

*This opinion is nonprecedential except as provided by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
A23-0376**

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

**Filed October 16, 2023
Affirmed
Gaïtas, Judge**

Otter Tail County District Court
File No. 56-JV-22-1761

Anne Morris Carlson, Anne M. Carlson Law Office, PLLC, St. Paul, Minnesota (for appellant-father D.J.L.)

Michelle M. Eldien, Otter Tail County Attorney, Sarah Estep, Assistant County Attorney, Fergus Falls, Minnesota (for respondent Otter Tail County Department of Human Services)

Janice Amundson, Dalton, Minnesota (guardian ad litem)

Considered and decided by Gaïtas, Presiding Judge; Slieter, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

In this termination-of-parental-rights appeal, appellant-father D.J.L. challenges the district court's order terminating his parental rights to his three children. Father argues that the district court abused its discretion by determining that there was a statutory basis for termination and respondent Otter Tail County Department of Human Services (the county)

made reasonable efforts toward reunification. Because we conclude that the district court did not abuse its discretion, we affirm.

FACTS

Father and respondent-mother J.A.L. are the parents of three minor children, aged 2, 3, and 4. After a termination-of-parental-rights trial (the TPR trial), the district court terminated the parents' rights to the children. Father now appeals the order terminating his parental rights.¹ Before turning to father's arguments on appeal, we briefly summarize the proceedings below.

CHIPS Proceedings

Following reports that the children were exposed to drug use in the home, lacked proper parental care, and lived in an "injurious or dangerous environment," the county petitioned the district court in October 2021 to adjudicate the children as being in need of protection or services (CHIPS). The children were removed from the home and placed in emergency protective care. In January 2022, the parents admitted to the allegations in the CHIPS petition and the district court adjudicated the children in need of protection or services.

Father's Compliance with the County's Reunification Case Plans

During the CHIPS proceedings, the county developed case plans designed to help the parents "provide a sober, safe, and violence free home environment for the children."²

¹ Mother is not a party to this appeal.

² The county created a separate case plan for each child.

These plans were filed with, and approved by, the district court. The case plans required father to obtain sobriety, abstain from illegal substances, remain law abiding, maintain contact with the county, and provide stable housing for the children. Father reviewed the case plans with the family's case manager before they were filed with the district court.

Father made some progress on his case plans. He entered treatment at the ShareHouse Treatment Facility in November 2021, and meaningfully engaged in the program. Father completed treatment and was discharged into the community in April 2022.

Although father satisfied certain aspects of his case plans, the county had "significant concerns" about his overall progress, particularly on some of the most important requirements.

First, father failed to remain sober in the community. He admitted that he used drugs on two occasions while on weekend passes from ShareHouse. And after he was discharged from treatment at ShareHouse in April 2022, he used methamphetamine twice. Father remained in the community for about one month before he was taken into custody at the Otter Tail County Detention Center in May 2022.

Second, father's imprisonment impacted his ability to provide stable housing for the children, another requirement of his case plans. Father and mother were evicted from their home in 2022. After leaving ShareHouse, father was "essentially homeless" until he was jailed in connection with multiple outstanding warrants. Ultimately, father expects to be transferred from jail to prison to serve approximately 30 months for a new first-degree driving-while-impaired conviction. Father does not have a home outside of jail or prison.

Third, and finally, father did not maintain contact with the county. Between November 2021 and February 2022, father did not share his location with his case manager. He also refused to tell his case manager where he was receiving inpatient treatment. After his discharge from ShareHouse, the county did not reestablish regular contact with father until he was incarcerated. Father's failure to communicate with the county made it difficult to arrange services to help him be successful in following his case plans.

TPR Proceedings and the District Court's Order

In August 2022, the county filed a petition to terminate the parental rights of both parents. This petition alleged five statutory grounds for termination: (1) the parents abandoned the children, (2) the parents neglected to comply with the duties imposed upon them by the parent and child relationship, (3) the parents were palpably unfit to be parties to the parent and child relationship, (4) reasonable efforts failed to correct the conditions leading to the children's out-of-home placement, and (5) the children were neglected and in foster care. Minn. Stat. § 260C.301, subd. 1(b)(1), (2), (4), (5), (8) (2022).

