

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1606
A25-1656**

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

**Filed April 20, 2026
Affirmed
Schmidt, Judge**

Clay County District Court
File No. 14-JV-25-567

Anne Morris Carlson, Anne M. Carlson Law Office, PLLC, St. Paul, Minnesota (for appellant/respondent L. P.)

Brian J. Melton, Clay County Attorney, James Lopez, Assistant County Attorney, Moorhead, Minnesota (for respondent Clay County Social Services)

Jennifer L. Thompson, JLT Law Office, Litchfield, Minnesota (for respondent/appellant D. D., Jr.)

G.L.S., Racine, Wisconsin (pro se respondent)

D.L.B., Minneapolis, Minnesota (pro se respondent)

Jesse Dale Mickels, Moorhead, Minnesota (for child B. P.)

Samantha Faye Zimmerman, Dilworth, Minnesota (for child B. G. P.)

Courtney Swiers, Detroit Lakes, Minnesota (guardian ad litem)

Considered and decided by Schmidt, Presiding Judge; Johnson, Judge; and Larson, Judge.

SYLLABUS

If a child who is subject to a petition to terminate parental rights is an “Indian Child” as defined under Minnesota Rule of Juvenile Protection 2.01(14) and Minnesota Statutes section 260.755, subdivision 8 (2024), then Minnesota Rule of Juvenile Protection 58.04(c)(3) requires that the best interests of that child “be determined consistent” with the Indian Child Welfare Act (25 U.S.C. §§ 1901-63 (2018)) (ICWA). If the district court determines that the best-interests requirements under ICWA are met, then the district court need not perform an analysis of the best-interests factors that apply to non-Indian children under Minnesota Rule of Juvenile Protection Procedure 58.04(c)(2)(ii).

OPINION

SCHMIDT, Judge

Appellant/respondent L.P. (mother) challenges the district court’s order terminating her parental rights to all five of her children, arguing that the district court abused its discretion when it ruled that (1) the county made active efforts to reunify the family; (2) a termination of parental rights was in the best interests of the children; and (3) mother neglected her parental duties pursuant to Minnesota Statutes section 260C.301, subdivision 1(b)(2) (2024). Respondent/appellant D.D., Jr. (father), challenges the district court’s order terminating his parental rights to all three of his children. We affirm.

FACTS

These consolidated appeals arise from a district court order terminating mother's and father's parental rights. Mother has five minor children (Child 1, Child 2, Child 3, Child 4, and Child 5). Father is the parent of Child 3, Child 4, and Child 5.¹

Both parents are Native American. Mother is a member of the Spirit Lake Tribe. Father is a member of the Turtle Mountain Band of Chippewa Indians. All five children are enrolled or eligible for enrollment in the Spirit Lake Tribe. Thus, ICWA (25 U.S.C. §§ 1901-63) and the Minnesota Indian Family Preservation Act (Minn. Stat. §§ 260.751-.835 (2024)) (MIFPA) apply to these termination proceedings.

Both parents are deaf or hearing impaired, use an altered version of American Sign Language, and require the assistance of sign and certified deaf interpreters. Both parents have limited ability to speak English, and mother has difficulty reading English.

The Circumstances Leading to Out-of-Home Placements

Respondent Clay County Social Services (the county) had regular contact with the family since March 2023 after receiving reports of educational neglect of Child 1 and Child 2. The county determined that Child 2 had significant dental and vision needs.

In June 2023, the county received a report that Child 2 had a burn on their face, which Child 2 said was caused by father. In July 2023, Child 5 lost the top half of their middle and ring fingers after they were severed by a rocking chair. Following this incident, mother told the county that she struggled to supervise all five children.

¹ The father of Child 1 and the father of Child 2 are not parties to this appeal.

In October 2023, the county received a report that mother and father were using methamphetamine. In November 2023, Child 2 reported that mother had called the police because father “beat her up,” that father “beats . . . up” Child 2, and that they were afraid of father and did not want to go home. At the time of the report, Child 2 had bruising and swelling under their eyes. Mother had no concerns for Child 2 related to father.

