

*This opinion is nonprecedential except as provided by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
A24-1445**

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

**Filed March 17, 2025
Affirmed
Reyes, Judge**

Hennepin County District Court
File No. 27-JV-24-490

Brooke Beskau Warg, Hennepin County Adult Representation Services, Minneapolis, Minnesota (for appellant-mother A.V.)

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

Ellen Murphy-Fritsch, E. Murphy Law Offices, PLLC, White Bear Lake, Minnesota (for respondent-father H.C.)

Drew Bryant, Minneapolis, Minnesota (guardian ad litem)

Considered and decided by Reyes, Presiding Judge; Bjorkman, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant-mother challenges the district court's termination of her parental rights, arguing that the county failed to provide reasonable efforts to assist her in addressing her chemical-dependency issue. We affirm.

FACTS

On September 20, 2022, the Hennepin County Human Services and Public Health Department (the county) filed a petition alleging that appellant-mother A.V.'s two children, A.C. and M.C., needed protection or services. According to the petition, mother had given birth to M.C. on the lawn of her apartment on September 3, 2022. A neighbor called 911 out of concern for M.C. because the baby was turning blue. At the hospital, mother refused to allow the hospital to draw her blood or conduct a COVID test. A medical professional from the hospital stated that mother's umbilical cord came back positive for amphetamines, methamphetamines, codeine, and morphine. The county later obtained mother's medical records, which stated that mother only had three prenatal-care visits during her pregnancy and refused any blood draws or urine labs. The records further noted that mother had a history of depression, schizophrenia, and drug use and had been prescribed antipsychotic medications to limit her hallucinations.

During an investigation of mother's home, an investigator observed that M.C. had a hematoma the size of a tennis ball on the back of her head.¹ The investigator also observed that mother had a sore on her face and healed circular marks running the length of her arm and on her chest, which they suspected were attributable to drug use. Mother denied any drug use during her pregnancy. The investigator also noted eleven pill bottles in her home, two of which were old with illegible writing on them. Appellant claimed she obtained these two bottles from a pain-management clinic in St. Paul. The investigator

¹ An investigator went to mother's apartment on September 15, 2022, less than two weeks after she gave birth to M.C.

also found two full bottles of Naproxen.² Mother told the investigator that she and her son had an active order for protection (OFP) against H.C., the father of her children. A.C. and M.C. were then placed on a 72-hour health-and-welfare hold away from mother.

The district court held a children in need of protection or services (CHIPS) trial in January 2023. The district court ruled that the children needed protection and services due to mother's chemical-dependency issues, failure to provide necessary medical care to A.C., and the domestic violence between mother and father. The county's court-approved case plan required mother to comply with the following actions:

- 1) Submit to random urine analysis (UA) and abstain from all substance use. (Any missed UAs were considered positive.)
- 2) Complete a chemical-dependency^[3] assessment and follow all recommendations.
- 3) Complete a psychological evaluation and follow all recommendations.
- 4) Engage in parenting-education programming and follow all recommendations.
- 5) Participate in domestic-violence programming and follow all recommendations.
- 6) Remain law abiding by following all probation conditions and criminal court orders.
- 7) Cooperate with the [county] and sign all releases.
- 8) Maintain safe suitable housing.
- 9) Engage in supervised visits with the children.

In March 2024, the county submitted an update on mother's progress with the case plan to the district court. According to the update, mother (1) had not provided a urine sample for eleven appointments, which were then presumed positive; (2) had not completed

² Naproxen is a medication often prescribed to treat pain.

³ A chemical-dependency assessment is an evaluation to determine whether a person has a drug or alcohol-use disorder.

a chemical-dependency assessment; (3) had not completed a psychological evaluation; (4) had not completed parenting education; and (5) had not signed any of the releases from the county. The update noted that, to the best of the county's knowledge, mother had maintained safe, suitable housing and remained law abiding.⁴ After mother failed to comply with the requirements in the case plan, the county petitioned to terminate her parental rights.

The district court held a court trial beginning in May 2024. The district court received over 150 exhibits into evidence and testimony from various witnesses, including mother, the child-protection social worker (CPSW), the assigned child-services worker (CSW), the guardian ad litem (GAL), and father.

