

*This opinion is nonprecedential except as provided by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
A24-1991**

In the Matter of the Welfare of the Child of: L. H., Parent.

**Filed July 7, 2025
Reversed and remanded
Cochran, Judge**

Hennepin County District Court
File No. 27-JV-24-940

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Considered and decided by Cochran, Presiding Judge; Reyes, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges the district court's order terminating his parental rights, arguing that the district court abused its discretion when it determined that respondent provided reasonable efforts to reunify appellant and his child. We reverse and remand.

FACTS

This case concerns the termination of appellant-father M.R.’s parental rights to his child, O.R., who was born in November 2022. L.H. is the child’s mother. L.H. also has an older child, born in 2018. M.R. is not the father of the older child.

In May 2022, prior to O.R.’s birth, respondent Hennepin County Human Services Department (the county) initiated a child-protection investigation after L.H. called 911 to report suspected physical abuse of the older child by M.R. M.R. denied the allegation. During the investigation, the child made another report of physical abuse by M.R. The county put a safety plan into place, which prohibited mother from allowing contact between M.R. and the child.

Child Protection Proceedings Following O.R.’s Birth

In November 2022, following O.R.’s birth, the county filed an amended child-in-need-of-protection-and-services (CHIPS) petition,¹ which requested that O.R. remain in the care of L.H. under the protective supervision of the county. In December 2022, the district court held an “admit/deny” hearing. Following the hearing, the district court ordered the children to remain in the care of L.H., supervised by the county. In its order, the district court also noted that “[c]ase plans were authorized for the fathers” of both children, and further indicated that the case plan for M.R. was to include: “[s]afe/stable housing, supervised visits with his child, cooperate w/[county], follow all criminal court orders (including [r]ule 25 + recs and DVP + recs), no contact with [the older child].”

¹ The CHIPS petition was initially filed in October 2022 and was amended to include O.R. after his birth.

While a case plan was authorized, there is no evidence of a written case plan in the record or of a formal case plan for M.R. ever being filed with the district court.

In March 2023, the district court held another status hearing. At the hearing, L.H. entered a limited admission to the CHIPS petition. In a written order following the hearing, the district court adjudicated L.H.'s children (O.R. and the older sibling) as CHIPS and ordered protective supervision. The children were to remain in the care of L.H., so long as she complied with certain conditions specified in the order.

In May 2023, the district court granted the county's ex parte motion to remove O.R. from L.H.'s care and ordered that O.R. be placed in foster care due to L.H. not following the conditions of protective supervision and because O.R. was "in an unstable environment and at risk of harm." After an emergency-protective-care hearing, the district court denied L.H.'s request to return O.R. to L.H.'s care stating, "there remains a health, safety, and welfare risk to the children until [mother] receives the support she needs to safely parent."²

In January 2024, M.R. was apprehended, charged with third-degree assault, and held in the county jail. On March 25, 2024, M.R. pleaded guilty and was sentenced to 364 days at the Hennepin County Workhouse.

On March 27, 2024, the county filed a petition to terminate the parental rights of M.R. and L.H. to O.R. L.H. voluntarily terminated her parental rights. M.R. did not agree to the county's request to terminate his parental rights and requested a trial. M.R. was released from the workhouse in September 2024, shortly before trial was to begin.

² The district court's order also denied L.H.'s request to have the older child returned to her care.

The Trial

At trial, the following witnesses testified: a county child protection social worker, M.R., and the guardian ad litem (GAL). The county also offered, and the district court received, a number of exhibits into the record including records regarding M.R.'s criminal history, orders from the CHIPS case, evaluations and assessments of M.R., and prehearing reports from the social worker and GAL. The exhibits offered by the county did not include a written case plan for M.R.

The following is a summary of the testimony at trial that is relevant to issues on appeal. The social worker testified that she provided M.R. with a case plan, which she discussed with him in person in January 2023. But she also acknowledged that she did not request M.R.'s input on the case plan. She explained that "some of [the requirements] [were] already recommended [because] he was on probation" and testified that she went over "all of that with [M.R.]" The social worker further testified that the case plan required that M.R.: (1) complete domestic violence and anger management programming, (2) complete chemical dependency assessment and follow up, (3) attend supervised visits, (4) obtain safe and suitable housing, and (5) have no contact with L.H. or her other child.