The county continued to receive reports that Child 2 was wearing dirty clothes, “looking unkempt with hair that was not brushed[,] and appearing tired and sullen” at school. The county also received reports that Child 3 had poor hygiene, was “consistently going to school with soiled clothing and smelling of urine and feces,” and was exhibiting “aggressive behavior including hitting students and staff.” Mother denied needing services to help with Child 3 and stated that the county no longer needed to be involved.

The county received additional reports about the children “going to school in dirty clothes” and lacking “food in the home” as well as reports related to the “cleanliness of the home due to repeated concerns of lice.” Child 3 developed incontinence. Child 2 had a “sudden change in behavior,” including refusing to do schoolwork and scribbling and writing swear words on their work. Mother refused to coordinate services for Child 2 and stated that she no longer wanted the school staff to communicate with Child 2.

In January 2024, the county received a report of a domestic disturbance. Child 1 contacted law enforcement after being assaulted by father, reporting that father choked them. Mother claimed that father “told Child 1 that the rules needed to be followed and Child 1 hit [father].” Mother said father “pushed Child 1 onto the couch and held the child there.” Mother did not believe her family needed the county’s involvement.

In February 2024, the county received a report that father had allegedly solicited a minor relative for sexual acts and showed the minor pornographic videos. The alleged victim disclosed her belief that father had harmed Child 2 “in the same manner.” Mother noted that father “showed the [pornographic] videos to the children when they were bad.”

The county interviewed Child 2, who “disclosed that [father] would take them into their garage when [mother] was sleeping” and “do things that were ‘illegal.’” In therapy, Child 2 disclosed that they had been sexually abused by father for several years. Child 2 reported that father threatened to harm their siblings and their pets if Child 2 told anyone. The county recommended services for Child 2, but mother declined. Mother accused Child 2 of lying. In therapy, Child 2 disclosed that mother got angry and grounded them when they spoke to the county.

The county petitioned for immediate custody, which the district court granted. After an emergency hearing, the children were ordered to remain in out-of-home placements. The district court adjudicated the children as children in need of protection or services (CHIPS). While the children were in out-of-home placements, the county conducted a relative search but identified no relatives who were able or willing to care for the children.

The county met with mother and father and, with the help of an interpreter, established a safety plan so that the children could return for a trial home visit. The plan included that father could not reside in the home, could not be present at the home outside of scheduled in-home services, and could not have contact with any of the children outside of scheduled visitation. During the trial home visit, the county received a report that father had been at home with the children.

The county installed cameras in the home. During installation, father arrived at the house at an unapproved time. After the cameras were installed, the county learned that father repeatedly went to the home outside of approved times. On several occasions, the cameras went offline for several hours. Mother claimed a child unplugged the cameras.

In August 2024, Child 2 reported that mother had taken the children to father's mother's home—where father was staying—to sleep overnight. Mother admitted to doing so after camera footage corroborated the report.

The county contacted a qualified expert witness² for the Spirit Lake Tribe who agreed with the county's decision to end the trial home visit. The county then removed all five children from the home. In follow-up meetings, mother admitted that she took the children to father's mother's home when father was there. Mother also admitted that father often requested to see the children and that he went to mother's home several times.

Mother's Mental Health

In 2022, mother was diagnosed with major depressive disorder, attention deficit hyperactivity disorder, generalized anxiety disorder, panic disorder, and moderate alcohol use disorder in sustained remission. In 2024, mother was diagnosed with panic disorder, attention deficit hyperactivity disorder, generalized anxiety disorder, major depressive disorder, alcohol dependence in remission, post-traumatic stress disorder chronic, and cannabis abuse uncomplicated. Mother has regularly attended her therapy appointments.