The CPSW testified that mother had only provided four urine samples after the case was opened, failed to submit any tests for 20 months, had not demonstrated sobriety since the inception of the case, did not complete a chemical-dependency assessment, and had not shown insight into her chemical-dependency issues. To facilitate mother completing her urine testing, the social worker offered to escort her to Hennepin County Medical Center (HCMC) and later referred her to in-home testing and peer support. Despite this, mother did not provide any additional urine samples.

⁴ While the county's update indicated that at the time of the filing of the case update mother had been law abiding, the district court found based on exhibits and the CPSW's testimony that mother had not been abiding by prior court orders including an OFP and a probationary offense from a prior criminal proceeding which required mother to register as a predatory offender.

To address mother's mental-health issues, the CPSW testified that she referred mother to Hennepin County Mental Health Center (HCMHC) to complete her psychological assessment. To accommodate mother while she was waiting for an appointment, the CPSW referred mother to talk therapy until she could complete the psychological evaluation at HCMHC. Although mother went to a few therapy sessions, she never completed the psychological evaluation. The CPSW learned from the provider that mother was unwilling to talk about her mental health and only wanted to discuss her relationship with father and the children returning to her care instead. The CPSW further opined that mother's failure to address her mental-health issues "make[s] it difficult for her to keep the children's wellbeing in focus" and expressed concern that mother would continue to struggle with domestic violence in the foreseeable future because she had difficulty abiding by the current OFP that father had against her. The CPSW testified that mother would violate the OFP by texting father about matters not relating to the children, and that she would go to his apartment to leave money. The district court found the social worker's testimony to be credible.

The CSW testified that it was in the children's best interest to have mother's parental rights terminated because the children made significant progress while in foster care. The CSW also expressed concern that if mother retained her parental rights, the environment she would provide for the children would not be safe because mother and father had prior interactions that involved law enforcement, and because mother had not shown that she could meet the children's medical and behavioral-health needs based on her lack of demonstrated proper behavior at medical appointments. The CSW also testified that she

did not see mother do anything dangerous to the children, appear to be on drugs or intoxicated, or experience any mental-health crises. The district court found the CSW's testimony to be credible and persuasive in all respects.

The GAL testified that he had concerns regarding mother's ability to meet the children's needs based on the reports from the county which documented mother's inability to demonstrate sobriety and because mother had refused to participate in supervised visitation for several months prior to the trial. The district court found the GAL's testimony to be credible and persuasive.

Mother testified that she did not know what morphine, codeine, and methamphetamine were, and that her daughter's umbilical-cord test results came back positive from "poppy seeds." Mother testified adamantly that she had completed everything in the case plan related to demonstrating sobriety and that when she called to complete a chemical-dependency assessment she was "refused." Mother also maintained that she had not abused chemicals since October 2022 and that she had not historically had issues with substance abuse. Mother further testified that she regularly communicated with the social worker via text before mother blocked the social worker's number in January 2024. When questioned about a text sent from mother's phone to the social worker about an "8 ball,"⁵ mother testified that she did not know what an "8 ball" was and denied sending the message. The district court did not find mother's testimony about her drug use and

⁵ An "8 ball" is a slang term that generally refers to an amount of illicit drugs. *See, e.g., Burns v. State*, 621 N.W.2d 55, 59 (describing an "eight ball" as a quantity of methamphetamine), *rev. denied* (Minn. Feb. 21, 2001).

mental health credible but found her testimony about her love for her children and desire to retain her parental rights credible.