The social worker testified that, following the initial meeting in January 2023, she had phone calls with M.R. "to see what progress he was making in regards to his case plan." Following his arrest in January 2024, the social worker had one meeting with M.R. while he was in jail. M.R. declined a second meeting. Once M.R. was transferred to the workhouse, the social worker had "at least two or three" phone calls with M.R. to discuss his case plan progress.

The social worker also testified to the specific efforts that she made to assist M.R. with his case plan. As to the domestic-violence and anger-management programming, she testified that she referred him to programming. And, while M.R. was in the workhouse, staff there sought to admit M.R. into anger-management programming, but it was determined that M.R. “need[ed] a high[er] level of education in regards [t]o domestic abuse/anger management.” After M.R. was released from the workhouse, the social worker again made a referral to domestic-violence programming, but on the first day of trial M.R. remained on the waitlist for services.

As to the chemical-dependency treatment, the social worker testified that M.R. completed chemical-dependency treatment at the workhouse. But the social worker acknowledged that the treatment was due to a recommendation from M.R.’s probation officer, not the social worker. And she could not confirm what progress M.R. had made because she had “not been in communication with his counselor.”

The social worker also testified about the county’s efforts regarding supervised visitation. Records indicate that, from early February 2023 to the end of March 2023, the county scheduled 13 visits. Of those visits, two occurred. But seven were cancelled by people other than M.R. and four did not occur because M.R. was late and could not be contacted. The social worker stated that the last supervised visit prior to M.R. being incarcerated occurred in June 2023. Upon his release in September 2024, the county made a referral to restart supervised visitation, but the county encountered problems arranging transportation for the child, which delayed the start of the visits.

As to housing, the social worker testified that she knew of a voucher program called the “Family Unification Program” but noted that M.R. did not qualify for this program. She did not testify that she actually told M.R. about the voucher program. Nor did she identify any other specific efforts that she made to help M.R. find safe and stable housing.

M.R. also testified about his case plan. He testified that the social worker provided him with a case plan that included the same elements as identified by the social worker. M.R. testified that the social worker discussed the case plan with him once, at the beginning of the case, and then would send emails and text messages asking him about his progress. M.R. agreed that the social worker arranged for him to complete domestic-violence programming. M.R. stated that he started the program, but then was not able to continue because he was incarcerated. Regarding chemical dependency, M.R. testified that early in the case he received referrals for chemical-dependency treatment from probation. He further stated that he completed parenting classes and chemical-dependency treatment while at the workhouse and has continued his chemical-dependency treatment since his release. Finally, with regard to safe and stable housing, M.R. testified that he did not have stable housing, but it was “not from lack of trying” on his part.

The GAL also testified. She recommended that it was in the best interests of O.R. to terminate M.R.’s parental rights. The GAL’s recommendation focused primarily on M.R.’s lack of engagement with domestic-violence programming, and his lack of understanding about how domestic violence could impact O.R. should M.R. be allowed to parent him. The GAL’s testimony did not address whether the department made reasonable efforts.

The District Court's Order

In November 2024, the district court filed a written order terminating M.R.'s parental rights. The district court determined that the county had proved, by clear and convincing evidence, statutory grounds for termination of parental rights based on neglect of parental duties, palpable unfitness, "reasonable efforts have failed," and O.R. was "neglected and in foster care." The district court further determined that it was in the best interests of O.R. to terminate M.R.'s parental rights.

The district court also determined that the county proved that it had provided reasonable efforts to reunify M.R. with O.R. In making this determination, the district court found that the county had provided M.R. with "a case plan." But there was no finding that the case plan was in writing or filed with the district court. Based on the testimony at trial, the district court found that the case plan required M.R. to (1) maintain safe and stable housing, (2) participate in supervised visitation, (3) cooperate with the county, (4) follow all criminal orders including those related to domestic violence and chemical dependency, and (5) have no contact with L.H.'s older child. The district court further determined that the county "made reasonable efforts to correct the conditions" that led to the out-of-home placement of O.R. "by offering [M.R.] a case plan, by making numerous service referrals and ongoing contacts, by continuing to reach out to establish and reestablish contact with [M.R.], and by visiting him when he was incarcerated."