² A qualified expert witness is “an individual who meets the criteria in section 260.771, subdivision 6, paragraph (d), and provides testimony as required by [ICWA], and [MIFPA], regarding child placement or permanency proceedings relating to an Indian child.” Minn. Stat. § 260.755, subd. 17a (2024).

Mother admitted to a history of alcohol abuse but said she had been sober for ten years. Mother tested negative at a drug screening in July 2024. In October 2024, father told the county that mother had attempted suicide. Mother was placed on a 72-hour hold and hospitalized. Therapists noted that mother minimized this situation.

Father's Mental Health and Participation with the County

Father has been diagnosed with major depressive disorder, generalized anxiety disorder, attention deficit hyperactivity disorder, amphetamine-type substance-use disorder, and cannabis-use disorder. Father admitted that he has “anger issues” and that, in one instance, he got into a knife fight—and lost a lot of blood—in front of the children.

In August 2024, father indicated that he had been using methamphetamine “on and off” for eight years and that he had been using methamphetamine daily for at least a year. Father reported that methamphetamine use is “not that bad,” stated that his use did not affect his parenting, and that he believed the county should not be concerned about it.

During the county’s involvement, father was asked to take sixteen drug screening tests. Father refused to take seven of the tests and tested positive for the other nine. Father’s drug screen results in September 2024 revealed an amount of methamphetamine in his system that was so high that the result could not be quantified because it was beyond the upper limit of the test. The lab report noted that father’s “ability to use at such high levels”—levels that would typically be “lethal to any human”—is due to father’s “long-time use.” When discussing these reports, father said, “[B]ut look at me, I’m fine.”

Father did not engage in supervised visitation. When transportation issues arose, the county offered father bus passes, but he refused. Father threatened observers and

service providers during meetings, claiming that he would “start a war” if he lost his kids and that he did not “care if [he] kill[ed]” a police officer. Father would become so agitated that the interpreter could not understand him or communicate what he was saying.

Mother and Father’s Relationship

Mother and father had an abusive relationship. County officials sometimes observed visible injuries on mother’s face and body. Mother often called the police because of father’s violence, and she consistently told her therapist that father hurt her.

In 2021, father admitted to violating a domestic-abuse no-contact order that was issued to protect mother. The county requested that father complete a domestic violence program, but he refused, stating that he has not abused mother or the children.

Trial

The county petitioned to terminate mother’s parental rights for all five children. The county also petitioned to terminate father’s parental rights as to Child 3, Child 4, and Child 5. The county sought to terminate the parental rights of the father of Child 1 and the father of Child 2, but neither appeared for trial despite repeated attempts to contact them.

During the seven-day trial, the district court heard testimony from 16 witnesses and received 29 exhibits into evidence. After trial, the court terminated mother’s parental rights as to all five children, and terminated father’s parental rights as to Child 3, Child 4, and Child 5. The district court determined that the evidence supported five statutory bases for termination. The district court also determined that “[t]he grounds for termination ha[d] been proven beyond a reasonable doubt” under ICWA and MIFPA.

We consolidated the separate appeals filed by mother and father.

ISSUES

- I. Did the district court abuse its discretion by terminating mother's parental rights?
- II. Did the district court abuse its discretion by terminating father's parental rights?

ANALYSIS

“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). Generally, the termination of parental rights is governed by chapter 260C of the Minnesota Statutes. *See* Minn. Stat. §§ 260C.001-.635 (2024). Typically, the district court must rule that (1) one of the statutory bases for terminating parental rights exists; (2) reasonable efforts toward reunification were made; and (3) termination is in the children's best interests. *In re Welfare of Child of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). But termination-of-parental-rights cases involving Indian children, as defined under ICWA or MIFPA, are subject to more rigorous requirements. *See* 25 U.S.C. §§ 1901-63; Minn. Stat. §§ 260.751-.835, 260C.001, subds. 2, 3.

