STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1020

In the Matter of the Welfare of the Child of: R. S. O., Parent.

Filed December 30, 2024
Affirmed
Smith, Tracy M., Judge

Hennepin County District Court
File No. 27-JV-23-421

Brooke Beskau Warg, Hennepin County Adult Representation Services, Minneapolis, Minnesota (for appellant mother R.S.O.)

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

Nicolas Magsalin, Minneapolis, Minnesota (guardian ad litem)

Considered and decided by Frisch, Presiding Judge; Smith, Tracy M., Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant mother R.S.O. challenges the termination of her parental rights (TPR) to one of her children. Mother raises three arguments on appeal. First, mother argues that the district court abused its discretion when it determined that mother was palpably unfit to be a party to the parent-child relationship under Minnesota Statutes section 260C.301, subdivision 1(b)(4) (2022). Second, mother argues that the district court erred when it determined that TPR was in the child's best interests. Third, mother argues that the district

court erred when it failed to either convert the case to a child-in-need-of-protection-or-services (CHIPS) matter or dismiss the petition. We affirm.

FACTS

The following facts are drawn from the trial and record in this matter. Mother gave birth to the child at issue in this matter in February 2023. At the time of the child's birth, mother tested positive for amphetamine. Respondent Hennepin County Human Services and Public Health Department (the department) received a report of threatened injury and neglect based on mother testing positive for amphetamine and based on mother having a prior involuntary TPR in 2021.

In 2021, mother's parental rights to another child were involuntarily terminated. In that TPR order, the district court determined that mother "failed to address her chemical dependency, mental health, [and] parenting . . . issues" and "failed to successfully complete any programming." The district court concluded that mother was palpably unfit to parent the child "because of her consistent pattern of conduct which [was] permanently detrimental to the physical and mental health of the child."

Due to the 2021 involuntary TPR, a week after the birth of the child at issue here, the department filed an expedited petition to terminate mother's parental rights to the child, pursuant to Minnesota Statutes section 260C.503, subdivision 2(4) (2022). As one of the statutory bases for its petition, the department alleged that mother was palpably unfit to be a parent to the child. Minn. Stat. § 260C.301, subd. 1(b)(4) (2022).[1] The petition explained

[1] The department also alleged Minnesota Statutes section 260C.301, subdivision 1(b)(2) and (5) (2022), as additional statutory bases for termination of mother's parental rights, but

that, after the department received the report, a child protection investigator (CPI) met with mother at the hospital. Mother denied having taken controlled substances but stated that she previously had depression and currently felt stressed. When the CPI told mother that the district court would need to become involved in her case, mother became upset and stated that she wanted to leave the hospital. The next day, mother left the hospital against medical advice, and the department lost contact with her. The child remained at the hospital.

The district court held an emergency protective-care hearing the same day that the petition was filed. Mother had not yet been served with the petition and did not appear at the hearing. The department noted that it might be willing to offer a voluntary case plan to mother if she eventually made contact with the department. The district court determined that the petition made a prima facie showing of a prior involuntary TPR, relieved the department of its duty to provide reasonable efforts to facilitate reunification, and ordered out-of-home placement for the child.

Another hearing was held in May 2023, but mother still had not been served and did not appear. The department requested a continuance to prepare the necessary documents to seek to proceed by default if mother were to be properly served and failed to appear at the next hearing.

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the district court ruled at the beginning of trial that it would not consider these grounds and did not address them in its order.

Mother was served with the TPR petition in June 2023 and attended the next hearing in July 2023. During the hearing, mother, through counsel, entered a denial to the TPR petition, stating that mother had started working on her case plan.

The case plan, as described by the district court, included provisions that mother demonstrate sobriety; complete a psychological evaluation and parenting assessment and follow recommendations from each; address active warrants; and remain law abiding.

At the time of the July hearing, mother had been in inpatient treatment for about a month to address her struggles with alcohol and controlled substances. Mother successfully completed her treatment and was discharged approximately three months after being admitted. Over the next five months, mother participated in two different outpatient programs but left both early. In February 2024, a few weeks after leaving her second outpatient program, mother relapsed and began another inpatient treatment program. Mother continued to participate in inpatient treatment programming throughout her trial, transferring facilities once between trial dates.

