

*This opinion is nonprecedential except as provided by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
A24-0314**

In the Matter of the Welfare of the Child of: M. M. P., Parent.

**Filed November 12, 2024
Affirmed
Wheelock, Judge**

Hennepin County District Court
File No. 27-JV-23-742

Brooke Beskau Warg, Hennepin County Adult Representation Services, Minneapolis, Minnesota (for appellant M.M.P.)

Mary F. Moriarty, Hennepin County Attorney, Britta Nicholson, Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County Human Services)

Diamond Davis, Minneapolis, Minnesota (guardian ad litem)

Considered and decided by Bjorkman, Presiding Judge; Wheelock, Judge; and Jesson, Judge.*

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant mother challenges the district court's order terminating her parental rights. She argues that the district court abused its discretion by (1) determining that a termination of parental rights (TPR) is in the child's best interests and (2) not converting this case to a child-in-need-of-protection-or-services (CHIPS) proceeding. We affirm.

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

FACTS

Appellant M.M.P. (mother) gave birth to D.G.P.B. (the child) in March 2023. Both mother and the child tested positive for methamphetamine at the child's birth. Respondent Hennepin County Human Services and Public Health Department (the department) received these toxicology results and reports describing mother's behavior at the hospital, including thrashing, yelling, throwing objects, and threatening to kill the child's father.

Previously, in 2021, mother's parental rights to another child were involuntarily terminated. The district court in the 2021 termination proceeding determined that mother "failed to comply with her court-ordered case plan and had not corrected the chemical dependency or mental health issues leading to [that child's] out of home placement." That district court also determined that she "neglected parent-child duties," "was palpably unfit to be a party to the parent-child relationship," and "failed to correct the conditions leading to [that] child's foster placement," and that the child "was neglected by [mother] and in foster care." The TPR order from that case states that mother gained sobriety about two months before trial.

Because of the prior involuntary termination of mother's rights to her other child, the department filed a petition to terminate mother's parental rights to D.G.P.B. immediately after his birth as required by Minn. Stat. § 260C.503, subd. 2(a)(4) (2022). The department alleged that mother was palpably unfit to be a parent and that the child was born to unmarried parents without a registered father as statutory bases for the petition. Minn. Stat. § 260C.301, subd. 1(b)(4), (7) (2022). The district court held an admit/deny hearing and issued an out-of-home placement order that same day. The department

requested a trial date. The district court denied this request, giving mother additional time to engage with her case plan.¹ Four months later, the department made a second trial request, that the district court granted. Roughly a month before trial, mother began demonstrating sobriety.

The district court held trial over five days between October and December and received testimony from mother, a child-protection social worker, a child-protection investigator, a parenting educator and coach, a child-protection supervisor, and a guardian ad litem. By the end of the trial, mother had maintained her sobriety for over 90 days and was on track to graduate from treatment in January 2024. She testified about her addiction, saying that “any [time] that you’re addicted to a substance . . . it’s something you’re going to battle for the rest of your life.” She also testified that the “longest period of sobriety” she has had since starting to use methamphetamine in 2016 was likely this proceeding. Mother’s prior TPR order stated that she admitted to using numerous chemicals throughout her late teens, and her comprehensive assessment showed that she began using methamphetamine after a period of sobriety from ages 20 to 28. Mother testified that she previously had relapsed after graduating from treatment. She admitted that using methamphetamine while the child was in her care created a safety risk for the child and wanted more time to work her case plan.

¹ Notwithstanding that Minn. Stat. § 260C.503, subd. 2(a)(4), requires that the department ask the county attorney to immediately file a TPR petition and proceed to permanency proceedings when a “child’s parent has lost parental rights to another child through an order involuntarily terminating the parent’s rights,” the department provided mother with a case plan.

The parenting educator testified that mother had been engaged in supervised visits with the child and that stopping them would be harmful to the child. Although the guardian ad litem supported mother's request for more time to work her case plan, the district court "gave little weight" to her testimony and permanency recommendation because she "conducted a very limited investigation in this matter" and "failed to adequately explain how" her recommendation against the TPR was in the child's best interests.

The social worker testified that mother is not capable of being the stable caretaker whom the child needs now and in the reasonably foreseeable future. She stated that mother is unlikely to sustain her sobriety because it is recent and mother has often returned to using chemicals after periods of sobriety. The social worker also testified that the department needed more time to identify the best permanency option for the child as between the child's father and a relative foster placement. Finally, she testified that she would be concerned if the district court declined to terminate mother's parental rights. The district court found that the social worker's testimony was credible and persuasive.