Under ICWA and MIFPA, a district court “cannot terminate parental rights unless it determines that evidence shows, beyond a reasonable doubt, that continued parental custody of the child is likely to result in serious emotional or physical damage to the child.” *In re Welfare of Child of S.R.K.*, 911 N.W.2d 821, 829-30 (Minn. 2018). That determination must be supported by the opinion of a qualified expert witness with specific knowledge of the relevant tribe's culture. *Id.* at 828 n.5, 830; *see also* 25 U.S.C. § 1912(f); Minn. Stat. § 260.771, subd. 6(a). Petitioners must also prove that “active efforts” have been made to reunify the family. 25 U.S.C. § 1912(d); Minn. Stat. § 260.762, subd. 2a (Supp. 2025).

We review a district court's decision to terminate parental rights for an abuse of discretion. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136 (Minn. 2014); *see also In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011) (“[Appellate courts] review a district court’s ultimate determination that termination is in a child’s best interest for an abuse of discretion.”), *rev. denied* (Minn. Jan. 6, 2012). We also review a district court’s underlying determination that a statutory basis exists for terminating parental rights for an abuse of discretion. *Id.* at 901.

We review the district court’s factual findings for clear error. *Id.* “A finding is clearly erroneous if it is either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *S.R.K.*, 911 N.W.2d at 830 (quotation omitted). We defer to the district court’s weighing of the evidence and to its credibility determinations. *Id.* at 831.

I. The district court did not abuse its discretion when it terminated mother’s parental rights.

Mother argues that the district court abused its discretion in three ways when it terminated her parental rights as to all five of her children. Mother argues that the district court abused its discretion when it ruled that (1) the county made active efforts to reunify the family; (2) a termination of parental rights was in the best interests of the children; and (3) mother neglected her parental duties pursuant to Minnesota Statutes section 260C.301, subdivision 1(b)(2). We address each challenge in turn.

A. The district court did not abuse its discretion by finding that the county made active efforts to reunify the family.

Mother argues that the district court abused its discretion in ruling that the county made active efforts to reunify the family. Mother contends that the county only gave her one opportunity to demonstrate her ability to establish boundaries with father and that the county did not adequately address issues with in-home services.

Minnesota law defines “active efforts” as

a rigorous and concerted level of effort to preserve the Indian child’s family that is ongoing throughout the involvement of the child-placing agency or the petitioner with the Indian child. Active efforts require the engagement of the Indian child, the Indian child’s parents, the Indian custodian, the extended family, and the Tribe in using the prevailing social and cultural values, conditions, and way of life of the Indian child’s Tribe to: (1) preserve the Indian child’s family; (2) prevent placement of an Indian child; (3) if placement occurs, to return the Indian child to the Indian child’s family at the earliest possible time; and (4) where a permanent change in parental rights or custody is necessary, ensure the Indian child retains meaningful connections to the Indian child’s family, extended family, and Tribe.

Minn. Stat. § 260.755, subd. 1a(a).

The district court made detailed findings about the active efforts that the county made to provide services and rehabilitative programs to mother. The district court also found that those active efforts proved unsuccessful, citing mother’s inability to set boundaries with father and mother’s inability to adequately parent the children on her own.

We disagree with mother’s characterization that she only had one chance to demonstrate that she could establish boundaries with father. The record shows that the county did not remove the children from the home after receiving reports of father having

allegedly sexually abused Child 2 and father's minor relative. Instead, the county attempted to establish a safety plan with mother and father. The safety plan included a provision that father was not to have unsupervised contact with the children or be at the home with the children. But the district court found that the county received a report that father had been at the home with the children in violation of the safety plan. The county then removed the children from the home.

Even after removing the children, the district court found that the county continued to work to create a safe environment in which the children could return home. The district court found that the children were returned home for a trial period. During this trial period, the county installed cameras at the home, which were frequently turned off in violation of the safety plan. The county also observed father returning to the home many times in violation of the safety plan. Mother also admitted taking the children to father's mother's home where father was staying. The record supports the district court's finding that mother had several chances to establish boundaries with father.

