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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0368**

In the Matter of the Welfare of the Children of:
K. C. M. and C. C. M., Parents.

**Filed August 26, 2024
Affirmed
Smith, Tracy M., Judge**

St. Louis County District Court
File No. 69VI-JV-23-5

Matthew J. Miller, Duluth, Minnesota (for appellant mother K.C.M.)

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L.L.M.)

Sara Henkel, Virginia, Minnesota (guardian ad litem)

Considered and decided by Smith, Tracy M., Presiding Judge; Harris, Judge; and
Klaphake, Judge.*

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

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

On appeal from the termination of appellant mother's parental rights, mother argues that the district court abused its discretion by concluding that the county made reasonable efforts to reunify the family. We affirm.

FACTS

Appellant K.C.M. (mother) is the mother of four minor children: J.R.M. (age 14 at the time of trial), L.L.M. (age 13 at the time of trial), E.-I.L.M. (age 5 at the time of trial), and C.E.M. (age 4 at the time of trial). The children's father initially lived with mother and the children, but by early 2020 he had relocated to Florida.

Between October 2015 and October 2021, the St. Louis County Public Health and Human Services Department (the county) received numerous reports about the family regarding various child-protection concerns, including environmental hazards, unreasonable confinement, and failure to provide for the children's basic needs. The reports detailed the children being locked in rooms without access to food or toileting facilities, physical abuse, neglect of J.R.M.'s dental health to the extent that she was unable to eat food due to mouth pain, unsanitary living conditions, failure to provide J.R.M. and L.L.M. with access to mental-health support after trips to the hospital for suicidal ideation, blaming of J.R.M. and L.L.M. for social services involvement, and failure to provide J.R.M. with necessary medications. During this time, the county offered services to the family related to these concerns.

On October 31, 2021, J.R.M. was arrested and placed on a police hold after crashing mother's car into a tree. The three other children were removed from the home on November 1, 2021, after police visited the home to inform mother of J.R.M.'s police hold and the officers discovered the home in an unsafe condition, with the two youngest children confined in a bedroom by a bungee cord.

After the children were removed from the home, the county filed an emergency petition alleging that the children were in need of protection or services (CHIPS). Mother admitted the factual allegations in the petition alleging the children to be CHIPS, and the district court adjudicated the children CHIPS.

The county submitted out-of-home placement plans for each child. The case plans were updated approximately every six months—with the exception of E.-I.L.M.'s plan, which was updated only two times, once four months after the initial plan and then again ten months later—and received court approval. The plans included the following requirements: (1) that mother “engage with homemaker services and demonstrate the successful application of those principles over a period of time with the children”; (2) that mother and father “engage with parenting education, i.e., IFBS [Intensive Family Based Services], COS [Circles of Security], and Family Wise and demonstrate the successful application of those principles over a period of time with the children”; and (3) that mother and father “address mental health concerns via diagnostic assessment, and follow all recommendations and demonstrate the successful application of those principles over a period of time with the children.”

In January 2023, the county filed a petition to terminate the parental rights (TPR) of both parents. Mother entered a denial to the petition.

The matter proceeded to trial, which was held December 8 and 12, 2023. At trial, several witnesses testified, including L.L.M., mother, the consulting psychologist for the county, the assigned social worker, two other employees of the county, the supervised-visits supervisor, the guardian ad litem, and mother's coworker. The district court also admitted and received numerous exhibits, including child-protection reports from between October 2015 and August 2023, Social Services Information System (SSIS) notes, and the notes from supervised visits facilitated by Lutheran Social Services (LSS).

During trial, the parties agreed to a permanency resolution for J.R.M.—temporary custody to the county. Following the trial, father consented to the adoption of L.L.M., E.-I.L.M., and C.E.M. Subsequently, the district court filed an order terminating mother's parental rights as to L.L.M., E.-I.L.M., and C.E.M.

Mother appeals.

