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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1508**

In the Matter of the Welfare of the Child of: R. J. W. and M. J. F., Parents.

**Filed March 31, 2025
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-JV-23-2977

Brooke Beskau Warg, Hennepin County Adult Representation Services, Minneapolis, Minnesota (for appellant M.J.F.)

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Considered and decided by Slieter, Presiding Judge; Cochran, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this termination-of-parental-rights case, father challenges the district court's order terminating his parental rights to two children, arguing that the district court abused its discretion by determining that the county provided reasonable efforts despite his period of incarceration during which no services were provided. Because father was not incarcerated for the vast majority of these child-protection proceedings, and the record

supports the district court’s determination that the county provided father with reasonable services pursuant to a case plan while not incarcerated, we affirm.

FACTS

This appeal arises from the termination of appellant-father M.J.F.’s parental rights to L.F. and E.F., born in June 2016 and November 2018, respectively.¹

The underlying child-protection proceedings stem from an incident in August 2022 during which a concerned citizen found L.F. and E.F—then six years old and three years old—unsupervised “about two miles away from their home, walking down a busy street.” Officers located the children and returned them to their home. While inside the home, officers observed that it was “a complete disaster with hazards everywhere,” including broken boards, dog feces, and drug paraphernalia. The children were placed in emergency foster care and an Emergency Protective Care (EPC) hearing was scheduled.

The day of the EPC hearing, at which the parties were represented by counsel, respondent Hennepin County Human Services (the agency) filed a child-in-need-of-protection-or-service (CHIPS) petition for the children. The district court ordered continued out-of-home placement of the children.

The agency drafted a proposed interim case plan in September 2022 and communicated it to father that same month. Father declined to sign the case plan and further explained to the social worker that he did not “agree to any case plans until we go to court and figure out what’s going on.” The proposed interim case plan included the

¹ The district court also terminated mother’s parental rights to the children, which she does not challenge on appeal.

following expectations: maintain safe and suitable housing, demonstrate sobriety through chemical-use tests, complete a chemical-use assessment if directed by the agency, complete parenting-education classes, attend supervised visits, and cooperate with the agency. Following the next hearing in September, the district court approved the interim case plan. The district court ultimately scheduled a May 25, 2023 CHIPS trial date.

The children remained in foster care throughout the entirety of these proceedings. Father was incarcerated from April 2023 to August 2023 on domestic-offense-related charges stemming from an incident involving mother.

During the months prior to the May CHIPS trial, the agency arranged for supervised visits between father and the children as well as parenting-education classes for father. Father attended almost all the supervised visits, which occurred approximately once per week. Father stopped attending the parenting-education classes prior to completing the course. The agency additionally arranged for in-home chemical-use testing. Father complied with all chemical testing prior to being incarcerated.

During the one-day CHIPS trial in May 2023, despite his incarceration, father was present with counsel. The district court adjudicated the children as CHIPS on June 6, 2023. The district court required father to complete the case plan which remained significantly similar to the interim case plan though, due to the domestic-offense-related charges, it now included related treatment. The case plan required father to: maintain safe and suitable housing, complete any recommended chemical-use assessments and follow its recommendations, demonstrate sobriety by submitting to chemical-use testing,

successfully engage in parenting classes, participate in supervised visitation with the children, complete domestic-violence treatment, and fully cooperate with the agency.

Following father's release from jail in August 2023, father refused to cooperate with the agency to complete chemical-use testing. Father was again incarcerated from September 14, 2023 until October 16, 2023. The agency discussed with father on multiple occasions the requirement that he complete a program to address domestic violence. Father declined to attend such programming, contending that he did not need it. After father's second release from jail in October, he began living at a shelter and continued to live there until early May 2024.

On October 27, 2023, the agency filed a petition for termination of parental rights (TPR) of father and mother to L.F. and E.F. The district court held a five-day TPR trial between May and August 2024. Following the TPR trial, the district court terminated father's and mother's parental rights to L.F. and E.F.

Father appeals.

DECISION

A district court may terminate parental rights "only for grave and weighty reasons." *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 709 (Minn. App. 2004). Appellate courts review a district court's decision to terminate parental rights to ensure that there exists clear and convincing evidence that: (1) at least one statutory ground for termination exists, (2) the county made reasonable efforts to reunite the family or, was not required to make reasonable efforts, and (3) termination is in the best interests of the child. *In re*

Welfare of Children of S.E.P., 744 N.W.2d 381, 385 (Minn. 2008); *see* Minn. Stat. § 260.012(a) (2024). Father only challenges the reasonable-efforts requirement.

In this case, it is undisputed that the county was required to provide reasonable efforts. Appellate courts review a district court’s determination regarding reasonable efforts for an abuse of discretion. *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 323 (Minn. App. 2015) (ruling that the district court’s “reasonable-efforts finding was not an abuse of discretion”), *rev. denied* (Minn. July 20, 2015). A district court abuses its discretion when it makes factual findings that are unsupported by evidence, misapplies the law, or delivers a decision against logic and the facts on the record. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022). When examining a district court’s termination of parental rights, appellate courts review underlying factual findings for clear error. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (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 A.M.C.*, 920 N.W.2d 648, 654 (Minn. App. 2018) (quotation omitted).

When evaluating whether the agency made reasonable efforts to reunite a family, a 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) (2024). District courts must additionally consider the amount of time the county has been involved in the case and the quality of the efforts provided. *A.M.C.*, 920 N.W.2d at 655-56. Reasonable efforts are services that “go beyond mere matters of form so as to include real, genuine assistance.” *In re Welfare of Children of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007), *rev. denied* (Minn. Mar. 28, 2007).

