

*This opinion is nonprecedential except as provided by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
A24-0957**

In the Matter of the Welfare of the Children of: A. P., Parent.

**Filed November 25, 2024
Affirmed
Johnson, Judge**

Becker County District Court
File No. 03-JV-24-229

Timothy H. Dodd, Detroit Lakes, Minnesota (for appellant A.P.)

Brian W. McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent
Becker County Human Services)

Emily Shaffer, Moorhead, Minnesota (guardian *ad litem*)

Considered and decided by Johnson, Presiding Judge; Wheelock, Judge; and Smith,
John, Judge.*

NONPRECEDENTIAL OPINION

JOHNSON, Judge

The district court terminated a woman's parental rights to two children. We conclude that the district court did not err by finding that the county made reasonable efforts to reunite her with the children. Therefore, we affirm.

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

FACTS

A.P. is the biological mother of two children who are the subjects of this appeal: E.S., who was four years old at the time of trial, and T.P., who was eight months old at the time of trial. The children's biological father is deceased.

Becker County first received reports concerning A.P.'s parenting abilities in July 2023. It was reported that A.P. gave E.S. large amounts of Nyquil to induce sleeping, repeatedly supervised E.S. inadequately, and cared for E.S. in an unsanitary and unsafe apartment. The county investigated these reports and concluded that they were well-founded and that A.P. experienced significant mental-health issues that impeded her ability to parent.

In August 2023, the county petitioned the district court for an adjudication that E.S., who then was three years old, was a child in need of protection or services (CHIPS). The district court granted the petition, adjudicated E.S. as being in need of protection or services, and adopted an out-of-home-placement plan for E.S.

In September 2023, A.P. gave birth to T.P. The county investigated T.P.'s well-being in light of the then-existing out-of-home placement for E.S. and the concerns raised by nurses at the hospital where T.P. was born, which related to A.P.'s inability to understand how to feed a baby and safe sleeping practices. Four days after T.P.'s birth, the county petitioned the district court for a CHIPS adjudication with respect to T.P. The district court granted the petition, adjudicated T.P. as being in need of protection or services, and adopted an out-of-home-placement plan for T.P.

The out-of-home-placement plans for E.S. and T.P. imposed substantially the same requirements on A.P. The plans required A.P. to demonstrate that she could provide a safe, stable home for the children on a permanent, consistent basis and place the children's needs above her own needs. The plans required A.P. to complete a parental-capacity evaluation and a diagnostic assessment and to follow the recommendations of the evaluators and assessors. The plans required A.P. to participate in individual therapy and medication management and to meet with a family-resource worker weekly to work on life-management skills. The plans also allowed A.P. to have supervised visitation with the children.

A.P. cooperated with the county and followed the case plans. In August 2023, A.P. completed a diagnostic assessment. The assessor concluded that A.P. suffered from schizoaffective disorder, generalized anxiety disorder, and borderline personality disorder and that her mental-health conditions adversely affected her ability to be a parent. The assessor reported that A.P.'s parenting ability also was limited by her marginal cognitive functioning and impairments to her mental health, knowledge of child development, and amenability to treatment. A.P. consistently attended her supervised visitations with E.S. and T.P., communicated with the county social worker, and participated in individual therapy. Despite this cooperation, A.P. struggled to meet the case plans' requirements due to her severe and chronic mental-health issues. A.P. was admitted to in-patient mental-health facilities on three occasions between September 2023 and March 2024.

In December 2023, A.P. completed the required parental-capacity evaluation. The evaluator concluded her 17-page written report with nine enumerated recommendations,

including, among other things, consistent mental-health treatment, continued medication management, and continued parenting education and coaching. Notably, the evaluator recommended that A.P. not be reunited with the children because there “are too many concerns related to [A.P.’s] severe mental illness and subsequent impaired functioning.” The evaluator also noted a “concern about [A.P.’s] ability to take care of herself” and stated that “legal guardianship may be warranted.” The eighth recommendation states, “A neuropsychological evaluation may be beneficial in further assessing [A.P.’s] apparent impairment in judgment, problem-solving, and memory.”¹ At trial, the county social worker testified that she did not take any action to follow up on the eighth recommendation.

