STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1928

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

Filed September 3, 2024
Affirmed
Reyes, Judge

Washington County District Court
File No. 82-JV-23-354

John P. Chitwood, Chitwood Law, PLLC, St. Paul, Minnesota (for appellant-mother H.V.)

Kevin M. Magnuson, Washington County Attorney, Richard D. Allen, Assistant County Attorney, Stillwater, Minnesota (for respondent Washington County Community Services)

Matthew Philion, Stillwater, Minnesota (guardian ad litem)

Considered and decided by Slieter, Presiding Judge; Reyes, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

On appeal from the termination of appellant-mother's parental rights (TPR), mother argues that the district court abused its discretion by determining that (1) multiple statutory grounds under Minn. Stat. § 260C.301, subd. 1(b) (2022), justify termination; (2) the county made reasonable efforts to reunify mother with the children; and (3) TPR is in the children's best interests. We affirm.

FACTS

This case involves the welfare of three of mother H.V.'s children: M.C.B., born in August 2015; and twins L.G.-1 and L.G.-2, born in May 2018 (collectively, the children).[1]

On August 4, 2022, respondent Washington County Community Services (the county) received a report from mother's adult daughter, B.V., that mother had left the children in B.V.'s care three days earlier and had not returned or responded to any calls or texts. On August 8, a county social worker followed up with B.V., who reported that mother had returned home on August 5, but left again on August 7. The social worker went to the family's home and contacted B.V. and the twins. B.V. had taken M.C.B. to his paternal grandmother's house on August 4, where he remained. The social worker observed that the twins both appeared to be in soiled diapers and dirty clothing. The home was damaged and filled with piled debris, there were walkways cut through the debris, and the social worker saw a mouse and flies.[2] The children's room contained a bare mattress that was the only walkway through the surrounding debris. B.V. reported that mother would often "just leave" the children in her care or in others' care, and that mother was only home one to two days each week.

Mother returned to the home while the social worker was visiting and appeared "wobbly on her feet and slow in her body movements." Mother admitted to struggling

[1] The fathers of the children have each voluntarily terminated their parental rights and are not involved in this appeal. Because the twins have identical initials, they are distinguished by "1" and "2" following their initials. L.G.-2 has special needs.

[2] The home was later deemed "unlivable" and was condemned.

with methamphetamine use for the prior year and a half, as well as being subject to domestic abuse in the past, two instances of which the children had witnessed.

The following day, the county moved the twins to their paternal grandmother's home and worked with mother to create a plan to address mother's drug use and the children's safety. The county petitioned to open a child in need of protective services (CHIPS) case for the children, and the district court later adjudicated the children CHIPS. The twins were eventually placed in foster care in September 2022, where they have remained, and M.C.B. has continued to reside with his paternal grandmother.

In late September 2022, the county entered a case plan with mother that identified mother's goals to include becoming sober, understanding how her substance use impacted the children, demonstrating an ability to keep the children safe, understanding her children's development level and appropriate supervision for that level, visiting the children consistently, and communicating effectively with the persons working on her case. The county informed mother that she had to obtain sobriety before she could receive additional services to address her underlying mental-health needs and to improve her parenting skills. However, during the first five months of the case, mother continued to use methamphetamine; communicated inconsistently or not at all with the case manager; failed to show up for scheduled visits with the children, despite transportation being arranged for her; failed to visit L.G.-2 while he was hospitalized; and failed to complete substance-use treatment twice. Mother began inpatient treatment in January 2023.

After entering inpatient treatment, mother's compliance with the case plan improved somewhat. She began to attend supervised visits consistently with the twins, but those

went poorly because of her inability to engage with the twins effectively. Mother also continued to miss contact calls with M.C.B. because she forgot or prioritized other events. The children displayed "trauma anxiety" behaviors before, during, and after the visits with mother, including emotional dysregulation, incontinence, stomach aches, overeating, general anxiety, and exhaustion. Mother transitioned to intensive outpatient treatment in April 2023.