M.R. appeals.

DECISION

M.R. argues that the district court abused its discretion when it terminated his parental rights. Specifically, he challenges the district court's determination that the county provided him with reasonable reunification efforts.

Parental rights may be “terminated only for grave and weighty reasons.” *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). Generally, to terminate a person's parental rights, the district court must determine that the social service agency established the following by clear and convincing evidence: “(1) the existence of at least one statutory basis for termination; (2) termination is in the child's best interests; *and* (3) the social services agency made reasonable efforts to reunite the family.” *In re Welfare of Child. of A.D.B.*, 970 N.W.2d 725, 730 (Minn. App. 2022) (emphasis added.). “Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the individualized needs of the child and the child's family.” Minn. Stat. § 260.012(f) (2024). When proceeding pursuant to a termination of parental rights, the district court must consider whether the services provided by the social services agency 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). An agency’s efforts must “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).

In reviewing a district court’s order terminating parental rights, we review the underlying factual findings for clear error and the district court’s ultimate decision to terminate parental rights for an abuse of discretion. *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021). A factual 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 Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Requirement for a Case Plan

M.R. first argues that the district court abused its discretion by determining that the county provided reasonable efforts because the county did not provide father with a formal, written case plan that met the requirements of Minnesota Statutes section 260C.212 (2024).³

³ We note that M.R. did not argue that the county did not provide him with a written case plan at trial. He instead argued that the county’s efforts centered on reunifying O.R. with

Minnesota Statutes section 260C.212, subdivision 1(a), states that “[a]n out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order.” “An out-of-home placement plan means a written document individualized to the needs of the child and the child’s parents or guardians that is prepared by the responsible social services agency jointly with the child’s parents or guardians.” *Id.*, subd. 1(b). The case plan must be “submitted to the court for approval” and “ordered by the court.” *Id.*, (1)-(2). The case plan must be explained to the parent and shall set forth “the specific reasons for the placement of the child in foster care, and when reunification is the plan, a description of the problems or conditions in the home of the parent . . . that necessitated removal.” *Id.*, subd. 1(c)(2). Further, the case plan must set forth “a description of the services offered and provided to . . . reunify the family,” which includes “the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions” that led to the out-of-home placement and “the reasonable efforts . . . to be made to achieve a safe and stable home.” *Id.*, subd. 1(c)(3).

As the county acknowledges, the record evidence does not reflect that the county provided M.R. with a written case plan that meets the statutory requirements of section 260C.212. Nor is there any evidence of the county submitting a written case plan to the court for approval. The county, however, asserts that the failure to provide a case plan that

L.H. The better practice would have been for M.R. to make this argument to the district court at trial. The county, however, stated at oral argument that it was not contending that M.R.’s argument on the point was not properly before us. We therefore do not address whether M.R. forfeited consideration of the absence of a written case plan on appeal.

strictly complies with section 260C.212 does not in all cases require a determination that the county failed to provide reasonable efforts. The county is correct.

No decision of this court or the Minnesota Supreme Court has required strict compliance with section 260C.212, subdivision 1, for a district court to find that the county made reasonable reunification efforts. *See In re Welfare of Child. of A.R.B.*, 906 N.W.2d 894, 898 (Minn. App. 2018) (stating “the county’s failure to provide [a case plan] does not automatically warrant reversal if the circumstances render the lack of a case plan excusable”); *see also In re Welfare of Child of D.R.L.*, No. A22-1815, 2023 WL 4199129, at *8-9 (Minn. App. June 26, 2023) (stating that “[n]either this court nor the Minnesota Supreme Court has adopted a rule requiring strict compliance with section 260C.212 in order to satisfy the statutory obligation to provide reasonable efforts”), *rev. denied* (Minn. Aug. 1, 2023).⁴ The touchstone of reasonable efforts is reasonableness, which necessarily requires a case-by-case analysis. *See In re Welfare of Child. of T.R.*, 750 N.W.2d 656, 664 (Minn. 2008) (stating that “the nature of the services which constitute ‘reasonable efforts’ depends on the problem presented” (quotation omitted)).