As part of her treatment programming, mother completed four weeks of parenting classes and engaged in mental-health services.[2] However, it appears that, even though mother completed some programming, she did not consistently attend sessions due to her moving between facilities. After engaging in various services, mother completed a

[2] The district court order states that there is no documentation, outside of mother's testimony, showing that mother engaged in these services. However, we note that the department's prehearing reports state that mother was engaging in both parenting classes and mental-health services while attending treatment at different facilities.

parenting assessment in February 2024, in which professionals recommended that mother continue services for her mental health, parenting skills, and chemical dependency.

Additionally, mother addressed her warrants prior to her final trial date, as recommended by her case plan. Mother also participated in supervised visits with the child, and there were no notable issues until mother missed three visits in a row around the time of her February 2024 relapse. As a result, mother's visits were suspended.

The district court held the TPR trial over two days during March and April 2024, receiving testimony from mother, a child-protection social worker, and a guardian ad litem. During the trial, mother testified about her case-plan compliance and that, as of the last day of trial, she was set to graduate from inpatient programming within 30 days and could then step down to outpatient programming. Mother testified that she was committed to continuing her treatment for her child, to ensure that she could remain in her child's life. When mother was asked what drugs she was using when she began inpatient programming, mother stated that she was only drinking and denied using controlled substances. When asked about her relapse in February 2024, mother admitted that she tested positive for a controlled substance but stated that she must have involuntarily consumed it.

The social worker and guardian ad litem testified in favor of terminating mother's parental rights and that doing so would be in the best interests of the child because of mother's chemical-dependency struggles. The social worker also discussed her concerns about mother's ability to provide a safe environment for the child given her prior TPR, chemical dependency, mental health, and parenting assessment, which recommended that mother engage in further parenting education.

In its order, the district court acknowledged mother's love of the child and her attempts to comply with her case plan. However, the district court found that mother's testimony downplayed and minimized her drug use and relapse, and it determined that "the remainder of [mother's] testimony was discredited by the information contained in admitted exhibits, contradicted by her own testimony, and/or outweighed by the credible testimony of other witnesses." As a result, the district court did "not find [mother's] testimony to be particularly persuasive and thus [did] not give it great weight except for her love of [the child]." The district court found the testimony of the social worker and guardian ad litem "credible, persuasive, and accurate as it relates to the proceedings" and stated that each witness's testimony about the best interests of the child was "persuasive and . . . given great weight."

The district court determined that mother was palpably unfit to parent the child under Minnesota Statutes section 260C.301, subdivision 1(b)(4), and that TPR was in the best interests of the child. The district court determined that mother did not rebut the presumption of palpable unfitness that existed as a result of her prior TPR order. But the district court further determined that, even if mother had rebutted the presumption, there was clear and convincing evidence that mother was palpably unfit to be a party to the parent-child relationship—specifically, mother's consistent struggles with substance abuse dating back to her prior TPR proceeding and her inconsistent engagement in mental-health and parenting-education services as recommended by her case plan. The district court stated that mother's "ongoing, long-term behaviors highlight her inability to present a safe

parenting option for her child" and that mother "will be unable to appropriately parent [the child] for the reasonably foreseeable future."

The district court then determined that TPR was in the child's best interests "due to mother's ongoing chemical dependency issues and unaddressed mental health and parenting issues," which would place the child "at significant risk of instability and harm." The district court also noted mother's poor case-plan compliance, stating that mother's interest in having a relationship with the child was "strongly outweighed by the child's need for stability, consistency, and a safe and sober caregiver who can meet [the child's] daily needs." Because the child was too young to express a preference on TPR, the district court considered the child's general interests in making this determination.

Mother subsequently moved for a new trial and/or amended findings and a stay of the order. In response, the district court amended its order to state that mother did rebut the presumption of palpable unfitness because she "demonstrated periods of sobriety," "attended chemical dependency treatment[,] and currently has short-term sobriety." However, the district court reiterated that the department had proved by clear and convincing evidence that mother was palpably unfit to parent the child. The district court also determined that there was clear and convincing evidence that TPR was in the child's best interests because mother, despite having been "in a treatment facility at the time of trial, . . . had not displayed sustained sobriety and stability throughout the course of this case that would allow her child to be placed with her."