DECISION

“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 within the district court's discretion. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136 (Minn. 2014). This court will affirm the district court's decision to terminate parental rights when the county made reasonable efforts toward reunification or those efforts were not required, at least one statutory condition supports termination, and termination is in the child's best interests. *See In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn.

2008); Minn. Stat. § 260.012(a) (2022) (addressing when reasonable efforts are not necessary).

Mother challenges only the district court's determination that the county made reasonable efforts toward reunification. Appellate courts review the district court's factual findings on the county's efforts provided to the family for clear error. *In re Welfare of Child. of J.C.L.*, 958 N.W.2d 653, 658 (Minn. App. 2021), *rev. denied* (Minn. May 12, 2021); *see also In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012) (stating that we review the district court's factual findings for clear error). The district court's determination whether the efforts were reasonable is reviewed for an abuse of discretion. *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 323 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015). A district court abuses its discretion if its findings of fact are unsupported by the record, if it improperly applies the law, or if it resolves the question in a manner that is contrary to logic and the facts on record. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022).

Reasonable efforts must “go beyond mere matters of form so as to include real, genuine assistance” and consider “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). In determining whether the county's efforts were reasonable, the district court must consider whether the services provided were:

- (1) selected in collaboration with the child's family and, if appropriate, the child;
- (2) tailored to the individualized needs of the child and child's family;

- (3) relevant to the safety, protection, and well-being of the child;
- (4) adequate to meet the individualized needs of the child and family;
- (5) culturally appropriate;
- (6) available and accessible;
- (7) consistent and timely; and
- (8) realistic under the circumstances.

Minn. Stat. § 260.012(h) (2022).

The district court found that the county provided reasonable efforts, including “safety planning, foster care; coordination with medical providers, referrals for therapy for the children and parents, supervised visitation; referrals for [IFBS], multiple family assessments, offers for respite care, case management services, homemaker services, . . . ongoing case management,” and “numerous offers to help [mother] establish ongoing case management services, ARMHS [Adult Rehabilitative Mental Health Services], homemaker services, and [IFBS].” The district court found that these services “were relevant to the safety and protection of the children, adequate to meet the needs of the children and family, culturally appropriate, available and accessible, consistent and timely, and realistic under the circumstances.”

On appeal, mother argues that the district court abused its discretion by concluding that the county provided reasonable efforts because (1) the factors in Minnesota Statutes section 260.012(h) do not support the district court’s conclusion that the county’s efforts

were reasonable and (2) the county’s efforts did not go beyond mere form or provide genuine assistance. We are not persuaded by either argument.¹

I. The factors in Minnesota Statutes section 260.012(h) support the district court’s conclusion.

Mother’s first argument exclusively focuses on the three components of the case plans: (1) that mother “engage with homemaker services and demonstrate the successful application of those principles over a period of time with the children”; (2) that she “engage with parenting education, i.e., IFBS, COS, and Family Wise and demonstrate the successful application of those principles over a period of time with the children”; and (3) that she “address mental health concerns via diagnostic assessment, and follow all recommendations and demonstrate the successful application of those principles over a period of time with the children.” Mother argues that the county’s efforts were not reasonable because these case-plan requirements were not selected in collaboration with her, tailored to the specific needs of the family, adequate, available and accessible, or consistent and timely. *See* Minn. Stat. § 260.012(h) (providing the factors the district court must consider in determining whether the county’s efforts are reasonable). We address each of mother’s arguments under the corresponding section 260.012(h) factor.

¹ The county argues that reasonable efforts were not required because the district court concluded that mother was palpably unfit. *See* Minn. Stat. § 260C.301, subd. 1(b)(4) (2022). We are not persuaded. Reasonable efforts are required in every case unless an enumerated exception exists, and a finding of palpable unfitness is not one of the exceptions listed. *See* Minn. Stat. § 260.012(a) (2022).

