5).

C.J.L. contends that the district court erred by not giving sufficient consideration to the situation that existed at the time of trial. She further contends that, at the time of trial, she was sober, she was capable of parenting in the short-term, her supervised visits were going well, her children were enrolled in school, and she was actively treating her chemical-dependency and mental-health issues.

For purposes of subdivision 1(b)(5), the relevant question is whether a failure to correct the conditions that led to the children's out-of-home placement "existed at the time of" the termination trial. *See In re Welfare of P.R.L.*, 622 N.W.2d 538, 544 (Minn. 2001). The two primary issues that led to the children's out-of-home placement were C.J.L.'s chemical-dependency issues and her mental-health issues. The district court made findings

on those issues based on events occurring between May 2022 and a few days before trial in July 2022. The district court found that C.J.L. did not start an outpatient treatment program until July 7, only 11 days before the start of trial, in part because she missed an opportunity to start a treatment program at an earlier date. The district court also found that C.J.L. missed a treatment session on July 13, only five days before trial.

The district court also made findings concerning C.J.L.’s extensive history of unsuccessful treatments and subsequent relapses. The district court found that C.J.L. “has a history and a pattern of delaying to enter programming, leaving chemical dependency treatment against staff advice and at the last minute finally completing a program.” The district court further found that C.J.L. “has not completed chemical dependency treatment since her children were removed from her care in April of 2022.” With respect to her mental health, the district court found that C.J.L. “has a history and a pattern of attending individual therapy and taking her mental health medications until such time as she believes she is better” and then “chooses on her own to cease taking her medications and attending individual therapy” and then “struggles to manage her mental health symptoms without therapy and medications” and “copes by turning to using controlled substances because she has not developed coping skills to address her mental health symptoms.” These findings are phrased in the present tense, indicating that the district court believed those conditions to be ongoing. Accordingly, the district court *did* consider the circumstances that existed at the time of trial. And even if C.J.L. was substantially complying with her case plan, as she contends, that fact would not necessarily preclude a finding that she had failed to correct the conditions that led to the children’s out-of-home placement. “A parent’s

substantial compliance with a case plan may not be enough to avoid termination of parental rights when the record contains clear and convincing evidence supporting termination.” *J.K.T.*, 814 N.W.2d at 89.

Thus, the district court did not err by determining that the county proved that reasonable efforts have failed to correct the conditions that led to the children’s out-of-home placement. Only one statutory ground for termination need be proved. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004). Therefore, we need not consider or resolve C.J.L.’s arguments with respect to the other two statutory grounds.

III. Best Interests

We last consider C.J.L.’s argument that the district court erred by finding that the termination of her parental rights is in the children’s best interests.

The paramount consideration in all juvenile-protection proceedings is the best interests of the child. Minn. Stat. § 260C.301, subd. 7; *In re Welfare of Child of B.J.-M.*, 744 N.W.2d 669, 672 (Minn. 2008). A district court may not order the termination of parental rights without determining that the termination is in the child’s best interests. *S.E.P.*, 744 N.W.2d at 385. The district court’s best-interests analysis should include consideration and evaluation of “all relevant factors,” Minn. Stat. § 260C.511(a) (2022), including “a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact,” Minn. Stat. § 260C.511(b). This court has identified three factors that must be balanced when considering a child’s best interests in a termination proceeding: “(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.” *J.R.B.*, 805 N.W.2d at 905 (quotation omitted); *see also* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). This court applies a clear-error standard of review to a district court’s determination that the termination of parental rights is in a child’s best interests. *S.E.P.*, 744 N.W.2d at 387.

In this case, the district court found that it was in the best interests of the children to terminate C.J.L.’s parental rights. In its findings of fact, the district court relied on the testimony of the children’s school social worker, the children’s guardian *ad litem*, and the county’s case manager, all of whom supported the county’s termination petition. In its conclusions of law, the district court stated that termination is in the children’s best interests because “it will facilitate a safe and permanent placement and provide the children with the stability, safety and support the children need and deserve.”

The district court’s findings are supported by the record. A school social worker testified to her concerns with the possibility of the children returning to C.J.L.’s care because of their inconsistent attendance and lack of routine when they were in C.J.L.’s care. Both the county case manager and the guardian *ad litem* testified that termination of C.J.L.’s parental rights was in the children’s best interests. The guardian *ad litem* testified that, on prior occasions, C.J.L. paused her use of controlled substances only until her children were returned to her and then resumed using. The guardian *ad litem* also testified that the children need stability, which C.J.L. consistently failed to provide. In addition, the county’s case manager testified that termination is in the children’s best interests because, without long-term intensive services, C.J.L. is not capable of parenting her children. Furthermore, a visit supervisor testified that C.J.L. was not attuned to the children’s

emotional needs during supervised visits and had difficulty being present when interacting with the children.

C.J.L. contends that she “has maintained an appropriate, loving, and bonded parent-child relationship” throughout the proceeding and throughout the children’s lives. C.J.L. also asserts that she has maintained sobriety while participating in supervised visits and that the visits have “gone well.” In light of the applicable standard of review, C.J.L.’s contentions are simply not enough to overcome the evidence on which the district court relied in making its best-interests finding.

Thus, the district did not err by finding that the termination of C.J.L.’s parental rights is in the children’s best interests.

Affirmed.