In February 2024, the county petitioned the district court for the termination of A.P.’s parental rights based on multiple statutory grounds. The case was tried on two days in April 2024. Seven witnesses, including A.P., testified. In May 2024, the district court filed an order in which it concluded that the county had proved four statutory grounds for termination. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), (8) (2022). The district court also found that the county had made reasonable efforts to reunite A.P. with her children. *See* Minn. Stat. § 260.012(h) (2022). Accordingly, the district court granted the county’s petition and ordered the termination of A.P.’s parental rights. A.P. appeals.

¹In the evaluator’s written report, the terms “neuropsychological evaluation” and “neuropsychiatric evaluation” are used interchangeably.

DECISION

A.P. argues that the district court erred by terminating her parental rights. Specifically, she argues that the district court erred by finding that the county made reasonable efforts to reunite her with the children.

After a CHIPS adjudication, a county social services agency “shall ensure that reasonable efforts . . . are made to prevent placement or to eliminate the need for removal and to reunite the child with the child’s family at the earliest possible time.” Minn. Stat. § 260.012(a) (2022). In a proceeding to terminate parental rights, a district court “shall make specific findings . . . that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made, including individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family.” Minn. Stat. § 260C.301, subd. 8(1).

The reasonable efforts required of a county depend on the facts and circumstances of the case. *See In re Children of T.A.A.*, 702 N.W.2d 703, 709 (Minn. 2005); *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 601 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021). In determining whether a county made reasonable efforts, a district court “shall consider” various statutory factors, including whether the services provided by the county were realistic under the circumstances. Minn. Stat. § 260.012(h). A district court also should consider the length of the county’s involvement and the quality of the county’s efforts. *J.H.*, 968 N.W.2d at 601.

This court applies a clear-error standard of review to a district court’s findings of the underlying facts relevant to whether a county has made the required reasonable efforts.

In re Welfare of Children of S.E.P., 744 N.W.2d 381, 387 (Minn. 2008); *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321-23 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015); *see also In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 899-902 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). We apply an abuse-of-discretion standard of review to a district court’s ultimate finding as to whether a county has made the required reasonable efforts. *D.L.D.*, 865 N.W.2d at 321-23 (citing *J.R.B.*, 805 N.W.2d at 900-01).

In this case, the district court made multiple findings of fact concerning the services that the county provided to A.P. The district court found that the county addressed A.P.’s parenting skills by arranging a parental-capacity evaluation, in-patient mental-health services, and parenting classes. The district court also found that the county assigned A.P. a family-resource worker, who met with A.P. weekly to work with her on life-management skills, applied for a waiver to assist A.P. in maintaining housing in the community, organized supervised visitations between A.P. and the children, and assigned A.P. a worker who specializes in helping people with mental illnesses improve their essential life skills. Based on these underlying facts, the district court made an ultimate finding that the county made reasonable efforts to reunite A.P. with the children.

A.P. does not challenge the reasonableness of the efforts described above. Rather, she makes a narrow argument that the county did not satisfy its duty to make reasonable efforts because the county did not take any action to implement the eighth recommendation arising from the parental-capacity evaluation, which suggested a neuropsychiatric evaluation. A.P. contends that a neuropsychiatric evaluation would have “improved [her]

situation” and “would have provided insight concerning the cause and treatment of” her mental-health issues.

A.P.’s argument is based on testimony elicited at trial. During the cross-examination of the county social worker, A.P.’s attorney asked whether the social worker had arranged for a neuropsychiatric evaluation after receiving and reviewing the written report of the parental-capacity evaluation. The social worker answered by stating, “I overlooked that recommendation and I did not follow through with a referral for that evaluation.” The social worker also testified that A.P. “was not even making any progress in the treatment goals that she was participating in . . . so adding another evaluation and more services on top of that would not have been beneficial to her.” In addition, the social worker testified that, if a neuropsychiatric evaluation were requested, it could not be scheduled for at least six months because of a waitlist. The social worker further testified that a neuropsychiatric evaluation would not “change the outcome of her parenting education . . . at this time.”