Mother does not cite to the record to support her contention that the district court's factual findings were clearly erroneous. We discern no clear error in the district court's factual findings underlying its discretionary decision that the county made active efforts to reunify the family.

B. The district court did not abuse its discretion by ruling that termination of mother's parental rights was in the best interests of the children.

Mother argues that the district court abused its discretion in ruling that terminating her parental rights was in the best interests of the children. Mother contends that the district court failed to weigh the children's interest in maintaining the parent-child relationship or consider their preferences in addition to performing the ICWA best-interests analysis.

When considering whether termination of parental rights is in the best interests of a non-Indian child, the district court weighs (1) the parent's interests in maintaining the parent-child relationship; (2) the child's interests in maintaining the parent-child relationship; and (3) competing interests such as stability, health considerations, and the child's preferences. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012). But, here, all five children are enrolled or eligible for enrollment in the Spirit Lake Tribe. As such, the best-interests standard for non-Indian children does not apply.

Instead, we must apply the best-interests analysis as defined by ICWA and MIFPA. *See* Minn. R. Juv. Prot. P. 28.05 ("In proceedings involving an Indian child, the best interests of the child shall be determined consistent with the Indian Child Welfare Act, 25 U.S.C. sections 1901 to 1963."), 58.04(c)(3) (same).³ The district court must find, beyond a reasonable doubt, "[t]hat the continued custody of the child[ren] by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, as

³ Consistent with ICWA, a district court must first find, beyond a reasonable doubt, that the county made active efforts to provide remedial services and the "programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful." Minn. R. Juv. Prot. P. 28.07, subd. 4(a)(1). We have already concluded that the district court did not abuse its discretion in ruling that the county engaged in "active efforts."

supported by qualified expert witness testimony in the termination of parental rights proceeding.” Minn. R. Juv. Prot. P 28.07, subd. 4(a)(2). If a district court finds the ICWA best-interests analysis supports termination, it need not perform the best-interests analysis that applies to non-Indian children. It is in no child’s best interest to be returned to a home where it “is likely to result in serious emotional or physical damage to the child.” *Id.*

In the case before us, the district court neither clearly erred in its findings of fact on the best-interests factors, nor abused its discretion in ruling that the ICWA best-interests requirements were met beyond a reasonable doubt. The district court found that serious emotional or physical damage to the children would result from the continued custody of the children by their parents. The district court acknowledged that mother clearly loves her children but found that all five children had significant emotional, physical, and developmental needs that would remain unaddressed if they were returned to mother’s custody. The district court also found, among other things, that the bulk of the parenting responsibilities often fell to Child 1; that credible evidence suggested that Child 2 was sexually abused by father while under mother’s care and that Child 2 was diagnosed with severe emotional disturbance; that Child 3 regressed significantly, developing incontinence and engaging in violent behavior; and that Child 4 and Child 5 were suffering from significant developmental delays, which began improving after removal. The district court found that “the children have made substantial growth in their education, mental and physical health, and overall development” since their removal from mother’s and father’s care. Because these findings are reasonably supported by the evidence as a whole, they are not clearly erroneous. *See S.R.K.*, 911 N.W.2d at 830.

The district court's ICWA best-interests findings were supported by the qualified expert witness's testimony. Indeed, the qualified expert witness testified that she supported the termination of mother's parental rights and that serious emotional or physical damage would result if the children were returned to mother's care.

Mother has not demonstrated that the district court abused its discretion in determining that it was in the best interests of the children, beyond a reasonable doubt, to terminate mother's parental rights.

C. The district court did not abuse its discretion by determining that a statutory basis exists to terminate mother's parental rights.