In its order, the district court credited mother's testimony about her love for the child and desire to retain her parental rights, but it determined that mother's testimony regarding her chemical-dependency and mental-health treatment history "often conflicted with contemporaneous records and other more credible evidence." The district court described mother's testimony as "often biased and self-serving" and stated that her "dishonesty, minimization, deflection, and blaming others, rendered the majority of her testimony not credible, not persuasive, and unreliable." Ultimately, the district court determined that the department's exhibits and testimony "significantly outweighed" mother's testimony.

The district court also determined that mother's case-plan progress was not sustainable. Although mother provided clean urine tests through the trial, she failed to start treatment until two months before trial began, previously had attended numerous chemical-dependency treatment programs and relapsed multiple times, had not engaged consistently in mental-health services throughout the case, and minimized the risks these concerns presented to the child.

The district court determined that terminating mother's parental rights was in the child's best interests "due to [mother's] long history of chemical dependency and mental health issues" and because she "did not actively engage in her case plan until just before trial" despite the "case plan services [being] appropriate to address the issues that prompted this case." In concluding that a TPR was in the child's best interests, the district court declined to convert this case to a CHIPS matter.

Mother appeals.

DECISION

To involuntarily terminate parental rights, a district court must make determinations as to (1) a statutory basis for the termination, (2) the best interests of the child, and (3) that the department made, or was absolved of making, reasonable efforts to reunify the child with the parent. *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008); *see* Minn. Stat. § 260C.301, subd. 1(b) (2022) (providing statutory grounds for termination of parental rights). Minnesota Statutes section 260C.503, subdivision 2(a)(4), provides that the "responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when . . . the child's parent has lost parental rights

to another child through an order involuntarily terminating the parent's rights." Minn. Stat. § 260C.503, subd. 2(a)(4). When the district court determines that a petition alleges a prima facie case that "the parental rights of the parent to another child have been terminated involuntarily," the department is relieved of reasonable efforts to reunify the child with the parent. Minn. Stat. § 260.012(a)(2) (2022); *see, e.g., In re Welfare of Child of R.V.M.*, 8 N.W.3d 680, 695-96 (Minn. App. 2024) (explaining that it is the district court's duty, rather than the county's, to approve a case plan), *rev. denied* (Minn. July 19, 2024).

When evaluating the best interests of a child in a TPR proceeding, the district court must consider "(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." *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 657 (Minn. App. 2018) (quotation omitted); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (requiring findings on these factors). In cases in which the district court rules that a statutory basis to terminate parental rights exists, "[w]here the interests of parent and child conflict, the interests of the child are paramount." Minn. Stat. § 260C.301, subd. 7 (2022).

We review whether termination is in the child's best interests and a district court's ultimate decision on termination for an abuse of discretion. *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

I. The district court did not abuse its discretion by determining that it was in the best interests of the child to terminate mother's parental rights.

Mother argues that the district court abused its discretion by determining that termination of her parental rights was in the best interests of the child because (1) the department had not finalized the child's permanency plan and (2) she had made progress on her case plan. We address each argument in turn.

Because adoption is a subcategory of permanency, we draw from relevant adoption caselaw to address mother's permanency argument. "The termination statute contains no provision requiring a juvenile court to assess the likelihood that a child will be adopted as part of its analysis of the child's best interests." *In re Welfare of J.M.*, 574 N.W.2d 717, 723 (Minn. 1998); *see also In re Welfare of Child of E.R.*, No. A10-0782, 2010 WL 4181639, at *8-9 (Minn. App. Oct. 26, 2010) (applying this aspect of *J.M.* and explaining that Minn. Stat. § 260.221 (1996), interpreted in *J.M.*, was the predecessor of the current termination statute, Minn. Stat. § 260C.301).² The supreme court has made clear that the imminence of a child's permanent placement is not a required consideration in a termination proceeding:

The court of appeals also seems to have grounded its reversal of the termination on the fact that there is no evidence that adoption of the children is an immediate possibility. It is evident that one of the purposes of the termination of parental rights statute is to facilitate adoption. However, nowhere in the statute is imminent adoption an element of a termination

² "Nonprecedential opinions . . . may be cited as persuasive authority." Minn. R. Civ. App. P. 136.01, subd. 1(c).

proceeding. The court of appeals seems to have added a requirement not contemplated by the legislature.

In re Welfare of P.J.K., 369 N.W.2d 286, 292 (Minn. 1985) (citation and quotation marks omitted).