The district court specifically addressed the absence of a neuropsychiatric evaluation in its order, as follows:

The neuro-psychiatric evaluation would most certainly be helpful to Mom in managing her own life and meeting her own needs in the future. However, given Mom’s current struggles and chronic instability with her mental health; this evaluation would offer no additional helpful insight to the Court in determining her parenting abilities and aid in reunification of this family. A neuro-psychological evaluation may or may not provide additional barriers to reunification. However, given that Mom has barriers to parenting she has not overcome, and this evaluation would not remove those barriers, it is not a failure on the part of [the county] nor does

it provide a basis to find a lack of reasonable efforts. Mom is struggling with her current services and has not evolved to a point where implementing additional services would be manageable.

Before considering A.P.'s argument, we note that a neuropsychiatric evaluation may have been recommended more for the purpose of assessing A.P.'s ability to parent than for the purpose of identifying additional services that could benefit her. The district court stated that a neuropsychiatric evaluation "would offer no additional helpful insight to the Court in determining her parenting abilities." We further note the district court's statement that a neuropsychiatric evaluation "may or may not provide additional barriers to reunification," which implies that a neuropsychiatric evaluation might have yielded more evidence supporting termination of A.P.'s parental rights.

In any event, the record supports the district court's findings concerning the absence of a neuropsychiatric evaluation. The evaluator who recommended a neuropsychiatric evaluation by stating that it "may be beneficial" also testified at trial that A.P.'s mental-health symptoms are so severe that reunification is not a realistic goal for her. The family-resource worker who assisted A.P. with parenting skills and life-management skills testified that A.P. struggled to make progress in developing the skills required by the case plan and was unlikely to make sufficient progress in the future. Both the county social worker and the guardian *ad litem* testified that A.P. struggled to take care of herself and to implement the practices outlined in her case plan due to her serious and ongoing mental-health issues. The county social worker testified that A.P.'s therapist suspended individual therapy for eight months because A.P. did not have the cognitive ability to make progress

in this area. The county social worker also testified that visitation with E.S. and T.P. had not moved beyond supervised visitation because of ongoing concerns about A.P.’s ability to ensure the children’s safety. This evidence supports the district court’s reasoning that the absence of a neuropsychiatric evaluation is not inconsistent with a finding that reasonable efforts were made.

A.P. relies on a prior opinion of this court in which we stated that the concept of reasonable efforts includes “real, genuine help to see that *all things are done that might conceivably improve the circumstances* of the parent and the relationship of the parent with the child.” *In the Matter of Welfare of J.A.*, 377 N.W.2d 69, 73 (Minn. App. 1985) (emphasis added). We have cited *J.A.* on only one occasion. *See In the Matter of Welfare of M.A.*, 408 N.W.2d 227, 236 (Minn. App. 1987), *rev. denied* (Minn. Sept. 18, 1987). The *J.A.* opinion is of limited precedential value because it predates the 1986 enactment of section 260.012, which defines “reasonable efforts” for purposes of juvenile-protection cases. *See* 1986 Minn. Laws ch. 448, § 1. The subsequent *M.A.* opinion is similarly unhelpful because it does not cite section 260.012, presumably because that case was commenced in 1982, before the 1986 enactment became effective. *See* 408 N.W.2d at 229-31.

In any event, to interpret *J.A.* in the manner suggested by A.P.—to require a county to take every action that is remotely possible—would be inconsistent with the meaning of the word “reasonable.” *See The American Heritage Dictionary of the English Language* 1465 (5th ed. 2016) (“[n]ot excessive or extreme” and “fair”); *Webster’s New International Dictionary* 2074 (2d ed. 1946) (“[n]ot more or less than reason dictates within due or just

limits”). In another case in which a similar argument was made, we concluded that a county’s efforts were “reasonable” even though they were “less than perfect.” *See In re Welfare of Child L.L.*, No. A13-1582, 2013 WL 8116310, at *6 (Minn. App. Mar. 24, 2014); *see also* Minn. R. Civ. App. P. 136.01, subd. 1(c) (providing that nonprecedential opinions are “not binding authority” but “may be cited as persuasive authority”). Given the facts of this case, we similarly conclude that a neuropsychiatric evaluation was not essential to the county’s obligation to make reasonable efforts to reunite A.P. with the children.

Thus, the district court did not err by finding that the county made reasonable efforts to reunite A.P. with the children.

Affirmed.