Following the trial, the district court issued a detailed 57-page order terminating mother's parental rights. The district court found that the county made reasonable efforts to reunite mother with her children by "mak[ing] referrals for [m]other to engage with chemical dependency programming, mental health assessments and services, . . . parenting education, and domestic violence programming." The district court noted that the county's referrals included: "the HCMC color code program, the In-Home Peer Support Program, therapy at Nystrom & Associates, HCMHC, Phyllis Wheatley [Community Center, for domestic violence programming], The Family Partnership, and the Family Enhancement Center." The district court found that "[w]henever possible, the [social worker] identified providers who could provide culturally appropriate services to [m]other, and she requested Hmong providers on her referrals" and that the county provided her with resources to obtain a comprehensive assessment, even though she asked to be relieved of this requirement. Additionally, the district court noted that it was difficult to determine whether mother's behavior during the visits with her children and during the trial "stemmed from mental health symptoms or from using controlled substances."⁶

The district court also found that mother had not "made efforts to adjust the circumstances, conduct, or conditions that led to the [c]hildren's removal"; had not "engage[d] in chemical dependency treatment or attempt to demonstrate sobriety since

⁶ The district court noted, consistent with the record, that mother had several outbursts throughout the trial, often interrupting the proceedings.

October 2022”; and “refused to take anti-psychotic medications or engage in a court-ordered psychological evaluation over the past year.”

The district court found that the county presented clear and convincing evidence that (1) three statutory grounds for termination were met, *see* Minn. Stat. §§ 260C.301, subd. 1(b)(4), (5), (8) (2022); (2) the county made reasonable efforts to rehabilitate mother and reunite her with her family; and (3) termination is in the best interests of the children.

Mother appeals.

DECISION

Appellant argues that the district court erred by finding that the county provided reasonable efforts to address her chemical-dependency issues. We are not persuaded.

“A district court may terminate parental rights if (1) at least one statutory ground for termination is supported by clear and convincing evidence, (2) the county made reasonable efforts to reunite the family, and (3) termination is in the child’s best interests.” *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021). Before a district court may terminate parental rights, it must make “findings and conclusions as to the provision of reasonable efforts” by the county. Minn. Stat. § 260.012(h) (2024). These findings must include “individualized and explicit findings regarding the nature and extent of efforts made . . . to rehabilitate the parent and reunite the family.” Minn. Stat. § 260C.301, subd. 8(1) (2024). When determining whether reasonable efforts have been made, the district court must consider whether the services provided were:

- (1) selected in collaboration with the child's family and, if appropriate, the child;
- (2) tailored to the individualized needs of the child and child's family;
- (3) relevant to the safety, protection, and well-being of the child;
- (4) adequate to meet the individualized needs of the child and family;
- (5) culturally appropriate;
- (6) available and accessible;
- (7) consistent and timely; and
- (8) realistic under the circumstances.

Minn. Stat. § 260.012(h).

This court reviews a district court's factual findings of whether reasonable efforts were made for clear error. *See In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 387 (Minn. 2008) (reviewing district court's reasonable-efforts findings for clear error). We defer to the district court's credibility determinations of witnesses. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 90 (Minn. App. 2012). A finding is clearly erroneous if it is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Welfare of Child. of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted).

I. Mother did not forfeit her sufficiency-of-the-evidence challenge.

The county argues that mother forfeited the argument that it did not prove by clear and convincing evidence that it made reasonable efforts to address her chemical-dependency issue. We are not persuaded.

The county contends that mother forfeited her arguments that the county failed to provide reasonable efforts because she did not raise them below. Generally, appellate

courts will not consider matters not raised to the district court for the first time on appeal. *Thiele v. Stitch*, 425 N.W.2d 580, 582 (Minn. 1988). Although mother argued that she did not have a chemical-dependency issue at trial, on appeal mother challenges whether the district court's findings on this point are not supported by the evidence presented at trial. Minn. R. Juv. Prot. P. 21.03 permits appellate courts to review whether a district court's findings are clearly erroneous, even if the party raising the question did not object to the findings or did not make a motion to amend the findings below. *See also In re Welfare of Child of S.S.W.*, 767 N.W.2d 723, 733 (Minn. App. 2009) (concluding that, even when no motion for new trial has been made, questions for review include "whether the evidence sustains the findings of fact and whether such findings sustain the conclusions of law and the judgment" (quotation omitted)). Because Minn. R. Juv. Prot. P. 21.03 allows a party to argue that the evidence does not support the district court's findings of fact, even if the finding was not challenged below, we conclude that mother's argument has not been forfeited and is properly before this court.