In concluding that TPR was in the child's best interests, the district court rejected mother's additional claims. Of relevance to this appeal, the district court declined to

convert this case to a CHIPS matter, determining that, due to the "need [to give] children permanency in a timely manner," mother should not have "more time to make progress."

Mother appeals.[3]

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). To terminate parental rights, the district court must determine that (1) TPR is supported by clear and convincing evidence of at least one statutory basis, (2) TPR is in the best interests of the child, and (3) the department made reasonable efforts to reunite the parent and child or was relieved of that duty, as was the case here. *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021); Minn. Stat. § 260.012(a)(2) (2022) (permitting district court to relieve department of its duty to provide reasonable efforts to reunify when there is a prima facie showing of prior TPR); *see also* Minn. Stat. § 260C.301, subd. 1(b) (2022) (providing statutory grounds for termination).

"[Appellate courts] review an order [involuntarily] terminating parental rights to determine whether the district court's findings (1) address the statutory criteria and (2) are

[3] Mother was not married when the child was conceived or born, and no father was identified or participated in this matter. The district court determined that termination of the parental rights of any man that might claim to be the child's father was warranted under Minnesota Statutes section 260C.301, subdivision 1(b)(7) (2022)—a determination that is not at issue in this appeal.

supported by substantial evidence. [Appellate courts] must closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012) (quotations and citations omitted).

I. The district court did not abuse its discretion by determining that there was clear and convincing evidence that mother was palpably unfit to parent the child.

Appellate courts review a district court's determination that a statutory basis to involuntarily terminate parental rights exists for an abuse of discretion. *Id.* Factual findings are reviewed for clear error, which exists "if [the finding] is manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Id.* (quotation omitted). "An abuse of discretion occurs if the district court improperly applied the law." *Id.*

A statutory basis to terminate parental rights exists if the

> parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the [district] 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). To establish this statutory basis, 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."[4] *In re Welfare of Child. of T.R.*, 750 N.W.2d 656, 661 (Minn. 2008) (quotation omitted).

Mother makes three arguments for why the district court abused its discretion when it determined that there was clear and convincing evidence that mother was palpably unfit under Minnesota Statutes section 260C.301, subdivision 1(b)(4).

First, mother argues that the district court inappropriately relied on her failure to comply with her voluntary case plan because case-plan noncompliance is not a factor for termination under the palpable-unfitness statutory basis. Mother cites to *T.R.* in support of this proposition. However, *T.R.* states that failure to comply with a case plan "does not *necessarily* render a parent palpably unfit under Minn. Stat. § 260C.301, subd. 1(b)(4)." *Id.* at 663 (emphasis added). And *T.R.* also states that appellate courts must "consider the actual conduct of the parent to determine fitness to parent." *Id.* at 661 (quotation omitted). Accordingly, *T.R.* does not foreclose that noncompliance with a case plan may be relevant to a palpable-unfitness determination when the noncompliant conduct directly impacts an individual's ability to parent. *See id.* at 661-63.

Second, mother argues that the district court inappropriately relied on mother's mental health and chemical dependency because the district court never addressed the causal connection between those conditions and mother's inability to care for the child. Mother is correct that a causal connection between mental-health issues or chemical

[4] Although mother was presumed palpably unfit because of her prior TPR order, because she rebutted that presumption, the analysis is the same "as if there never had been a presumption at all." *In re Welfare of Child of J.A.K.*, 907 N.W.2d 241, 246 (Minn. App. 2018) (quotation omitted).

dependency and the ability to parent is required before the district court can rely on those conditions to find a parent palpably unfit. *See id.* at 662-64 (determining that palpable unfitness was not established because district court made no findings connecting father's substance use to his inability to parent his child). However, the district court did determine that the required nexus exists, stating in its amended findings that mother's "inability to maintain consistent, long-term sobriety and mental health stability directly impacts her ability to currently parent [the child]." The district court's TPR order highlights facts supporting this conclusion, including mother's inability to complete treatment programming and remain sober, both in this case and in her prior TPR case; mother's parenting assessment, which listed concerns about mother's parenting and included the recommendation that mother continue to address her chemical and mental-health conditions; mother's denial and minimization of her chemical-dependency issues at trial; and the social worker's credible testimony, which provided that mother's chemical-dependency and mental-health issues made her unable to safely parent the child.[5] These facts support the district court's determination that mother's ability to parent is connected to her sobriety and mental health and that mother had a history of struggling with, at a minimum, her chemical dependency.

