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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0893**

In the Matter of the Welfare of the Children of:
A. E. D. and D. L. S., Jr. Parents.

**Filed December 23, 2024
Affirmed
Jesson, Judge***

Crow Wing County District Court
File No. 18-JV-23-2272

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Considered and decided by Ross, Presiding Judge; Harris, Judge; and Jesson, Judge.

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

NONPRECEDENTIAL OPINION

JESSON, Judge

Respondent Crow Wing County (the county) removed the four children of appellant-mother A.E.D. and father D.L.S. Jr. from their home after receiving reports of emotional abuse and domestic violence. Mother and father never married and mother had sole physical and legal custody of the children. Thirteen months later, the county petitioned for transfer of permanent physical and legal custody of the children to their maternal grandparents.

After a four-day trial the district court granted the county's petition. Mother appeals arguing the district court erred in its best-interests analysis and in determining that conditions that led to the out-of-home placement had not been corrected. She also assigns error to the district court's conclusion that the transfer of custody was involuntary as to father. Because the district court's order is supported by the law and the record, and mother does not have standing to raise an issue on behalf of father, we affirm.

FACTS

Mother and father share four daughters born in 2006, 2008, 2013, and 2014. Prior to the removal of the children from the home, mother, father, and the children lived together, in the same home. While the children's primary residence was with mother and father, across the years they also spent time living with their maternal grandparents.

On an evening in late May 2022, the county received multiple reports regarding mother and father's home. The reports indicated that mother was making suicidal statements, yelling insults and obscenities at the children, threatening physical abuse, and

had punched a wall near one of the children. Law enforcement responded. Father told the officers that it was not safe for the children to be around mother due to her mental health. Officers determined mother needed a mental-health evaluation but father stated that he could not care for the children due to his work schedule. As a result, the children were placed with their maternal grandparents.

In early June 2022, the county filed a Child in Need of Protection and Services (CHIPS) petition alleging the above facts. The petition further stated that mother yelled at the two oldest children using disparaging comments while the younger children “were in their room crying as they could hear [mother] yelling ‘swear words’ at [the older children].” Additionally, the petition stated that the children had observed mother “putting her hands around [father’s] neck and pinching,” that on another occasion mother spanked one of the children with a belt hard enough to leave a lasting mark, and that the children reported being “hit, beat, and choked.” The petition also described a statement from father concerning mother’s multiple mental health diagnoses and detailed prior reports the county received regarding the family, going back to 2010.¹

¹ The petition stated that the county received ten reports regarding the family prior to the report in May 2022, including one in 2020, two in 2019, three in 2017, one in 2016, two in 2014, and one in 2010. These reports included allegations of physical abuse, concerns about mother’s anger management, and unsanitary living conditions. The county offered services to the parents and relied on the support of the children’s grandparents to address the concerns in the reports. The petition also described calls to law enforcement in (1) January 2022 regarding conflict over the oldest child’s refusal to leave their grandparent’s home and return to mother’s care and (2) February 2020 when father reported that mother was “acting crazy” and requested assistance getting the two older children out of the home to their grandparent’s home.

In October 2022, the children were adjudicated CHIPS. Case plans for the parents were court ordered, while the children remained in out-of-home placement with their grandparents. Mother's case plan, among other provisions, required that she (1) maintain a home that is free from domestic violence; (2) demonstrate an ability to have appropriate and safe interactions with the children; (3) demonstrate an ability to meet the emotional needs of the children; and (4) demonstrate insight into how her mental health impacts the children. In November 2022, the district court held a six-month permanency progress review hearing, where it found that the parents made progress on the case plans and were making regular contact with the children. Based on that finding, the district court extended permanency timelines.

In June 2023, the county filed a petition to transfer permanent physical and legal custody of the children to their maternal grandparents. The petition alleged that mother had not substantially completed the requirements of her case plan, specifically raising concerns about her ability to have emotionally stable interactions with the children. The case proceeded to a four-day trial.

