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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0827**

In the Matter of the Welfare of the Child of:
A. N. W. and Z. C. W., Parents.

**Filed October 14, 2024
Affirmed
Connolly, Judge**

Scott County District Court
File No. 70-JV-23-4436

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

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

On appeal from the termination of her parental rights, appellant-mother argues that the district court abused its discretion in terminating her parental rights because respondent-county failed to prove by clear and convincing evidence (A) a statutory basis

for termination of appellant's parental rights; and (B) that the child's best interests support termination. We affirm.

FACTS

Appellant A.N.W. (mother) and Z.C.W. (father) are the parents of M.A.W., born in November 2022. Mother was the sole physical and sole legal custodian of the child because she and father are not legally married. But father signed a recognition of parentage, and he and mother and father claim to have been married in a religious ceremony in April 2022.

Mother moved to Minnesota in the beginning of 2022, after she met father online. At the time the child was born, father and mother were living with father's parents, his two brothers, and a nephew. Mother was the child's primary caretaker, and other family members helped with feeding and changing the child.

On Christmas Eve of 2022, father and mother brought the child to the emergency room. Mother claimed that, while father was downstairs, she accidentally dropped a half-full mug of water onto the bed, which bounced and hit the child, who was lying on the bed. An examination of the child revealed a "very small laceration" on her nose and a small "contusion" on her right cheek. The child was subsequently discharged, and notes from the examining physician indicated no basis to suggest suspicion of nonaccidental trauma.

A few weeks later, mother and father noticed that the child was "especially fussy" and was "not using her right arm normally." The parents took the child to the hospital, where examining personnel observed "linear markings" on the child's wrists, and an X-ray revealed a fracture of her right arm. When asked about the child's injuries, the parents were "unsure

of how she sustained the right radial fracture,” but stated that the child “is often very difficult to dress” because she is ““very strong and wiggly.””

The child remained at the hospital overnight and, the next morning, a detective and a child-protection worker spoke with the parents. During the interview, the parents described the child as “very difficult.” They suggested that the broken arm may have been sustained when mother was changing the child, and that the marks on the child’s wrists could have been from round mittens that went around her hands and were held in place by Velcro.

Given that the cause of the child’s injuries was uncertain, the child was placed on a 72-hour health-and-safety hold. Upon being informed of the 72-hour hold, the parents became upset, and father stated that Minnesota law did not apply to him because he was not a citizen of Minnesota, but instead claimed to be a sovereign citizen. The parents, however, ultimately acquiesced to the 72-hour hold, and the child was placed with the paternal grandmother as the primary supervisor.

The child was discharged from the hospital on January 13, 2023, which was the Friday before the Martin Luther King Day holiday weekend. After the long weekend, the social worker attempted to contact the paternal grandmother, but was unable to reach her. A subsequent investigation revealed that mother and father rented a U-Haul for a “one-way” trip to Knoxville, Tennessee. And further investigation revealed that mother and father were located at mother’s grandmother’s residence in Kentucky.

Law enforcement in Kentucky learned that mother and father “were believed to be sovereign citizens and possibly armed with a firearm,” which indicated a “heightened risk.” Police then obtained a search warrant for mother’s grandmother’s residence and placed

several squad cars in front of the residence with their “emergency lights activated so it was very apparent the police were there.” Law enforcement also attempted to contact father through his cell phone, but the calls went straight to voicemail. And police simultaneously attempted to make contact with mother and father through a loudspeaker.

Approximately two hours into the stand-off, a SWAT unit was called. Father eventually contacted law enforcement, and negotiations ensued. Both mother and father were active in the negotiations, and after approximately an hour of negotiating, father and mother exited the residence. Father and mother were then arrested and charged with kidnapping. And, during a search of mother’s grandmother’s home, police discovered a handgun that was lawfully registered to father, as well as conditions in the home consistent with hoarding.

On January 18, 2023, respondent Scott County Human Services (the “county”) filed a petition alleging that the child was in need of protection or services (CHIPS). A hearing was then held on January 26, 2023, at which both mother and father referenced a potential genetic explanation for the child’s broken arm, suggesting that the child may suffer from osteogenesis imperfecta, which is also known as “brittle bone disease.” The district court found that, although “mother and father expressed a desire to cooperate” with the county, the petition established a prima facie showing that a juvenile protection matter existed. The district court, therefore, ordered that the child remain in the temporary custody of the county for continued placement in foster care.