As part of her argument that no causal connection exists, mother also argues that the evidence does not support the district court's conclusion that mother's behavior was unsafe

[5] Appellate courts give "[c]onsiderable deference" to the district court's credibility determinations. *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996). We therefore treat the social worker's testimony as credible.

and that her unsafe behavior affected the child. However, the district court order states that this case started because the child was exposed to controlled substances by mother prior to birth, which is an unsafe behavior that affected the child. Additionally, the district court order notes that the social worker testified about the child's safety—specifically, she testified that mother posed safety concerns to the child based on her recent actions while under the influence, such as driving while intoxicated. The record supports the district court's finding that mother engaged in unsafe behaviors that directly impacted the parent-child relationship.

Third, mother argues that the district court's determinations were not based on the conditions that existed at the time of trial. Mother argues that, at the time of trial, she was sober, participating in treatment, and set to graduate from her program soon. But a history of mental illness or substance abuse can be a basis to find an individual palpably unfit to parent even if they were doing well at the time of trial. *See In re Welfare of S.Z.*, 547 N.W.2d 886, 893-94 (Minn. 1996) (concluding that, although father was doing well at time of trial, district court properly considered his long history of mental illness and substance abuse when terminating his parental rights). Here, the district court determined, and the record supports, that mother struggled with chemical dependency since her prior TPR proceeding, had recently relapsed, was again in inpatient treatment, and continued to deny and minimize the severity of her chemical dependency. The district court acted within its discretion by considering mother's past struggles even though she was sober at the time of trial.

In sum, based on the district court's findings, which are supported by the record, the district court did not abuse its discretion by determining that mother was palpably unfit to parent the child.

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

A district court order terminating parental rights must include a finding that the termination is in the child's best interests. *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 546 (Minn. App. 2009). The district court need not "go into great detail" when conducting its best-interests analysis. *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 711 (Minn. App. 2004). Appellate courts "apply an abuse-of-discretion standard of review to a district court's conclusion that termination of parental rights is in a child's best interests." *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 657 (Minn. App. 2018). Under this standard, "determination of a child's best interests is generally not susceptible to an appellate court's global review of a record, and . . . an appellate court's combing through the record to determine best interests is inappropriate because it involves credibility determinations." *D.L.D.*, 771 N.W.2d at 546 (quotation omitted).

When evaluating the best interests of a child in a TPR proceeding, the district court must consider "(1) the child's interest in preserving the parent-child relationship; (2) the parent's interest in preserving the parent-child relationship; and (3) any competing interest of the child." *A.M.C.*, 920 N.W.2d at 657 (quotation omitted); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (requiring findings on these factors). "Where the interests of parent and

child conflict, the interests of the child are paramount." Minn. Stat. § 260C.301, subd. 7 (2022).

Mother makes five arguments for why the district court erred when it determined that terminating mother's parental rights was in the child's best interests.

First, mother argues that the record does not support, by clear and convincing evidence, that at the time of trial mother had unaddressed mental-health issues or that her chemical dependency or potential parenting issues would create a risk of instability for the child. The department responds that the same evidence supporting the district court's palpable-unfitness determination also supports the best-interests determination, including the social worker's testimony that mother needed to address her chemical dependency before she could address her mental-health and parenting concerns, all of which, the social worker stated, needed to be addressed to provide the child with a safe home. We agree with the department. Though mother was sober at the time of trial, the district court acted within its discretion when it determined that mother's recent sobriety did not necessarily indicate that she could meet the child's interests in having a safe, stable home and a sober caregiver. *See S.Z.*, 547 N.W.2d at 893-94 (considering father's long history of mental illness and substance abuse when terminating his parental rights); *In re Welfare of Child of M.M.P.*, No. A24-0314, 2024 WL 4750879, at *4 (Minn. App. Nov. 12, 2024) (citing *S.Z.*, 547 N.W.2d at 893-94) (concluding that "mother's recent demonstration of sobriety does not overcome the child's best interests").[6]

[6] We cite this nonprecedential case as persuasive authority. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