At trial, mother described the work she did on her case plan and stated that she believed that the children could safely return to her care. But the guardian ad litem testified that the transfer of custody was in the children's best interests and raised concerns about domestic conflict in the home. Further, the county case manager told the court that the county did not believe that mother had successfully mitigated the issues that lead to the out-of-home placement, specifically as it relates to domestic conflict and having appropriate and emotionally supportive interactions with the children. For example, the

case manager testified that during an overnight visit in April 2023, conflict between mother and father expanded into mother yelling at the children while using disparaging language. As a result of the impact on the children, and after consulting with the guardian ad litem, overnight visits were discontinued.

A separate county case worker who supervised visits testified that some visits were positive but noted 32 visits where mother's conduct was concerning and of those visits, 23 where mother's conduct was serious. This conduct included mother yelling and swearing at father in front of the children, making disparaging comments regarding the maternal grandparents, and focusing on the CHIPS case rather than the children. Visit notes detailed one visit in which mother showed the children video of her being physically restrained by law enforcement. The notes also describe two occasions where conflict between mother and father adversely impacted the visit. Before one visit, in December 2022, mother informed the county of the escalating conflict between herself and father, and the visit was cancelled. During another visit, in September 2023, the conflict escalated to the point that mother threatened to take the children and leave, and father had to remove the younger children from the area. The county case worker testified that "bad visits" became more frequent as the case went on and at the end of her work with the family, she had not observed a change for the better. Instead "things were worse."

The court also heard testimony from the psychological evaluator who conducted a parenting capacity evaluation with both parents.² The evaluator stated that mother

² A parenting capacity evaluation includes psychological testing, a clinical interview, parent-child observation, and information from collateral sources.

provided answers to the psychological testing that resulted in invalid results. While the evaluator sought to redo the testing, mother never rescheduled. Despite this, the evaluator testified they were able to gather enough information through other means to make a comprehensive set of recommendations regarding mother's parenting capacity. These recommendations included: (1) attend regular psychiatric medication evaluations and follow recommendations; (2) work with an Adult Rehabilitative Mental Health Services (ARMHS) worker; (3) attend individual therapy; (4) complete a Dialectical Behavioral Therapy (DBT) program; (5) complete an anger management program; and (6) attend couples counseling with father. Without completion of these recommendations, the evaluator testified that she would have concerns regarding reunification.

The grandparents testified in support of the transfer of custody. Grandfather testified that, prior to their removal, mother would leave the children with the grandparents for extended periods of time.³ But after being consistently placed with grandparents as part of the CHIPS case, grandfather noted improvement in the children's academic progress, particularly for the two youngest children, as well as an increase in the children's day-to-day comfort level. The grandfather also testified to a willingness to support the children's relationship with both mother and father should the transfer of permanent physical and legal custody occur.

In the testimony of the two oldest children, the first child explained that she is happy when she is at her grandparents' home and that she sees her grandparents and her father as

³ Grandmother's testimony was brief and generally corroborated Grandfather's.

the most important adults in her life. The child likes her mother when she is “calm.” But the oldest child feels scared when mother becomes angry and feels the need to stand up for her siblings. The second oldest child also described her grandparents as the most important adults in her life. She has regular contact with mother, the child testified, and likes mother when she is “not mean and yelling.” But when mother becomes upset, she yells, throws things, and “grab[s]” her and her siblings, which is frightening, according to the child.⁴

The district court granted the county’s petition to transfer permanent physical and legal custody of the children to the grandparents, deferring finalization for the approval of Northstar Kinship Assistance.⁵ The district court found that mother had complied with some aspects of her case plan including participating in visits with the children, keeping a safe and clean home, and some portions of the requirements regarding her mental health. However, mother had not complied with other provisions including the requirement that she attend individual therapy, anger management, or couples counseling. Moreover, the district court found mother had not complied with the conditions to “maintain a home that is free from domestic violence,” “demonstrate an ability to maintain safe, appropriate, supportive, emotionally-attuned interactions with her children,” or “demonstrate an ability to meet her children’s emotional and mental health needs.” Rather, mother “continues to minimize her role in the children’s emotional trauma and lacks insights into her behaviors

⁴ The third oldest child did not testify but at the outset of the trial she expressed a desire, through counsel, to live with her grandparents and parents on alternating weeks.