The district court held a 12-day court trial and heard testimony from the social worker, father's case manager, a county case aide, father's counselors, the guardian ad litem, father, and others. Following trial, the district court terminated father's and mother's parental rights to the children. As to father, the district court determined that there was clear and convincing evidence that reasonable efforts failed to correct the conditions leading to the children's out-of-home placement, and that the children were neglected and in foster care. *Id.*, subd. 1(b)(5), (8). It further determined that termination of father's parental rights was in the best interests of the children.

Father appeals.

DECISION

Father challenges the district court's order terminating his parental rights. Parental rights may be terminated only for "grave and weighty reasons." *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). A district court may involuntarily terminate parental rights if: (1) at least one of the statutory bases for terminating parental rights exists under Minnesota Statutes section 260C.301, subdivision 1(b); (2) reasonable efforts toward reunification were either made or were not required; and (3) the proposed termination is in the children's best interests. Minn. Stat. §§ 260C.301, subds. 1(b), 7, 8, .317, subd. 1 (2022); *see also In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008).

The county bears the burden of proving the existence of a statutory condition permitting the termination of parental rights, *In re Welfare of Child of H.G.D.*, 962 N.W.2d 861, 869-70 (Minn. 2021), and must do so by clear and convincing evidence, Minn. R. Juv. Prot. P. 58.03, subd. 2(a). A reviewing court will "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. This court "review[s] the district court's findings of the underlying or basic facts for clear error, but we review its determination of whether a particular statutory basis for involuntarily terminating parental rights is present for an abuse of discretion." *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). "A finding is clearly erroneous if it is either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Welfare of Child. of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted). The clear error

standard of review “is a review of the record to confirm that evidence exists to support the decision.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 222 (Minn. 2021); *see In re Welfare of Child of J.H.*, 968 N.W.2d 593, 601 n.6 (Minn. App. 2021) (applying *Kenney* on appeal from a juvenile-protection order), *rev. denied* (Minn. Dec. 6, 2021). “When 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.” *Kenney*, 963 N.W.2d at 223 (quotation omitted). In applying the clear error standard of review, appellate courts (1) view the evidence in the light most favorable to the findings, (2) do not reweigh the evidence, (3) do not find their own facts, and (4) do not reconcile conflicting evidence. *Id.* at 221-22. Thus,

an appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [district] court. Rather, because the factfinder has the primary responsibility of determining the fact issues and the advantage of observing the witnesses in view of all the circumstances surrounding the entire proceeding, an appellate court’s “duty is fully performed” after it has fairly considered all the evidence and has determined that the evidence reasonably supports the decision.

Id. at 222 (quotations and citation omitted); *see Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000) (discussing clear error standard of review).

Here, the district court determined that the county proved two statutory bases for terminating father’s rights by clear and convincing evidence because: (1) the children were neglected and in foster care and (2) reasonable efforts failed to correct the conditions leading to the removal of the children from the home. The district court further concluded that termination of father’s parental rights was in the children’s best interests.

Father does not challenge the district court's best-interests findings. However, he contends that the district court abused its discretion by terminating his parental rights on the two statutory bases. Upon review, we determine that clear and convincing evidence in the record demonstrates that father failed to correct the conditions leading to the children's out-of-home placement despite the county's reasonable efforts to reunify the family, and we affirm on that basis. For this reason, we need not address the remaining ground for termination. *See In re Welfare of Child. of R.W.*, 678 N.W.2d 49, 55 n.2 (Minn. 2004) (recognizing that only one statutory ground must be proven to support termination of parental rights).