A. Section 260.012(h)(1): Selected in Collaboration with the Family

The district court did not find or conclude that the efforts provided by the county were selected in collaboration with the family. Mother contends that the fact that the case-plan requirements were not selected in collaboration with her cuts against concluding that the county's efforts were reasonable. We acknowledge mother's argument, but, within the context of nearly eight years of the parents not cooperating with the county's attempted provision of services, the fact that the district court did not consider whether the case-plan requirements were selected in collaboration with mother does not make them unreasonable.²

B. Section 260.012(h)(2): Tailored to the Family's Needs

Mother also argues that the case plans were not tailored to her family's needs. The district court found that the homemaker-services requirement was "to help [mother] increase her functional abilities with regard to running a household, which would secondarily be anticipated to support her ability to provide a physically safe and predictable home environment for her children." Regarding the parenting-education requirement, the district court found that this service was offered "to bolster [mother's] ability to understand and meet the daily needs of her children, particularly the needs that are more complex than

² We also note that mother asserts that the case plans were not updated every six months and that she was not made aware of the requirements. Contrary to mother's assertion, nearly all of the case plans were updated approximately every six months and they were addressed with her on several occasions. We acknowledge that not all of the case plans were updated exactly every six months as required by statute. *See* Minn. Stat. § 260C.212, subd. 1a(b) (2022). But mother cites no authority, and we are aware of none, that dictates that the county's efforts were therefore unreasonable.

simple food, clothing, and shelter.” And regarding the mental-health requirement, the district court found that it was included “to increase [mother’s] resiliency and ability to manage stress, understand and cope with both her and the children’s trauma histories and current and future mental health needs, and provide a safe and supportive environment to discuss issues arising within the home and family system.” These findings and the context in which the children were removed from the home support the district court’s conclusion that the services were tailored to the needs of the family.

Mother’s specific arguments regarding this factor are not persuasive. Mother begins by arguing that the homemaker-services requirement was not tailored to her family’s needs because she engaged with homemaker services, the social worker testified that in January 2023 mother’s home showed improvement, and the social worker had not returned to mother’s home to see her progress after that. But the district court found that mother had only one meeting with homemaker services over the entire history of the county’s involvement with the family. And, while the social worker testified that the main living area of mother’s home showed improvement, she testified that the upstairs area with the bedrooms was still “treacherous” and “cluttered” and that animal feces were still present. Mother’s argument that this requirement was not tailored to her needs because she improved the cleanliness of her home is not persuasive. And, while the county could have conducted more visits to monitor the condition of mother’s home, it is not clear that it was unreasonable for the county not to do so when it was known that mother failed to engage with homemaker services.

Next, mother argues that the parenting-education requirement was not tailored to the family's needs because it included participation in IFBS and, according to mother, the social worker did not put in a referral for that program because the social worker felt it would be a "waste of time." But, as the county points out, this statement by the social worker is taken grossly out of context. At trial, the social worker testified that she discussed IFBS with mother, who expressed disinterest in the service. The social worker also testified that, despite mother's disinterest, she nevertheless discussed a referral with the IFBS providers but "IFBS was kind of, like, don't do another referral because there's no engagement and it's just a waste of our time." Mother's argument is thus mistaken and unavailing.

Mother also argues that the mental-health-assessment requirement was not tailored to her needs because the diagnostic assessment was not obtainable and, when the recommendations were made available, they were "out of date." Contrary to mother's contention, although the diagnostic assessment was delayed and not received until January 2023, it was obtained and discussed with her at that time. The assessment was also discussed with mother in March 2023 and in the summer of 2023. The district court found that it was unreasonable to conclude that mother was unaware of the recommendations in the assessment. Mother had approximately 11 months prior to trial to implement the recommendations. And, while the social worker agreed with defense counsel that "by the time [the] results were received, they were more or less out of date," she also testified that she believed that following the recommendations from the assessment would have

benefited mother. It is not clear that the delay in access makes the requirements to complete an assessment and follow the recommendations not tailored to mother's needs.

Ultimately, the district court's findings and the record support its conclusion that the county's efforts were tailored to the family's needs.