⁵ The district court did not order the transfer of physical and legal custody of the oldest child because she was expected to turn 18 years old prior to the approval of Northstar Kinship Assistance and the finalization of the order, and as a result could be admitted into the extended foster care program.

and how they affect the children.” Accordingly, the district court concluded that mother had not corrected the conditions that led to the out-of-home placement.

With regard to the children’s best interests, the district court concluded:

Based on the parents’ lack of significant progress on their Case Plans and the lack of awareness of the conditions that caused the children to be removed, it is unlikely the parents can provide a safe and stable home or exhibit appropriate parental care within the next six months or more. A transfer of custody to the children’s grandparents would allow the children to repair or otherwise maintain their relationship with their mother and father over time while ensuring the children have appropriate care. Therefore, a transfer of custody minimizes the harm to the parent-child relationship for both parents while still ensuring the children have a safe and stable home. Accordingly, a permanent transfer of custody of the children to relatives is in the best interest of the children.

In granting the petition, the district court found the transfer of permanent physical and legal custody to be involuntary as to mother and father.

Mother appeals.

DECISION

When ordering a transfer of permanent physical and legal custody through juvenile protection proceedings, the district court must make detailed findings as to (1) “how the child[ren]’s best interests are served by the order”; (2) “the nature and extent” of the county’s efforts to reunify the family; (3) the “parents’ efforts and ability to use services to correct the conditions which led to the out-of-home placement”; and (4) “the conditions which led to the out-of-home placement [that] have not been corrected so that the child[ren] can safely return home.” Minn. Stat. 260C.517 (a) (2022). When reviewing an order transferring permanent physical and legal custody through juvenile protection, we review

the district court’s factual findings for clear error and the “finding of a statutory basis for the order for abuse of discretion.” *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321 (Minn. App. 2015), *rev. denied* (Minn. July 21, 2015). “A district court abuses its discretion if it makes findings of fact that lack evidentiary support, misapplies the law, or resolves discretionary matters in a manner contrary to logic and the facts on record.” *In re Welfare of Child of T.M.A.*, 11 N.W.3d 346, 355 (Minn. App. 2024) (citing *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022)). When assessing for clear error, we view the evidence in the light most favorable to the findings, do not find facts or reweigh evidence, do not reconcile contradictory evidence, and “need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [district] court.” *Id.* (quoting *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021)).

I. The district court did not abuse its discretion when it determined that the best interests of the children are served by transferring permanent physical and legal custody to the maternal grandparents.

Mother argues (1) that the district court applied the incorrect legal standard in analyzing the children’s best interests because it failed to address the children’s relationships with the maternal grandparents; and (2) that the district court abused its discretion in its underlying analysis because the evidence fails to support its conclusion. Because the district court made the required best-interests findings, which are supported by the record, mother’s arguments are unavailing.

“The paramount consideration in all juvenile protection proceedings is the health, safety, and best interests of the child.” Minn. Stat. § 260C.001 subd. 2(a) (2022). The best

interest of the child is defined as “all relevant factors to be considered and evaluated” and requires “a review of the relationship between the child and relatives . . . with whom the child has resided or had significant contact.” Minn. Stat. § 260C.511 (2022); *See also In re Welfare of Child of J.C.L.*, 958 N.W.2d 653, 658 (Minn. App. 2021) (discussing the district court’s review of the relationship between the child and the proposed relative custodian), *rev. denied* (Minn. May 18, 2021).⁶ We review the district court’s best-interests analysis for an abuse of discretion. *T.M.A.*, 11 N.W.3d at 357.

A. The District Court’s Best-Interests Standard

Mother argues that the district court did not analyze the children’s relationship with the proposed legal custodians (the maternal grandparents) as is required. *See J.C.L.*, 958 N.W.2d at 658. As a result, it applied the incorrect legal standard, she asserts. We disagree.