A district court may terminate parental rights if "reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement" out of the home. Minn. Stat. § 260C.301, subd. 1(b)(5). A reviewing court presumes that reasonable efforts have failed if: (1) the "child has resided out of the parental home under court order for a cumulative period of 12 months," (2) "the court has approved the out-of-home placement plan," (3) the "conditions leading to the out-of-home placement have not been corrected" as shown by the parent's failure to "substantially [comply] 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." *Id.*, subd. 1(b)(5)(i)-(iv).

Father does not contest the district court's findings as to the first and second factors, which are supported by the record. Instead, father focuses on the third and fourth factors: whether he corrected the conditions leading to the children's removal from the home, and

whether the county made reasonable efforts to reunify father with the children. The district court's findings regarding these final two factors are supported by the evidence, and those findings support the district court's conclusion that this statutory basis for termination is satisfied.

Father Failed to Correct the Conditions Leading to the Out-of-Home Placement

Father argues that he will be able to care for the children in the foreseeable future following his release from prison. He further contends that the district court failed to address how his compliance with the case plans was necessary to correct the conditions leading to the children's out-of-home placement. These arguments implicate the third factor, which considers whether the conditions leading to the children's removal have been corrected. *Id.*, subd. 1(b)(5)(iii).

The record supports the district court's findings indicating that father did not correct these conditions. Although the district court acknowledged that father "expressed [a] desire to fulfill his responsibilities as the children's father," it found that father's "attempts to achieve a safe, stable and nurturing environment and address his mental health and chemical dependency needs have been minimal and uncommitted." The district court commended father for "ma[king] reunification with the children his top priority," and for completing treatment at ShareHouse. But the district court found that father struggled with sobriety and "ha[d] yet to show sobriety outside of a structured setting." Based on these findings, the district court concluded that the children could not safely be returned to father's care.

Sufficient evidence in the record supports these findings. The county initially opened an investigation after receiving reports that the children were living in an unsafe environment. After the CHIPS proceedings, the district court approved case plans designed to reunite the family, which father reviewed with the case manager. Among other things, these plans required father to obtain sobriety, refrain from using drugs, maintain contact with the county, and provide stable housing for the children.

During the TPR trial, the district court heard testimony about father's lack of compliance with these requirements. The case manager testified that father did not remain in contact with the county "for a significant period of time." And father declined to tell the case manager where he was staying.

Father also failed to follow the requirement to become sober and abstain from illegal substances. Although father entered treatment at ShareHouse and participated in programming, he twice left the facility on weekend passes and tested positive for drugs upon his return. Father did complete treatment and was released into the community. But one month later, father was arrested and jailed. The case manager met with father a few days after his arrest. During that meeting, father admitted using methamphetamine and alcohol after his release from treatment. The case manager was concerned that father had not demonstrated that he could remain sober while in the community.

Additionally, the case manager was concerned about father's inability to establish stable housing. The county did not have a physical home address for father. And father was expected to be in jail and then prison for the foreseeable future.

Based on her assessment, the case manager testified that father loved his children but did not have the coping skills to maintain sobriety in the community, did not have housing, and would not be able to maintain stable mental health after his release from prison. The case manager noted that father would be incarcerated for several more years and would not “be in the position to be available for parenting for a significant amount of time.” Counsel asked the case manager if she believed father would be available to parent in the foreseeable future and she responded, “I do not.”

The county supervisor also testified at the TPR trial and echoed the case manager’s concerns. She agreed that father did not successfully complete his case plans to allow for reunification. The supervisor testified that father was not available at the present time to provide care to the children. Moreover, she did not believe that there would be any resolution in the foreseeable future that would allow for father to be successfully reunified with the children in a safe, stable, or appropriate manner.