In early April 2023, the county referred mother to Dr. Stefanie Varga for a neuropsychological evaluation. Based on her interview with mother and various assessments, Dr. Varga found that mother presented with fetal-alcohol syndrome and post-traumatic-stress-disorder traits; denied many of her negative symptoms and was overconfident in her parenting abilities; had a significant personality dysfunction, including a narcissistic-personality style; was of average intelligence but with poor attention and executive functioning skills; had multiple prior head injuries; and was likely exposed to drugs and alcohol prenatally. Dr. Varga opined that each of these findings supported that mother struggled with memory issues, learning, and controlling her emotions, which resulted in her being a "high-risk parent" to the children. Dr. Varga testified that "high risk" means the parent displays more risk factors than protective factors for the children.

A parenting assessor completed a parenting assessment in April and May 2023, which included one session of observing mother with L.G.-2 and another observing mother with both twins. The assessor classified mother's connection with the children as "sporadic and infrequent" and observed that she does not adapt to their needs, struggles to identify

their cues and instead misinterprets them, and minimizes her own involvement in their trauma. The assessor observed that both L.G.-1 and L.G.-2 had stress-responses after a supervised visit with their mother in May 2023, including L.G.-1 pulling out her hair and L.G.-2 experiencing a small seizure. The assessor identified the relationship between mother and the twins as "in the range of clinical concern," in part because the relationship would "compromise the [twins'] development and psychological safety if not addressed," and recommended intensive family attachment therapy in hopes of improving the children's relationship with mother.

The twins' mental-health clinician diagnosed them with, among other diagnoses, other specified trauma and stressor related disorder stemming from recent traumatic events, including domestic violence between mother and her partners, and neglect. The twins began attending therapy to address these issues.

Based on mother's evaluations, the county connected mother with a consultant specializing in parenting skills, family therapy, and parent education. The consultant began working with mother and the twins in late June 2023. During the first visit, the consultant observed that neither child was securely attached to mother, that L.G.-2 did not feel safe with mother, and that L.G.-1 was more comfortable with mother than L.G.-2 was, but in an anxious way. During ongoing visits, the consultant observed that mother struggled to manage both children and maintain their safety, and that, as of trial, one-hour visits once a week were about "all the children [could] handle" due to their "trauma anxiety" when around mother. The consultant did not see the progress she would have expected based on her ongoing sessions with mother and the twins.

In July 2023, the county petitioned to terminate mother's parental rights, alleging four statutory grounds for termination. *See* Minn. Stat. § 260C.301 subd. 1(b)(2), (4), (5), and (8). The district court held a trial on October 23, 24, 25, and November 8, 2023, at which it heard testimony from mother, the county case managers, Dr. Varga, the children's mental-health clinician, the twins' foster-mother, the parenting assessor, the parenting consultant, a county worker who had transported the children and supervised the children's visits with mother, mother's peer-recovery specialist from her treatment facility, and the children's guardian ad litem (GAL). The GAL supported the county's TPR petition based on his independent investigation and his review of the material presented at trial.

In December 2023, the district court issued a detailed 59-page order. The district court terminated mother's parental rights after determining that the county had provided clear and convincing evidence to show that each of the statutory grounds to terminate had been met. The district court further found that the county's efforts to reunify mother with the children were reasonable and determined that the children's best interests supported termination.

This appeal follows.

DECISION

Mother argues that the district court abused its discretion by determining that (1) the statutory grounds for termination under Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), and (8) have been met; (2) the county made reasonable efforts to reunify her with the children; and (3) the children's best interests are served by termination. We disagree.

"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). "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). We review a district court's "ultimate decision whether to terminate parental rights for an abuse of discretion." *Id.* "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). Appellate courts defer to a district court's credibility determinations, *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996), but will thoroughly review the sufficiency of the evidence "to determine whether it is clear and convincing," *In re Welfare of Child. of D.F. & D.F.*, 752 N.W.2d 88, 94 (Minn. App. 2008) (quotation omitted).

In a TPR proceeding, the petitioner bears the burden of proof and "is subject to the presumption that a natural parent is a fit and suitable person to be entrusted with the care of a child." *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011) (quotation omitted). The evidence must address the conditions existing at the time of the hearing, and it "must appear that the present conditions of neglect will continue for a prolonged, indeterminate period." *Id.* at 901-02 (quotation omitted).