However, we have “tied . . . together” the statutory requirement for a written case plan under section 260C.212 with the statutory requirement that the county make reasonable reunification efforts under section 260.012 (2024). *A.D.B.*, 970 N.W.2d at 730. And we have concluded “that [the county] fails to make reasonable efforts when it fails to prepare a case plan with an incarcerated parent or otherwise identify any potentially

⁴ While not binding on this court, we may rely on nonprecedential decisions as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c).

suitable programming available to an incarcerated parent.” *Id.* (citing *A.R.B.*, 906 N.W.2d at 900). Thus, while the lack of a written case plan may not be determinative, it is a significant factor to be considered in analyzing whether the county provided reasonable efforts, and reversal may be warranted when the lack of a case plan is not excusable. *See A.R.B.*, 906 N.W.2d at 898 (considering the county’s efforts in light of the lack of a written case plan and addressing when the lack of a written case plan warrants reversal).

Reasonable Efforts

Consequently, the question that this court must decide is whether, in the absence of any evidence of a written case plan, the record supports the district court’s determination that the county established by clear and convincing evidence that it provided reasonable efforts to reunify O.R. with M.R. *See A.D.B.*, 970 N.W.2d at 730 (stating that a district court must determine that clear and convincing evidence establishes that “the [county] made reasonable efforts to reunite the family”). “[W]e closely inquire into the sufficiency of the evidence to determine whether the evidence was clear and convincing.” *A.R.B.*, 906 N.W.2d at 897.

M.R. argues that, without the foundational element of a written case plan developed with his input, the record fails to establish that the county proved by clear and convincing evidence that it provided reasonable efforts. The county responds that M.R. was provided with an oral case plan that detailed what M.R. was required to do to reunify with O.R. and that it provided efforts to support M.R. in those requirements. We consider these arguments below, and agree with M.R.

In determining that the county made reasonable efforts to reunify M.R. with O.R., the district court found that M.R. had been provided with a case plan that required M.R. to (1) maintain safe and stable housing; (2) complete a comprehensive assessment, which includes an assessment for chemical dependency, and follow any recommendations; (3) have no contact with L.H., and her older child; (4) attend domestic-violence programing; and (5) participate in supervised visits with O.R. The district court’s findings are, however, limited as to what efforts the county made to support M.R. in these requirements. *See* Minn. Stat. § 260.012(f) (stating that “[r]easonable efforts are made upon the exercise of due diligence by the responsible social services agency”). In its order, the district court determined that the county “made reasonable efforts” by “making numerous service referrals and ongoing contacts, by continuing to reach out to establish and reestablish contact with [M.R.], and by visiting him when he was incarcerated.”

We turn to the record evidence to analyze whether the evidence is sufficient to support the district court’s determination that the county proved by clear and convincing evidence that it made reasonable efforts to reunify M.R. and O.R. Based on our review of the record, we conclude that the evidence is not sufficient to support the district court’s determination. The record does not establish by clear and convincing evidence “due diligence” by the county “to use culturally appropriate and available services to meet the individualized needs of [O.R.] and [M.R.]” as mandated by section 260.012(f). We reach this conclusion for the following reasons.