On appeal, father argues that he will be able to care for the children in the future. We are not persuaded by this argument given the testimony presented and father’s own admissions that he has difficulty remaining sober and does not have housing. Moreover, as noted, appellate courts cannot find their own facts, and “[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.” *Kenney*, 963 N.W.2d at 223 (quotation omitted); *see Vangsness*, 607 N.W.2d at 474 (noting that, although “the record might support findings other than those made by the [district] court,” this does not mean “that the court’s findings are defective”). Because the record supports the district

court's findings, we discern no clear error. While we commend father for seeking treatment, we cannot say, on this record, that the district court abused its discretion by determining that father did not correct the conditions leading to the children's removal from the home. We therefore conclude that the third factor has been met.

The County Made Reasonable Efforts to Reunify Father with the Children

As to the fourth factor, the district court concluded that the county made reasonable efforts to reunify father and the children. A county must make reasonable efforts toward reunification before a district court may terminate a parent's rights. *T.R.*, 750 N.W.2d at 664; Minn. Stat. § 260.012(a) (2022). 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) (quotations omitted), *rev. denied* (Minn. Mar. 28, 2007). To determine whether efforts were reasonable, the district court considers whether the services offered were relevant to the safety and protection of the child, adequate to meet the needs of the child and family, culturally appropriate, available and accessible, consistent and timely, and realistic under the circumstances. Minn. Stat. § 260.012(h) (2022). Finally, the district court considers "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 district court made thorough findings of fact related to the county's efforts to alleviate the conditions that gave rise to the need for out-of-home placement. These services included: (1) ongoing case management and monitoring; (2) referrals to support services including chemical-dependency assistance, drug testing, a family resource worker,

mental-health assistance, and parental capacity evaluations; (3) transportation assistance; (4) communication assistance; and (5) a search for relative permanency options. The district court found that, “[t]hese services were adequate to meet the needs of the children and family” and were specifically tailored to treat father’s chemical dependency and focus on providing a safe and stable living environment for the children. The district court noted that the county accommodated the cultural needs of both parents. According to the district court, the county also made “every effort to provide these services to both parents, by repeatedly attempting to track them down in person.” The district court found that,

[t]o the extent these services were inconsistent or untimely, it was due to [father’s] lack of transparency and timeliness of reporting his physical whereabouts, his voluntary choice to not address his criminal warrants, lack of follow through on low intensity treatment after his discharge from ShareHouse, [and father’s] lack of participation and contact.

Clear and convincing evidence in the record supports the district court’s findings that the county made reasonable efforts at reunification. The county initially had difficulty coordinating services for father because he failed to maintain regular contact with the county or with his service providers. As a result, the case manager could not confirm whether father was complying with his case plans or receiving treatment. Father eventually told the case manager that he was in treatment, but he refused to disclose his location. After the county learned that father was in treatment, it continued to arrange services, including mental-health services and alcohol-and-drug counseling. The guardian ad litem testified that the county provided reasonable efforts to father, but that he had not corrected the

conditions despite the county's efforts. These circumstances support the conclusion that the county made reasonable efforts to reunite father with the children.

Father argues that the county's reunification efforts were insufficient because the county denied his initial requests for visitation with the children. He further asserts that the foster parent did not always facilitate computer-based visitation calls, despite his requests for such visits. The record does not support these arguments. Father had multiple visits with the children. The county case aide testified that she arranged several online visits. And the case manager confirmed that father had supervised visits with the children online while he was in ShareHouse. We are satisfied that the county facilitated visits between father and the children.

The ultimate purpose of making reasonable efforts is to "assist in alleviating the conditions that gave rise to the dependency adjudication." *H.K.*, 455 N.W.2d at 532. Here, the district court found that, despite the county's reasonable efforts, the conditions leading to the out-of-home placement continued to exist. We agree, and we conclude that the district court did not abuse its discretion by determining that the fourth factor has been met.

Upon review, all four of the statutory factors outlined in section 260C.301, subdivision 1(b)(5), have been established by the record evidence. In sum, because (1) a statutory ground for termination of parental rights is supported by clear and convincing evidence, (2) the county made reasonable efforts to reunify the family, and (3) father does not contest that termination is in the children's best interests, we conclude that the district court did not abuse its discretion by terminating father's parental rights.

Affirmed.