On April 6, 2023, the county filed an expedited petition to terminate the parental rights of mother and father on three statutory grounds: (1) Minn. Stat. § 260C.301, subd. 1(b)(2) (2022) (parental neglect); (2) Minn. Stat. § 260C.301, subd. 1(b)(4) (2022) (palpable

unfitness); and (3) Minn. Stat. § 260C.301, subd. 1(b)(6) (2022) (egregious harm).¹ Following an eight-day trial in January and February of 2024,² the district court denied the county’s petition to terminate father’s parental rights. But the district court determined that clear and convincing evidence supported the termination of mother’s parental rights under the three statutory grounds alleged in the petition. The district court also determined that the county made reasonable efforts to reunite mother with the child, and that termination of mother’s parental rights was in the child’s best interests. Mother appeals.

DECISION

Parental rights may be terminated only “for grave and weighty reasons.” *In re Welfare of Children of B.M.*, 845 N.W.2d 558, 563 (Minn. App. 2014) (quotation omitted). A district court may involuntarily terminate parental rights when the responsible social-services agency 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 NW.2d 381, 385 (Minn. 2008); Minn. Stat. § 260.012(a) (2022) (addressing when reasonable efforts are not necessary).

¹ After the district court filed its order in this matter, the legislature amended Minn. Stat. § 260C.301, subd. 1(b), by removing subdivision 1(b)(3) from the statutory grounds for termination, which led to the renumbering of subdivision 1(b)(3)-(9). *See* 2024 Minn. Laws ch. 115, art. 18, § 38, at 190-91. For consistency purposes, we cite the version of the statute in effect at the time of the termination of parental rights (TPR) proceedings.

² Due to the kidnapping charges, mother and father were incarcerated from January 2023, until January 2024, and the criminal cases against them were scheduled to begin on February 8, 2024.

On appeal from a decision to terminate parental rights, this court reviews the district court's factual findings for clear error. *S.E.P.*, 744 N.W.2d at 385, 387. In doing so, "we closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing." *Id.* at 385. But the district court's ultimate decision whether to terminate parental rights is reviewed for an abuse of discretion. *In re Welfare of Child of R.V.M.*, 8 N.W.3d 680, 688 (Minn. App. 2024), *rev. denied* (Minn. July 19, 2024).

Mother concedes that the county engaged in reasonable efforts to reunify her with her child. But mother argues that the district court erred by finding that the county proved the three statutory grounds for the termination of her parental rights. See Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (6). And mother contends that the record lacks clear and convincing evidence that termination of her parental rights was in the child's best interests.

A. Statutory bases for termination of mother's parental rights

The district court determined that clear and convincing evidence was presented supporting the termination of mother's parental rights under the following statutory grounds: (1) Minn. Stat. § 260C.301, subd. 1(b)(2) (parental neglect); Minn. Stat. § 260C.301, subd. 1(b)(4) (palpable unfitness); and (3) Minn. Stat. § 260C.301, subd. 1(b)(6) (egregious harm). Because only one statutory ground is necessary for the termination of parental rights, we may affirm if at least one of these statutory grounds has been properly established, provided that the other requirements for terminating parental rights are satisfied. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004).

1. Parental neglect

The district court may terminate parental rights if “the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship.” Minn. Stat. § 260C.301, subd. 1(b)(2). Such duties include providing food, clothing, shelter, education, and other care and control necessary for healthy child development. *Id.* “The district court must also determine that, at the time of termination, the parent is not presently able and willing to assume her responsibilities and that the condition will continue for the reasonably foreseeable future.” *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 655 (Minn. App. 2018); *see also In re Welfare of S.Z.*, 547 N.W.2d 886, 893 (Minn. 1996) (instructing district court to “address conditions that exist at the time of the hearing”).

Mother argues that the district court’s conclusions “are insufficient to satisfy this ground for termination” because the court “relie[d] primarily on two incidents in which [the child] was injured while in [mother’s] care,” which she claims “fail to satisfy the statutory requirement that [mother] continuously or repeatedly refused to comply with the duties imposed on her by the parent-child relationship.” We disagree. In finding that there was clear and convincing evidence to warrant termination of mother’s parental rights under section 260C.301, subdivision 1(b)(2), the district court referenced not only the injuries that occurred to the child while in mother’s care, but also mother’s “dishonest[y] from the start,” and her “refus[al] to acknowledge any responsibility” for the injuries. Moreover, the district court found that mother placed the child in danger by fleeing to Kentucky and refusing to comply with requests by law enforcement to leave the house. Mother’s conduct,

when combined with her ongoing refusal to take responsibility for her actions, supports the district court's determination that mother has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon her by the parent and child relationship. As such, clear and convincing evidence supports the district court's determination of parental neglect under the statute.