First, the record establishes a complete absence of any effort by the county to assist M.R. with an essential element of his case plan—safe and stable housing. When asked

about the county's efforts in this regard, the social worker testified about a single housing voucher program but then acknowledged that M.R. did not qualify for the program. Further, it is not clear from her testimony that she discussed the program with M.R. And the social worker did not testify to any other efforts that the county made to identify housing programs for M.R. Nor is there any evidence that the county put M.R. in touch with other government agencies or nonprofits that could help him find safe and stable housing. Thus, the county did not establish at trial that it exercised "due diligence" to assist M.R. in finding safe and stable housing. *See id.*

Second, while the record supports the district court's determination that the social worker visited M.R. while he was in jail before he was transferred to the workhouse, the record also reflects a lack of reasonable efforts by the county while M.R. was in the workhouse from March through September 2024. At oral argument, the county noted that the social worker spoke with M.R.'s probation agent while he was in the workhouse, but she conceded that the county did not coordinate services for M.R. under his case plan with staff at the workhouse. *See A.R.B.*, 906 N.W.2d at 897-900 (reversing a termination of parental rights of an incarcerated parent when the county failed to prepare a written case plan as required by statute, noting that "the lack of a case plan is excusable only in extreme circumstances," and because the county failed to "determine whether any prison programming might have been available . . . and suitable to include in a case plan"). Additionally, the record reflects that the county's lack of coordination of services for M.R. while he was in the workhouse affected his ability to succeed on his case plan. For example, the social worker testified that M.R.'s case manager at the workhouse reported

the workhouse could not provide the level of domestic-violence programming that M.R. required. But the social worker did not testify to any efforts to work with his case manager and probation to investigate potential alternatives available to M.R. while at the workhouse. *See* Minn. Stat. § 260.012(h)(6) (stating that, when determining whether reasonable efforts have been made, the court considers whether services were “available and accessible”). We acknowledge that it is certainly possible that no suitable domestic-violence programming was available to M.R. while he was at the workhouse. *See A.R.B.*, 906 N.W.2d at 899 (stating that a parent being incarcerated may impact “what qualifies as ‘reasonable’ under the county’s duty to make ‘reasonable efforts’”). But without coordinating with probation and the workhouse case manager to confirm as much, the county did not establish that it made reasonable efforts to assist M.R. on this part of his case plan while incarcerated. *See* Minn. Stat. § 260.012(f) (stating that reasonable efforts are made upon “due diligence” by the county).⁵

Similarly, with regard to the portion of M.R.’s case plan dealing with chemical dependency, M.R. completed chemical-dependency treatment while at the workhouse. But his social worker did not obtain the necessary information from probation and workhouse

⁵ In determining that the county made reasonable efforts to reunify M.R. with O.R., the district court found that the county had provided M.R. with “numerous service referrals.” This factual finding is supported by the record in that the county did provide M.R. with referrals for supervised visitation and two referrals to domestic-violence programming. However, for the reasons stated in the body of the opinion, we conclude that the evidence, viewed as a whole, is insufficient to establish that the department made reasonable efforts to reunify M.R. with O.R., notwithstanding this finding. *See A.R.B.*, 906 N.W.2d at 897 (stating that “we closely inquire into the sufficiency of the evidence to determine whether the evidence was clear and convincing”).

staff to establish that the programming that M.R. engaged in while at the workhouse was sufficient to address the unwritten case-plan requirements. In sum, the record reflects a lack of reasonable efforts by the county during the approximately six months that M.R. was in the workhouse.

Third, the county provided no testimony at trial as to why it did not meet the statutory requirement for a written case plan developed in coordination with M.R. *See* Minn. Stat. § 260C.212. And, as M.R. argues, if he had been involved in the case-planning process at the beginning and a formal, written case plan had been developed and filed with the court as statutorily required, he would have been more likely to succeed in meeting the goals of the plan. Consequently, under these specific circumstances, there is no basis to conclude that the lack of a written case plan was excusable. *See A.R.B.*, 906 N.W.2d at 898 (considering whether the lack of a case plan is excusable in analyzing the district court's determination as to whether the county made reasonable efforts).

Conclusion

In sum, given the county's failure to show it met the statutory requirement for a written case plan developed with M.R. and based on the other evidence in the record, we conclude that the district court erred when it ruled that the county established, by clear and convincing evidence, that it made reasonable efforts to reunify M.R. and O.R. We therefore reverse the district court's order terminating M.R.'s parental rights and remand the case to the district court to allow the county a new opportunity to provide reasonable efforts to M.R. pursuant to a formal, written case plan as required by section 260C.212.

Reversed and remanded.