Second, mother argues that the district court erred by relying on its initial determination of a presumption of palpable unfitness based on her prior TPR in determining the child's best interests. In its TPR order, the district court did state that this statutory presumption supported its best-interests analysis, and, after that order, the district court made amended findings recognizing that mother had rebutted the presumption. The department does not dispute that the presumption of palpable unfitness cannot be a basis for a best-interests finding when the presumption was, in fact, rebutted. But mother's argument is still not persuasive because, even in the TPR order, the district court recognized that, absent a presumption, mother was not a palpably fit parent. In its amended findings, the district court again found that termination was in the child's best interests given mother's failure to display sustained sobriety and stability that would allow the child to be placed with her.

Third, mother argues that her lack of compliance with her voluntary case plan is part of the statutory-basis analysis and thus was erroneously considered as part of the best-interests analysis. When conducting the best-interests analysis, the district court must consider the child's interests. *A.M.C.*, 920 N.W.2d at 657. Because mother's noncompliance involves behaviors that directly affect her ability to provide a safe environment for the child, such as her struggles with chemical dependency and her need for further mental-health services and parenting education, it was not erroneous for the district court to consider her failure to sufficiently address those concerns when evaluating what is in the child's best interests.

Fourth, mother argues that there is not clear and convincing evidence that mother cannot meet the child's needs, which the district court determined were stability, consistency, and to have her basic needs met. But the testimony of the social worker, the parenting assessment, and mother's missed visits with the child during the time of her relapse in February 2024 support the determination that mother's chemical-dependency and mental-health issues are connected to her ability to parent and that mother continues to struggle with her chemical dependency. We conclude that this record is sufficient for the district court's determination that mother would pose safety and stability concerns to the child and, therefore, could not meet the child's needs.

Fifth, mother argues that, in its TPR order, the district court mischaracterized the guardian ad litem's testimony as addressing the child's needs for stability and consistency and mother's inability to parent in the foreseeable future when, she asserts, the guardian ad litem's testimony about the child's best interests was conclusory and cannot be relied on to meet the evidentiary standard. The guardian ad litem testified that mother's chemical health was the "main concern" and that mother has made "tremendous progress" through treatment "but, unfortunately, she has relapsed and proven that she has not thoroughly or successfully addressed her chemical health needs." The guardian ad litem went on to testify that he believed TPR to be in the child's best interests. Even accepting mother's argument and disregarding this testimony, other evidence, as detailed above, amply establishes that mother struggles with chemical dependency and that her dependency puts the child at risk, supporting the district court's determination that TPR is in the child's best interests.

In sum, the record supports the district court's determination that mother has a long history of struggling with chemical dependency and that mother's dependency negatively affects her ability to provide a safe and stable environment for the child. As a result, the district court, when weighing the interests of mother and the child, did not abuse its discretion by determining that TPR was in the child's best interests.

III. The district court did not err or abuse its discretion by not converting this matter into a CHIPS proceeding or dismissing the petition.

Mother argues that, because the required elements for terminating parental rights were not proved, under the rules of juvenile protection, the district court was required to dismiss the petition or convert the case to a CHIPS matter to allow mother more time to make progress in her case plan. *See* Minn. R. Juv. Prot. P. 58.04(c)(1). For the same reason, mother asserts that the district court's reasoning that statutory timelines precluded giving mother more time to try to reunite with the child was contrary to law. The department counters that speedy adjudication is a cornerstone of child-protection cases, and, given that mother had over 13 months to engage in services under a voluntary case plan before the start of trial, the district court did not err by refusing to convert the case to a CHIPS matter.

Mother's arguments are unavailing. First, because, as we conclude above, the required elements of TPR were established, the district court was not required to dismiss the petition or convert the case to a CHIPS matter. Second, we agree with the department that the district court did not err by considering concerns about delay when refusing to convert the case to a CHIPS matter. The district court decided that, "[d]ue to the time in out of home placement and the importance and need of giving children permanency in a

timely manner, [mother] shouldn't be allowed more time to make progress." The district court's ruling was consistent with child-protection law, which favors speedy resolution. *See R.D.L.*, 853 N.W.2d at 134 ("The principle that child protection cases are to receive priority and be resolved quickly is a thoroughly engrained policy that both the legislative and executive branches endorse and support.").

Affirmed.