2. Palpable unfitness

The district court also determined that the county presented clear and convincing evidence supporting termination of mother's parental rights under Minn. Stat. § 260C.301, subd. 1(b)(4). A district court may terminate parental rights under this statute when a parent is

palpably unfit to be a party to the parent and child relationship because of a consistent pattern . . . of specific conditions directly relating to the parent and child relationship . . . which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.

Minn. Stat. § 260C.301, subd. 1(b)(4). There must be "a consistent pattern of specific conduct or specific conditions existing at the time of the hearing that appear will continue for a prolonged, indefinite period and that are permanently detrimental to the welfare of the child." *In re Welfare of T.R.*, 750 N.W.2d 656, 661 (Minn. 2008). The specific condition must directly affect the individual's ability to parent. *Id.* at 662.

Mother argues that, under *In re Welfare of M.D.O.*, 462 N.W.2d 370 (Minn. 1990), the district court's conclusions are insufficient to support termination of her parental rights for palpable unfitness. In *M.D.O.*, the appellant was convicted of second-degree murder

of her adopted child. 462 N.W.2d at 372. The respondent subsequently moved to terminate the appellant's parental rights to a later born child, alleging that the appellant was palpably unfit to be a parent because of a consistent pattern of specific conduct and specific conditions permanently detrimental to the later-born child's health. *Id.* at 372-73. The district court denied the petition, and this court reversed, concluding that the appellant was palpably unfit to parent because the criminal conviction showed a "consistent pattern of abuse" of the child and mother refused "to admit her culpability" for the child's death. *Id.* at 374. On appeal, the supreme court reversed this court, concluding that the criminal conviction did not support a finding of "a consistent pattern of abuse" because it is not an element of the crime of which the appellant was convicted. *Id.* at 376. The supreme court also determined that the record supported the district court's findings that the respondent failed to present clear and convincing evidence that the appellant fit the pattern of an abusive parent likely to repeat abusive acts. *Id.* at 378. And the supreme court determined that the record supported the district court's findings that the appellant "had profited from . . . treatment programs available in prison and, if given the opportunity, . . . would be a good candidate for therapy." *Id.*

Mother argues that *M.D.O.* supports reversal because, similar to *M.D.O.*, there are no findings here that she "is at risk of future and repeated abusive acts," and she "not only expressed a willingness to cooperate with [the county] and follow court orders," but also "immediately engaged with and became fully compliant with her case plan within three weeks of being released from custody." This argument is unavailing. Unlike in *M.D.O.*, the district court in this case *did* make findings that mother has engaged in a consistent

pattern of specific conduct that rendered mother unable to appropriately care for the child. See Minn. Stat. § 260C.301, subd. 1(b)(4). Specifically, the district court found that mother engaged in abusive conduct on two occasions, including conduct serious enough to “cleanly break” the child’s arm. The district court also found that, after breaking the child’s arm, mother fled with father and the child to Kentucky in violation of the 72-hour hold and placed the child in a dangerous position by engaging in a standoff with law enforcement. And the district court found that, despite her actions, mother has never “acknowledged what truly happened or taken any responsibility for her actions or decisions,” which has “prohibited her from safety planning to ensure [m]other received the services or assistance she needed to ensure the abuse never happens again.” These findings support the conclusion that, under section 260C.301, subdivision 1(b)(4), mother is palpably unfit to be a party to the parent and child relationship. See *In re Children of T.A.A.*, 702 N.W.2d 703, 708-09 (Minn. 2005) (affirming palpable-unfitness determination where parent failed to protect her children from abuse by others in the past and refused to recognize her responsibility to protect her child from abuse).