II. The district court did not clearly err by finding that the county had made reasonable efforts to reunite mother with her family.

As an initial matter, we note that mother's challenge is limited to whether the district court's findings that the county made reasonable efforts to address her chemical-dependency issue are clearly erroneous. Mother does not challenge the district court's statutory basis for termination its finding on the best interests of the children, or that the county made reasonable efforts with respect to her mental-health issues and the provision of other services. However, in analyzing whether the district court clearly erred in finding

that the county made reasonable efforts, we must review the district court's findings in their entirety. *See T.R.*, 750 N.W.2d at 660-661.

Reasonable efforts “are services that go beyond mere matters of form so as to include real, genuine assistance.” *In re Welfare of Child. of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quotation omitted), *rev. denied* (Minn. Mar. 28, 2007). The district court must consider the amount of time the county has been involved in the case and the quality of the efforts provided. *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 655 (Minn. App. 2018). But the type of services that constitute “reasonable efforts” are dependent on the individual facts of the case. *J.H.*, 968 N.W.2d at 601.

In support of her argument, mother cites to *T.R.*, 750 N.W.2d at 664-65, in which the supreme court reversed the district court's termination of parental rights, concluding that the county's testing of the father, T.M., for chemical use, without more, did not constitute a reasonable effort toward reunification when he demonstrated issues with sobriety. The county made no effort to help T.M. understand the custodial proceedings, despite a psychological assessment which showed that he lacked verbal skills and had a lower average IQ. *T.R.*, 750 N.W.2d at 666. In addition, T.M. acknowledged that he had a chemical-dependency issue, complied with the case plan by obtaining suitable housing, obtained full-time employment, attended the child's school meetings, obtained health insurance that would provide coverage for the child, and completed a psychological assessment. *Id.* at 660. Also, the district court made no findings to suggest that there was a causal connection between T.M.'s alcohol- and drug-use issues and his inability to care for his child. *Id.* at 663.

The facts of this case differ. In contrast to *T.R.*, mother never acknowledged having a chemical-dependency issue, at least during the TPR proceedings. Here, the county made reasonable efforts to address mother's chemical-dependency issues in light of her apparent mental-health issues and culture by referring her to various providers, requesting Hmong providers, offering to escort her to the lab at HCMC to provide a urine sample, and referring her to in-home urine sampling and peer support. Moreover, the record shows that the county continued to make reasonable efforts, even when mother thwarted those efforts by failing to respond to the department, preventing the department from contacting her by blocking various phone numbers, threatening the CPSW, and discontinuing visitation with her children. Mother's decision not to materially comply with the case plan or meaningfully work with the county, despite its repeated efforts to assist her, hindered the county's ability to further assist mother in addressing her chemical-dependency issue. *See In re Child. of T.A.A.*, 702 N.W.2d 703, 704-05, 707, 710 (Minn. 2005) (affirming termination of parental rights when mother refused to accept responsibility to protect her children from abuse, denied drug use, and refused to recognize and address her children's special needs).

Mother contends that the county "was required to comply with the terms of the case plan" and "provide reasonable efforts to [mother] to allow her the opportunity to successfully complete her case plan." We agree that the county must make reasonable efforts toward reunification of families. However, that effort is not unilateral; it requires participation from the county and the parent. *See T.R.*, 750 N.W.2d at 665-66 (requiring that both parties follow the case plan). The record shows that mother rejected the county's

efforts to address her chemical dependency. Notably, the county referred mother to obtain a chemical-dependency assessment with Avivo. During a visit after the case was opened, the social worker asked mother if she had completed the assessment and encouraged her to complete it early to ensure that she was able to do it before she began addressing the other aspects of the case plan. Mother never completed the assessment. Given the county's concern for mother's mental health and its likely influence on her chemical-dependency issues, the county referred mother to engage in talk therapy and attempted to connect her with a Hmong provider. Even with these accommodations, mother never completed a chemical-dependency assessment or a psychological assessment to address either of her issues.

We conclude that the district court's finding that the county provided reasonable efforts to mother is supported by the record and not clearly erroneous.

Affirmed.