This court has consistently concluded that a child's placement is distinct from whether termination is in their best interests. *See, e.g., In re Welfare of Child. of N.M.L.*, No. A15-0830, 2015 WL 6113517, at *4 (Minn. App. Oct. 19, 2015) (stating that findings specific to a child's permanency plan are "not necessary to support a determination that a TPR is in a child's best-interests"), *rev. denied* (Minn. Nov. 20, 2015); *In re Welfare of Child. of C.D.B.*, No. A14-0566, 2014 WL 4957986, at *11 (Minn. App. Oct. 6, 2014) ("[T]he juvenile court did not err by terminating appellant's parental rights when the county had not yet finalized a permanent placement plan for the children."); *In re Welfare of Child of D.D.*, No. A13-2027, 2014 WL 1344397, at *6 (Minn. App. Apr. 7, 2014) ("Placement with a relative is an issue distinct from whether parental rights will be terminated."); *In re Welfare of Child. of S.A.W.*, No. A09-0517, 2009 WL 2998116, at *11 (Minn. App. Sept. 22, 2009) ("[W]here a child is to be placed is distinct from, and ancillary to, whether parental rights to that child will be terminated. . . . [W]e conclude that the placement question does not legally drive the result of the termination question."), *rev. denied* (Minn. Oct. 28, 2009). Because a child's permanency plan is not a factor that district courts must consider when determining whether a TPR is in the best interests of the child, mother's argument does not provide a legal basis for error.

Mother next argues that the district court's determination that terminating her parental rights is in the child's best interests is contrary to the logic and facts in the record because she had made progress on her case plan. Mother supports her argument by pointing to the 90 days of sobriety she achieved during the trial, her engagement in supervised visits with the child, the guardian ad litem's support for continued work on her case plan, and the parenting educator's testimony that it would be harmful to the child to stop visits with her.

In determining that termination of mother's parental rights is in the best interests of the child, the district court credited the social worker's testimony that the child "needs someone who . . . doesn't have major mental health needs and is addressing those needs" and that mother is not capable of being that kind of caregiver "at this time or in the reasonable future." We defer to the district court's credibility determinations. *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996). And other evidence in the record supports the district court's best-interests determination. Mother acknowledged that her "longest period of sobriety" was "probably this [proceeding]," that historically, she had not gone more than a month without using methamphetamine, and that she has relapsed after graduating from treatment. The district court received evidence showing that mother started using chemicals in her late teens, achieved sobriety from ages 20 to 28, and then started using methamphetamine when she was 29. In her prior TPR proceeding, mother also did not demonstrate sobriety for most of the case's pendency but temporarily achieved it for about two months right before trial. The district court's determinations that mother did not actively engage with her case plan until just before trial and that she had a long history of chemical-dependency and mental-health issues were consistent with logic and

the facts in the record and supported its ultimate determination that the child's interest in having a safe, stable, and sober caregiver outweighs mother's interest in preserving the parent-child relationship.

Caselaw supports the district court's reasoning that mother's recent demonstration of sobriety does not overcome the child's best interests, which are paramount. *See In re Welfare of S.Z.*, 547 N.W.2d 886, 893-94 (Minn. 1996) (providing that, although father was doing well at the time of trial, the district court properly considered his long history of mental illness and substance abuse when terminating his parental rights); *see also In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011) (noting that a parent's inability to provide stability in the reasonably foreseeable future supported a determination that a TPR was in the best interests of the child), *rev. denied* (Minn. Jan. 6, 2012).

In conclusion, the district court did not abuse its discretion by determining that terminating mother's parental rights was in the child's best interests because the district court was not required to consider permanency plans during a TPR proceeding and the district court properly considered mother's progress on her case plan.

II. The district court did not abuse its discretion by not converting this matter into a CHIPS proceeding.

Mother argues that the district court abused its discretion when it determined that terminating her parental rights, rather than converting this matter into a CHIPS proceeding, was in the child's best interests. In support of her argument, mother again points to the department's lack of a final permanency plan for the child, the progress she had made on her case plan, and the guardian ad litem's support. The department argues that the district

court acted within its discretion when it terminated mother's parental rights. Although mother did not formally move the district court to convert this case into a CHIPS matter, she makes this argument on appeal and the department addresses it in its response. Therefore, we address it in the interest of justice. Minn. R. Civ. App. P. 103.04. For the same reasons as those regarding the district court's termination decision, mother's arguments are unpersuasive. As explained above, (1) the status of a child's permanency plan is not a factor that district courts must weigh when considering a TPR petition, *J.M.*, 574 N.W.2d at 723, and (2) the district court properly considered and weighed mother's case-plan progress with all of the evidence presented to it and acted within its discretion when it determined that it was in the child's best interests to terminate mother's parental rights. Mother's reliance on the guardian ad litem's endorsement of converting this matter into a CHIPS proceeding is unavailing. The district court "gave little weight" to the guardian ad litem's testimony and permanency recommendation, determining that the guardian ad litem "conducted a very limited investigation in this matter" and "failed to adequately explain how" her recommendation against the TPR was in the child's best interests. We defer to the district court's credibility determination. *L.A.F.*, 554 N.W.2d at 396.

We therefore conclude that the district court did not abuse its discretion when it determined that terminating mother's parental rights, rather than converting the matter into a CHIPS proceeding, was in the child's best interests.

Affirmed.