Mother argues that the “district court’s findings and conclusions that [she] refused to accept responsibility for the fact that [the child] sustained injuries while in her care are clearly erroneous,” because she testified that the child was injured while she was caring for her. Indeed, when asked if the child’s arm was broken “while in [her] care,” mother replied, “I suppose so, yes.” But acknowledging that the child’s arm was broken while in her care is different than acknowledging that she caused the injury and taking responsibility for her actions. Mother testified that she had no idea how the child’s arm was broken and claimed

that the marks on the child's wrists were from Velcro on the child's baby mittens. The district court did not find this testimony to be credible, and we defer to this credibility determination. *See Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (noting that appellate courts defer to the district court's explicit and implicit credibility determinations). And because we defer to the district court's credibility determination, the record supports the district court's findings that mother "has been dishonest from the start," and never "acknowledged what truly happened or taken any responsibility for her actions or decisions."

Mother further argues that the "record does not contain clear and convincing evidence that the conditions which lead to this juvenile protection matter would continue for [the] reasonably foreseeable future" because, among other things, she has engaged in services since her release from custody. But, although the district court found that mother "cooperated with case planning to a certain extent," the court also found that mother "has not participated in safety planning and shows no indication of being honest about her frustrations and behaviors." In fact, the district court specifically found mother's testimony that she is willing to cooperate with any services and follow any court orders to not be credible. Instead, the district court found that mother's "testimony was guarded and lacked awareness or acknowledgment for [the child]." And the district court stated that it did "not believe [m]other would successfully be able to safety plan for [the child] given her denial of the abuse." It is well settled that, when reviewing TPR decisions, "[c]onsiderable deference" is afforded the district court because it is in a "superior position to assess the credibility of witnesses." *In re Welfare of S.S.W.*, 767 N.W.2d 723, 733 (Minn. App. 2009)

(quotation omitted). In light of the deference afforded the district court’s credibility determinations, the record supports the district court’s determination that the conditions which lead to this child-protection matter would continue for the reasonably foreseeable future because mother has failed to take credible steps to protect the child from herself. Accordingly, clear and convincing evidence supports the determination that mother is palpably unfit to be a party to the parent and child relationship.³

B. Best interests

If at least one statutory basis to terminate parental rights exists, the paramount consideration in determining whether parental rights should be terminated is the child’s best interests. Minn. Stat. § 260C.301, subd. 7 (2022). Thus, if a district court determines that a statutory ground for termination exists, it must also determine that termination is in the child’s best interests before terminating parental rights. *See In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). “The ‘best interests of the child’ means all relevant factors to be considered and evaluated.” Minn. Stat. § 260C.511(a) (2022).

To evaluate the best interests of a child in a proceeding to terminate parental rights, a 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 Because clear and convincing evidence supports two of the statutory bases under which appellant’s parental rights were terminated, we need not address appellant’s argument that the district court erred by terminating her parental rights for egregious harm under Minn. Stat. § 260C.301, subd. 1(b)(6). *See R.W.*, 678 N.W.2d at 55 (stating that termination of parental rights may be affirmed if at least one statutory ground has been properly established).

(3) any competing interest of the child.” *A.M.C.*, 920 N.W.2d at 657 (quotation omitted); *see also* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (enumerating these factors). “Competing interests include such things as a stable environment, health considerations and the child’s preferences.” *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). “Where the interests of parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7. A district court’s best-interest determination is reviewed for an abuse of discretion. *J.R.B.*, 805 N.W.2d at 905.

Mother argues that, based on “the district court’s findings and conclusions, none of the three [best-interests] factors that [it] must consider support termination of [her] parental rights.” We are not persuaded. The district court considered mother’s interest in preserving the parent-child relationship and found that mother has “expressed the importance of being in [the child’s] life.” The district court also considered the child’s interest in preserving the parent-child relationship and found that “[a] child generally has a strong interest in being with her parents or family,” but in this case, the child “cannot express an opinion or an interest regarding preserving the parent-child relationship.”

Finally, with respect to the competing interests of the child, the district court found that “it is clear that [the child] suffered trauma from the abuse and separation from her parents.” The district court also found that the child has been separated from mother for over a year, and the child is now “closely bonded with her foster mother.” And, importantly, the district court found that mother’s “denial and aversion to accepting responsibility [for her actions] is not in [the child’s] best interests.” The district court analyzed and balanced all these considerations and determined that “it is in the best

interests of the child to have the parental rights of mother terminated.” Mother is unable to show that the district court’s best-interests determination was an abuse of discretion.

In sum, there is clear and convincing evidence supporting the district court’s termination of mother’s parental rights under at least two statutory grounds. The district court also did not abuse its discretion in considering the child’s best interests. Accordingly, the district court did not abuse its discretion in terminating mother’s parental rights.

Affirmed.