A. The district court did not abuse its discretion by determining that mother is "palpably unfit" to parent under Minn. Stat. § 260C.301, subd. 1(b)(4).

Mother challenges the district court's determination that the county presented clear and convincing evidence to show that the four alleged statutory grounds justifying termination were met. However, mother has briefed arguments regarding only three of the four challenged statutory grounds, Minn. Stat. § 260C.301, subds. 1(b)(2), (5) and (8), and has not briefed an argument on the district court's determination under subd. 1(b)(4). *See Zimmerman v. Safeco Ins. Co. of Am.*, 593 N.W.2d 248, 251 (Minn. App. 1999) ("[I]ssues not raised or argued in an appellant's brief are waived . . . ."), *aff'd*, 605 N.W.2d 727 (Minn. 2000). Because we will affirm so long as one statutory ground is supported by clear and convincing evidence, *J.H.*, 968 N.W.2d at 600, and because mother has waived her challenge of the district court's determination on subdivision 1(b)(4), we affirm on this ground.

Even if mother had properly raised and briefed a challenge to the district court's determination on subdivision 1(b)(4), her challenge would fail. A district court may

> terminate all rights of a parent to a child . . . if it finds . . . that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.

Minn. Stat. § 260C.301, subd. 1(b)(4). Appellate courts "review the district court's . . . determination of whether a particular statutory basis for involuntarily terminating parental rights is present for an abuse of discretion." *J.R.B.*, 805 N.W.2d at 901.

The evidence presented at trial, including the facts listed above, demonstrated clearly and convincingly that, despite months of sobriety and parenting education, mother is unable to identify or manage the children's needs. The case managers testified that mother was often unreceptive to feedback regarding her parenting and that she minimized her role in the children's trauma. The parenting consultant testified that mother has made "little progress" in becoming secure in her relationship with the children, which the consultant considered atypical. The parenting consultant opined that mother would not gain the necessary skills to meet the children's needs in the foreseeable future. The record supports the district court's determination on this basis.

B. The district court did not abuse its discretion by determining that the county made reasonable efforts toward reunification.

Within her challenges to the district court's determinations on the statutory grounds for termination, mother also appears to argue that the county did not make reasonable efforts to reunify her with the children because it delayed in starting her parenting-education classes. We are not persuaded.

Appellate courts review a district court's determination on whether the county's efforts to reunify a family were reasonable for an abuse of discretion. *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 322-23 (Minn. App. 2015) (determining that the district court's "reasonable-efforts finding was not an abuse of discretion"), *rev. denied* (Minn.

July 20, 2015). "[W]hat constitutes reasonable efforts depends on the facts of each case," *J.H.*, 968 N.W.2d at 601, and we review a district court's underlying factual findings on whether the county made reasonable efforts for clear error, *D.L.D.*, 856 N.W.2d at 321-22. Under a clear-error standard of review, appellate courts "view the evidence in a light favorable to the findings" and will not reweigh the evidence, engage in fact-finding, or reconcile conflicting evidence. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021). Findings are clearly erroneous if they are "manifestly contrary to the weight of the evidence" or "not reasonably supported by the evidence as a whole." *In re Welfare of Child of J.R.R.*, 943 N.W.2d 661, 667 (Minn. App. 2020).

In proceedings under Minn. Stat. § 260C.301, to determine whether the county has made "reasonable efforts" to reunify a child with their parent, the district court must consider whether the services were (1) "selected in collaboration with the child's family" and, if appropriate, the child,"; (2) tailored to the child's and child's family's individualized needs; (3) relevant to child's safety, protection, and well-being; (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) (2022). A district court must consider the county's length of time of involvement and the quality of its efforts. *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 655 (Minn. App. 2018). Further, "[r]easonable efforts at rehabilitation 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 found that the county "made more than reasonable efforts" to reunify mother with the children, including "[r]egular and thoughtful case planning," evaluations to identify necessary services for mother and the children, timely implementation of recommended services, transportation and supportive services, and prioritization and thoughtful implementation of visitation.