C. Section 260.012(h)(4): Adequate

Mother argues that the case plan must have been inadequate to meet the family's individualized needs because she was in compliance with the case plan but the social worker nevertheless testified that she (the social worker) did not believe mother had made enough progress on parenting, mental health, or the home's cleanliness. We are not persuaded that mother's compliance with a case plan, while not having fully completed the goals of the case plan by the time of trial, makes the case plan inadequate.

D. Section 260.012(h)(6): Available and Accessible

Mother argues that the diagnostic assessment, IFBS, and supervised visits between her and the two younger children were not available and accessible to her. But, as discussed above, although the diagnostic assessment was delayed, it was accessible to mother approximately 11 months before trial. And IFBS was inaccessible because of mother's disinterest, which informed IFBS's directive to the social worker not to place a referral. And mother was provided with ample opportunity for supervised visits with all the children and, at one point, one-on-one visits with each of the two older children. The fact that a particular arrangement of supervised visits was not provided does not make the supervised visits unavailable and inaccessible.

E. Section 260.012(h)(7): Consistent and Timely

Mother argues that the homemaker-services requirement was not consistent or timely because the social worker did not return to her home between January 2023 and trial in December 2023 to inspect mother's improvements to the home. While home inspections by the county may have been inconsistent, this does not make the county's efforts as a whole regarding homemaker services inconsistent and untimely.

Regarding services related to the mental-health requirement, mother argues that they were not consistent or timely because the diagnostic assessment was done in March 2022 and the county did not obtain a copy until January 2023. Again, although there was a delay in obtaining mother's diagnostic assessment, it is not clear that the delay—which left mother with 11 months before trial in which to comply with the recommendations—makes the county's efforts inconsistent or untimely.

F. Section 260.012(h)(8): Realistic Under the Circumstances

Mother argues the plan was not realistic because it required compliance with the recommendations of the diagnostic assessment, which, she contends, were out of date by the time they were obtained. As discussed above, while the social worker agreed with defense counsel that “by the time [the] results were received, they were more or less out of date,” she also testified that she believed the recommendations from the assessment would have benefited mother. Based on this record, it is not clear that the case plan was unrealistic because it is not clear that the recommendations were inapplicable to mother or the goals of the case plan.

Mother argues that “failing to monitor or assess” her progress in improving her home for approximately 11 months prior to trial makes the case plan unrealistic. But mother’s progress engaging with the homemaker services was monitored—she attended only one meeting. And it is not clear that the county’s refraining from visiting mother’s home after January 2023 makes the plan unrealistic under the circumstances of mother’s failure to engage with homemaker services.

In sum, mother has not demonstrated that the district court’s determination that the county provided reasonable efforts is unsupported by the section 260.012(h) factors. We therefore discern no abuse of discretion.

II. The district court did not abuse its discretion by determining that the county provided reasonable efforts because the county’s efforts went beyond mere form.

Mother also makes a series of arguments as to why the county’s efforts did not go beyond mere form or provide genuine assistance and therefore the district court’s reasonable-efforts determination was an abuse of discretion. We are not persuaded.

Mother first argues that the supervised visits should have been changed to visits between mother and the younger children without the older children because the visits were negatively impacted by the children’s age differences, jealousy between the two older children, and desires on the part of the older children to “vent” to mother during visits. The district court considered the social worker’s testimony that the county “explored multiple different combinations of children and settings in an attempt to find a combination that [mother] could manage so they could be expanded.” And the district court found that “[w]hen [the social worker] attempted to set up one on one visits with [mother] and [one

of the older children, L.L.M.,] to allow [L.L.M.] an opportunity to have contact with her mom outside the presence of [the younger children], [mother] wasn't available for any of the proposed visits in the first two months." Mother was given an opportunity for visits with a reduced number of children, and she did not take advantage of it. The fact that the county did not provide mother with supervised visits with only the two younger children, when she did not take advantage of one-on-one supervised visits with L.L.M., does not make the efforts unreasonable.