While in the section of the district court’s order dedicated to detailing its best-interests conclusion the court did not directly address the children’s relationship with the maternal grandparents, the order as a whole is replete with findings concerning their relationship. For example, the district court found that the maternal grandparents would “provide a home that has been found to be safe, suitable, stable, and loving.” The district court also described testimony that the children had lived with the maternal grandparents for extended periods of time prior to being placed with the grandparents in foster care. And the court noted that the two oldest children testified about their relationship with their

⁶ When determining whether the best interest of the child is served by the transfer of permanent physical and legal custody, the district court looks to Minnesota Statutes, section 260C.511 and does not need to apply the three-part test required when terminating parental rights. *J.C.L.*, 958 N.W.2d at, 656-57.

grandparents and their comfort in their grandparents' home. Further, the district court's findings refer to testimony from the guardian ad litem that the grandparents provide love and support for all four children, and that the grandparents can modify their care of the children when necessary.

As a result, the district court sufficiently analyzed the children's relationship with the grandparents in its overall order, and applied the correct legal standard when concluding that the transfer of permanent physical and legal custody was in the children's best interests. *See* Minn. Stat. § 260C.511 (b).

B. The District Court's Best-Interests Analysis

Mother further argues that the record does not support the district court's best interests analysis. She asserts that there was not a safety concern at the time of trial sufficient to overcome her constitutional right to parent and that "[t]here is no evidence of the children's needs not being met in [m]other's care." We disagree.

The district court found that there were credible reports of physical aggression by mother against the older children and that the children were "emotionally and psychologically impacted by [mother's] outbursts, intense emotions, and/or negative relationship dynamics with [father]." These findings are supported by the testimony of the guardian ad litem, who stated at trial that she remained concerned about mother's verbal and physical aggression and the impact this had on the children, and the testimony of the children. The district court further found that mother was not able to appropriately meet the children's emotional and mental-health needs, noting that "at the heart of this matter are allegations of emotional and verbal abuse" and that the goal of addressing this issue

was not met. This finding is supported by the testimony of the visit supervisor, who continued to have concerns at trial about mother's management of her emotional health; the testimony of the children about their reaction to mother when she becomes angry; and the conflicts between mother and father during visits. All these facts support the district court's determination that the transfer of custody was in the children's best interests.

Ongoing domestic conflict and children's mental and emotional health are relevant factors to consider when deciding to transfer permanent physical and legal custody. *See* Minn. Stat. § 260C.511(a). Because the district court's best interests findings related to these factors are well supported by the record, we discern no error in the district court's best interest analysis, particularly given the choice to transfer legal custody rather than terminate mother's parental rights. The path chosen here, as the district court observed, allows for the possibility that both parents may continue to have a relationship with the children. That also serves the children's interests.

In sum, the district court did not abuse its discretion when it determined that the best interests of the children supported transferring permanent physical and legal custody to the grandparents.

II. The district court did not abuse its discretion when it concluded that the conditions that led to the out-of-home placement had not been corrected and the children could not safely return home.

Mother next argues that the evidence does not support the district court's conclusion that the conditions that led to the out-of-home placement had not been corrected and that the children could not safely return home. Because the evidence supports the district court's determination that mother did not substantially comply with the case plan

requirements related to domestic violence and the children’s emotional wellbeing, mother’s argument is unavailing.

To order the transfer of permanent physical and legal custody in juvenile protection, the district court must make detailed findings “that the conditions which led to the out-of-home placement have not been corrected so that the children can safely return home.” Minn. Stat. § 260C.517 (a)(4). “[A] case plan that has been approved by the district court is presumptively reasonable.” *T.M.A.*, 11 N.W.3d at 358 (quoting *In re Welfare of Child of S.E.P.*, 744 N.W.2d 381, 388 (Minn. 2008)). On appeal, mother does not contest the reasonableness of her case plan. And failure to comply with a reasonable case plan creates a presumption that the conditions leading to out-of-home placement remain uncorrected. *Id.* (quoting *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012)).

Here, the district court addressed each case-plan requirement. Some (including the requirement that mother keep a safe and clean home, work with an ARMHS worker, and generally cooperate with the guardian ad litem and the county) were satisfied, the court found. But when examining the provisions of the case plan at the heart of the safety concern for the children—the requirements that mother maintain a home free from domestic violence and emotional abuse—the court found these conditions unaddressed.