The district court found that the county proved five bases for the termination of mother's and father's parental rights. On appeal, mother only challenges the district court's determination on one statutory basis: that she neglected her parental duties.⁴ Mother has not demonstrated that the court's thorough analysis on this statutory basis included an error of law or clearly erroneous factual findings. The district court found that mother was unable to provide for the children's basic needs, such as food, clothing, a safe home, medical care, or ensure they went to school. The court also found that mother was unable to supervise the children to ensure their safety or to keep the children safe from father's violent behavior, his methamphetamine use, or his sexual abuse of Child 2.

⁴ Mother contends that the county failed to provide adequate notice of the statutory bases by misnumbering the statutory bases in its initial petition to terminate her parental rights. This issue is not properly before us because mother failed to raise it to the district court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts generally will not consider matters not argued to and considered by the district court).

Even if we agreed with mother's argument, she challenged only one statutory basis that the district court found supported the termination of mother's parental rights. The district court, however, determined that the evidence supports four other separate statutory bases for terminating her parental rights. Those four statutory bases are not challenged on appeal. Our caselaw dictates that we must affirm the district court's determination that the county has proven a statutory basis exists to terminate mother's parental rights. *See S.E.P.*, 744 N.W.2d at 385 (stating that only one statutory basis is needed to support termination). Because the district court determined that five statutory bases for the termination of mother's parental rights had been proven, mother's challenge to fewer than all five of those statutory bases on appeal is not a viable means to obtain reversal.

In sum, we conclude that the district court acted within its discretion, and we affirm the district court's order terminating mother's parental rights as to her five children.

II. Father raises no reviewable arguments on appeal.

Father challenges the district court's order terminating his parental rights to his three children. But father's arguments on appeal recites the law on several topics, including the best interests of the child, parental rights being a fundamental liberty interest, the rights of siblings, and "the Spirit of the ICWA/MIFPA." Father included no analysis applying the facts of these circumstances to the law and failed to identify any specific error that we can review within the context of the order terminating his parental rights.

Our caselaw does not allow us to presume error on appeal. *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944). Instead, any error "must be made [to] appear affirmatively before there can be reversal." *Id.* at 465. The "burden of showing error rests

upon the one who relies upon it.” *Id.* As such, we affirm because father raised no reviewable errors committed by the district court on appeal, and because we cannot decide issues that are inadequately briefed. *In re Civ. Commitment of Kropp*, 895 N.W.2d 647, 653 (Minn. App. 2017), *rev. denied* (Minn. June 20, 2017).

We also discern no obvious prejudicial error on mere inspection of father’s appellate brief and the district court’s order. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) (“An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is [forfeited] and will not be considered on appeal unless prejudicial error is obvious on mere inspection.”). The ICWA analysis discussed above for mother equally applies to father. The district court determined—with ample support in the record—that the children would suffer serious emotional or physical damage from the continued custody by their parents. The qualified expert witness supported termination of father’s parental rights, agreeing that the children would suffer serious emotional or physical damage if returned to father’s care. The district court did not abuse its discretion in determining beyond a reasonable doubt that it was in the best interests of the children to terminate father’s parental rights.

Finally, we conclude that father forfeited his argument that the county should have placed the children in the same home because he did not present the issue to the district court. *In re Welfare of A.L.F.*, 579 N.W.2d 152, 156 (Minn. App. 1998) (“Even in the context of termination of parental rights, failure to raise constitutional issues in the district court precludes the issues from being raised on appeal.”). In addition, these proceedings concerned terminating father’s parental rights, not seeking to establish permanency for the

children. The county's active efforts towards obtaining permanency for the children will continue after these proceedings end. *See, e.g.*, Minn. Stat. §§ 260C.605, subd. 1 (requiring responsible social services agency to continue efforts to finalize the adoption of a child under agency's guardianship), .317, subd. 3(c) (requiring courts to hold a hearing "every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family for the child and to finalize the adoption or other permanency plan").

DECISION

The district court did not abuse its discretion in terminating mother's parental rights as to her five children. Because father failed to raise a viable legal argument on appeal, we affirm the district court's order terminating father's parental rights as to his three children.

Affirmed.