Mother also contends that the county did not do enough to have a CHIPS specialized psychological evaluation with parenting-capacity assessment (parenting-capacity assessment) performed. She states that "two referrals, and two years elapsed, only to finally have the referral come available, yet it was learned that the [county] had provided an old number to [mother], and [mother] still was never able to get this critical assessment performed." But the county consulted with a psychologist about a parenting-capacity assessment on at least two occasions and followed up about the availability of a provider for the assessment once. And, though the provider was initially given the wrong phone number at which to contact mother, the social worker gave the provider the correct number once she realized the mistake. The provider left messages for mother at the correct number but was unable to reach her to schedule her evaluation. Under these circumstances, the fact that a parenting-capacity assessment was not performed does not make the county's efforts unreasonable.

Mother next asserts that the county failed to provide reasonable efforts because it did not address the issue of the youngest child referring to the foster parents as his "mom

and dad.” Although the social worker testified that the youngest child referred to the foster parents as his mother and father, mother does not point to any evidence in the record supporting her contention that the county failed to address this issue. And, even if mother’s assertion is true, this is a minimal oversight given the greater context of the issues facing the family. The county’s failure to address this issue does not make its efforts unreasonable.

Mother also contends that the county’s efforts to improve her parenting skills were not reasonable because the county did not provide appropriate coaching opportunities during supervised visits and did not provide an opportunity for family or reunification therapy. Outside of supervised visits, the county referred mother to the FamilyWise coaching program in February 2022, but FamilyWise discontinued working with the family in April 2022 after concluding that mother was unable to benefit from the coaching. The social worker discussed this with mother. And the supervisor of the supervised visits, whom the district court found credible, testified that during visits she would offer suggestions to mother about what to say and how to switch to appropriate topics of conversation with the children. The supervisor also testified that she told the children to listen to their mother as mother tried to apply the parenting skills. Regarding family therapy, this service was not recommended because it would not be beneficial to one of the older children, L.L.M., because of where that child was in her own healing. The county’s efforts to improve mother’s parenting skills were not unreasonable.

Mother argues that the county’s efforts were unreasonable because the county did not allow her to participate in the children’s appointments with their providers and rarely shared information about the children’s health needs. The district court considered

mother's testimony that she was never told about the children's diagnoses, medications, or appointments. But it also noted that mother "was also unable to describe medical diagnoses or needs, which predated the children's removal in November of 2021." Specifically, the district court found that mother "was unable to show any understanding of [J.R.M.'s] long-standing diagnosis . . . and could neither explain what it was nor how to meet the needs of a child with [such a diagnosis]." And the district court found that the social worker communicated E.-I.L.M.'s diagnosis to mother, which is supported by the record. The district court did not abuse its discretion by concluding that the county's efforts were reasonable despite the county's failure to include mother in the children's appointments.

Mother also argues that her testimony established that communication with the social worker "was extremely difficult and slow" and that she asked for a written case plan from the social worker but was never provided one. The district court did not include this testimony in its findings of fact or conclusions of law, and mother does not provide any analysis or argument as to why it should be considered a fact on appeal.

Finally, mother argues that between late August 2023 and trial in December 2023, the social worker did not set up supervised visits for mother "until shortly prior to the trial, when [the social worker] testified that she set up 'one last visit.'" This is factually inaccurate. The district court found that, during the relevant time, the social worker continued to "coordinate visit logistics, and observe visits" and that sometime in October 2023 the social worker "consulted about LSS terminating [mother's] visits due to too many cancellations." The record supports the district court's findings regarding multiple visits being scheduled after August 2023 and being cancelled by mother on many occasions. The

social worker's testimony regarding "one last visit" appears to be in reference to one last visit before trial after the LSS visits were reinstated.

In sum, the district court did not abuse its discretion by determining that the county's efforts were reasonable given the circumstances of this case. *See In re Welfare of A.M.C.*, 920 N.W.2d 648, 655-57 (Minn. App. 2018) (reviewing "reasonable efforts" as fact-dependent).

Affirmed.