The record supports this determination. First, there was a domestic-abuse-no-contact order in place between mother and father at the time of trial.⁷ Second, the visit

⁷ A domestic-abuse-no-contact order is an order to not contact certain individuals. It may be entered against a defendant during criminal proceedings for (1) domestic abuse; (2) harassment or stalking; (3) violation of an order for protection; or (4) violation of a prior domestic-abuse-no-contact order. Minn. Stat. § 629.75.

supervisor testified that mother would sometimes yell and swear at father in front of the children during visits, that two visits needed to be cancelled due to conflict between mother and father, and that “bad visits” became more frequent as time progressed. Third, the guardian ad litem’s testimony focused on the concern regarding mother’s physical and verbal aggression. Fourth, mother did not comply with the recommendations of the psychological evaluator including that she (1) attend individual therapy, (2) complete an anger management program, and (3) attend couples counseling with father. These services were meant to assist mother with concerns related to domestic violence and emotional abuse. Finally, the two oldest children testified to feeling scared of mother when she becomes angry.

Because facts in the record support the conclusion that mother had not substantially complied with the requirements of her case plan, including those regarding domestic violence and meeting the emotional and mental-health needs of the children, the district court did not abuse its discretion when it determined that the conditions that led to the out-of-home placement had not been corrected. *See* Minn. Stat. § 260C.517 (a)(4).

III. Mother does not have standing to challenge the district court’s conclusion that the transfer of permanent physical and legal custody was involuntary as to father.

Finally, mother argues that the district court erred when it concluded that the transfer of permanent physical and legal custody was involuntary as to father. Mother notes that father was a non-custodial parent and did not have custody to be involuntarily transferred.

Mother admits that she does not have standing to raise the issue but urges this court to consider it in the interest of justice.⁸

Because mother lacks standing to raise this issue, we cannot address it. Standing is a doctrine that requires a party to suffer a redressable injury to a legally protected right, or be granted standing through a legislative act, for the court to consider their claim. *In re Custody of D.T.R.*, 796 N.W.2d 509, 512 (Minn. 2011). The standing requirement is constitutionally required, grounds judicial decision-making in resolving disputes between parties, and is an aspect of the separation of powers. *State ex rel. Sviggum v. Hanson*, 732 N.W.2d 312, 321 (Minn. 2007). Without standing, this court cannot exercise its jurisdiction over an issue. *D.T.R.*, 796, N.W.2d at 512. Thus, while appellate courts can take action on an issue “as the interest of justice may require,” Minn. R. Civ. App. P. 103.4, it can only exercise its power to do so if the party seeking relief has standing, *see D.T.R.*, 796, N.W.2d at 512.

Accordingly, we conclude that we cannot review mother’s argument that the district court erred in determining that the transfer of permanent physical and legal custody was involuntary as to father because mother lacks standing to raise the issue. Thus, we do not consider mother’s argument and express no opinion as to whether the district court erred

⁸ Mother asserts that the district court’s conclusion that the transfer of custody was involuntary as to father is a legal error, as father did not have custody of the children to be transferred. Mother further contends that this error creates a presumption that father is unfit to parent should he have any children in the future. *See, e.g.* Minn. Stat. § 260C.301 subd. 1 (b)(4) (2022) (“It is presumed that a parent is palpably unfit to be a party to the parent-child relationship upon a showing that . . . the parent’s custodial rights to another child have been involuntarily transferred to a relative. . . .”).

in determining that the transfer of permanent physical and legal custody was involuntary as to father.

In sum, the district court did not abuse its discretion in concluding that the best interests of the children supported the transfer of permanent physical and legal custody and that the conditions that led to out-of-home placement had not been corrected. We lack jurisdiction, and therefore cannot address, mother's argument that the district court erred in finding the transfer of permanent physical and legal custody was involuntary as to father. Therefore, we affirm the district court's order transferring permanent physical and legal custody of the children to their maternal grandparents.

Affirmed.