Whether the agency provided reasonable efforts depends “on the problem presented.” *In re Welfare of S.Z.*, 547 N.W.2d 886, 892 (Minn. 1996). Special circumstances arise when a parent is incarcerated. Although a parent’s incarceration might change what constitutes a reasonable effort, it does not “excuse[] [a] county of making [otherwise required] reasonable efforts.” *In re Welfare of Children of A.R.B.*, 906 N.W.2d 894, 899 (Minn. App. 2018).

In its 55-page order in which the district court carefully explained its findings in support of the statutory bases for termination of parental rights and why that was in the children’s best interests, it also made several detailed findings in support of its determination that the agency made reasonable efforts to reunite father with the children.

The district court found that the agency offered the following services to father: chemical-use testing to assure his sobriety, and if such a test was positive for chemical use, he would be referred to complete a chemical-use assessment and chemical-dependency treatment if the assessment recommended it; domestic-violence treatment; and parenting education. The district court further found that: the agency “attempted to engage [father]

in his case plan” but father “did not substantially or meaningfully engage in services other than supervised visits, [participated in chemical-use testing] for a short period of time, and parenting programming that he has declined to fully complete.”

The record provides ample support for the district court’s determination that the county provided reasonable efforts to reunite father and the children. Regarding the duration of the services that were offered to father, *see A.M.C.*, 920 N.W.2d at 655-56 (explaining that the reasonable-efforts determination requires the district court to consider the length of time the agency was involved), the underlying CHIPS proceedings began in late August 2022, the agency communicated the interim case plan to father in September 2022, and the case-plan requirements remained relatively unchanged until the TPR trial commenced in May 2024, other than the added requirement that he take part in domestic-violence treatment following his arrest for related acts against mother prior to the CHIPS trial. Therefore, father was well-informed of the case plan, including the services offered, and he understood what was required of him to be reunified with the children.

There is also substantial evidence in the record that father did not significantly avail himself of these services. First, father refused to participate in the process of creating the case plan the agency proposed. *See S.Z.*, 547 N.W.2d at 892 (focusing the reasonable-efforts inquiry into the circumstances of “the problem presented”).

Second, regarding the parenting-education classes, the objectives were for the educator to discuss strengths and weaknesses of father’s parenting and to offer father parenting advice based on observations from the supervised visits. Father stopped attending sessions prior to completing the program and indicated that he did not need parent

education. Additionally, the educator testified that she told father that he should not disparage mother to the children during the supervised visits. The educator testified that father has not corrected his inappropriate parenting behaviors during supervised visits despite addressing it during their parenting classes and in her private conversations with him. The district court found this testimony credible, a finding appellate courts give “considerable deference.” *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996).

Third, regarding the aspects of the case plan related to chemical use, the agency provided father with chemical-use testing to determine whether to refer him for a chemical-use assessment and potentially provide a recommendation for treatment. However, following the CHIPS adjudication, father refused to participate in chemical-use testing through the time of the TPR trial.

Fourth, regarding the portion of the case plan involving domestic-violence treatment, father declined domestic-violence treatment at a local facility and stated that he did not need such treatment. Because father refused to participate in the program as offered, the agency made alternative arrangements for father to take part in individual therapy related to domestic violence. However, father declined individual therapy for the same reason.

In sum, the district court’s detailed findings explaining the agency’s reasonable efforts are amply supported by the record.

Father’s primary claim is that the district court abused its discretion in its reasonable-efforts determination because the agency failed to offer services during father’s limited periods of incarceration. In support of this argument, father notes that the only

contact with the agency while he was first incarcerated was a single visit with a social worker after he had already spent nearly three months in custody. Father also notes that all services that were previously offered prior to his incarceration were abruptly stopped when he was incarcerated. He argues that, as a result, the agency's efforts were not "consistent and timely" as required by Minn. Stat. § 260.012(h)(7).

The record confirms that the agency only visited once while he was incarcerated, and the agency did not provide services during this period. However, the two cases that father cites in arguing that we should reverse are distinguishable. In *A.R.B.*, this court reversed the district court's termination of a father's parental rights who was incarcerated during the period between the filing of a CHIPS petition through the TPR trial, explaining that the county *never* provided the father with a case plan despite his request and did not attempt to identify suitable programming while the father was incarcerated. 906 N.W.2d at 895-96. Unlike in *A.R.B.*, the agency here provided father with a case plan as well as services to complete the case plan at least six months before his incarceration.

Similarly, in the case *In re Welfare of Children of A.D.B.*, this court reversed the district court's termination of an incarcerated father's parental rights, concluding that the district court abused its discretion in terminating the father's parental rights while he was in prison. 970 N.W.2d 725, 727 (Minn. App. 2022). Among other reasons explained by this court, the agency did not identify potential services that might be suitable while incarcerated and the agency failed to develop a case plan. *Id.* at 730. Here, there was a case plan that father was aware of and had an opportunity to participate in for at least six

months before his first incarceration and for a total of over 13 months prior to the TPR trial, during which father was not incarcerated.

Because the record provides ample support for the district court's reasonable-efforts determination, and because father does not challenge the other prerequisites for the termination of his parental rights, we conclude that the district court acted within its discretion in terminating father's parental rights to L.F. and E.F.

Affirmed.