The district court's findings are not clearly erroneous. A county worker met with mother at the beginning of the case to discuss next steps and services that would benefit mother. The case manager and mother decided that, because mother suspected that she had head injuries stemming both from childhood and from domestic violence as an adult, services should include a neuropsychological evaluation, a mental-health evaluation, and education about healthy relationships. Mother's sobriety was prioritized because other services, including the neuropsychological evaluation, could not commence without her sobriety. The county helped mother access substance-use treatment, gave her resources for transportation to attend treatment and to visit the children, and encouraged her to remain in treatment and engage in visitation despite her consistent lack of communication in the first five months of the case. After mother obtained sobriety during inpatient treatment,[3] the county referred her to the parenting consultant, who worked with her from June 2023 through the trial in an attempt to enable mother to form an attachment with the children. The county's reunification efforts were specific to mother and the children's needs and

[3] We commend mother for her progress in achieving and maintaining sobriety.

occurred as timely as they could, considering mother's delay in entering treatment and that her sobriety was a prerequisite to obtaining other services.

Further, although mother maintains that the county untimely referred her to the parenting consultant, the case manager testified that mother initially refused the parenting-education referral that mother's neuropsychological evaluation recommended. Only when mother later agreed did the county refer her to the consultant after early April 2023. The district court did not abuse its discretion by determining that the county made reasonable efforts towards reunification.

C. The district court did not abuse its discretion by determining that the termination of mother's parental rights is in the children's best interests.

Mother further argues that the district court abused its discretion by determining that termination served the children's best interests. We disagree.

In TPR proceedings, "the best interests of the child are the paramount consideration, and conflicts between the rights of the child and rights of the parents are resolved in favor of the child." *J.R.R.*, 943 N.W.2d at 668 (quotation omitted); *see* Minn. Stat. § 260C.301, subd. 7 (2022). The district court "must balance three factors: (1) the child's interest in preserving the parent-child relationship; (2) the parent's interest in preserving the parent-child relationship; and (3) any competing interest of the child." *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (requiring district court to address these factors when addressing best-interests prong of test for whether to terminate parental rights). "Competing interests include such things as a stable environment, health considerations[,] and the child's preferences." *R.T.B.*, 492 N.W.2d 1

at 4. We "apply an abuse-of-discretion standard of review to a district court's [determination] that termination of parental rights is in a child's best interests." *A.M.C.*, 920 N.W.2d at 657.

Here, the district court acknowledged that mother loves the children and that both mother and the children have an interest in preserving the parent-child relationship, but that mother's interest is "compromised by her cognitive and mental[-]health issues that severely limit the quality of her relationship and her understanding of [the children's] needs." The district court determined that the children's interest in a "sober, safe, stable, and permanent home with caregivers able to support them in developing a secure attachment and feeling of safety and security that will allow them to make therapeutic progress in overcoming their mental[-]health issues" overrode mother's interests. The district court then made findings on each of the relevant best-interests factors.

The trial evidence established that, after months of supervised visits with mother and her participation in parenting education, the children have not developed an attachment to her and do not trust her to keep them safe. One case worker described L.G.-2's behavior toward mother as "one of the most extreme cases where a child just is constantly rejecting his parent." The trial testimony reflects that the children experience a reoccurrence of trauma-induced behaviors before, during, and after visits with mother, and the parenting consultant testified that she did not think the children could handle more than one hour of visitation each week. The twins continue to struggle with emotional dysregulation surrounding visits, and the case manager testified that, even with mother's sobriety stabilized, she still struggles to engage with, understand, and manage the twins. The GAL

opined that the twins are both "high-needs children" that require a caregiver who can fully commit to their care "24/7," which mother cannot provide. As for M.C.B., the GAL opined that M.C.B. has ongoing behavioral issues, including bed-wetting, property destruction, disruptive behavior, and getting into fights at school, that have not been addressed yet due to M.C.B.'s insecurity regarding where his permanent placement will be. The GAL opined that M.C.B.'s mental-health needs and comfort with his foster parent, coupled with mother's expected long-term recovery, supported that termination was in M.C.B.'s best interests. Based on this record, we conclude that the district court did not abuse its discretion by determining that termination of mother's parental rights is in the children's best interests.

We therefore conclude that the district court did not abuse its discretion by terminating mother's parental rights to the children.

Affirmed.