STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0364

In the Matter of the Welfare of the Child of: S. H. M. R., Parent.

Filed September 3, 2024
Affirmed
Slieter, Judge

Chisago County District Court
File No. 13-JV-23-247

MacKenzie Guptil, Pine City, Minnesota (for appellant S.H.M.R.)

Janet Reiter, Chisago County Attorney, Aimee S. Cupelli, Assistant County Attorney, Center City, Minnesota (for respondent Chisago County Health and Human Services)

Bethany Peterson, Stillwater, Minnesota (*guardian ad litem*)

Considered and decided by Reyes, Presiding Judge; Slieter, Judge; and Halbrooks, Judge.*

NONPRECEDENTIAL OPINION

SLIETER, Judge

On appeal from the termination of appellant's parental rights, appellant argues that the record does not support the district court's determinations that a statutory basis exists to terminate his parental rights, that the county made reasonable efforts to reunite the family, and that termination of appellant's parental rights is in the child's best interests.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

Because the district court acted within its discretion by determining that appellant failed to correct the conditions leading to out-of-home placement despite reasonable efforts and that termination is in the child's best interests, we affirm.

FACTS

Appellant-father S.H.M.R. is the parent of a child who was born in August 2018. By paternity order, the child's mother received sole physical and sole legal custody, and father received two hours of supervised parenting time every other week. Mother died in November 2022, leaving the child with no legal custodian. The child's maternal aunt informed respondent Chisago County Health and Human Services of mother's death and told the county that the child was currently staying with her.

A Chisago County social worker met with the child at the aunt's home and later called father to discuss the case. Father told the social worker that he saw the child every three or four weeks. He also told the social worker that he was currently living in a homeless shelter in St. Paul and that the child could not live with him there.

In December 2022, the county filed a petition alleging that the child was a child in need of protection or services (CHIPS). The district court determined that the child would remain in the emergency protective care of the county and in placement with the maternal aunt during the proceedings.

Father met with two social workers from the county and his mental-health case manager at a Spanish-language social services center in St. Paul. At this meeting, they discussed father's ability to care for the child. They also discussed services that the county could provide, including housing, employment, and chemical-dependency services. They

scheduled parenting time for father with the child, which would occur on Monday mornings at the social services center in St. Paul. Also at that meeting, father submitted to a drug test, which showed positive results for THC, methadone, and fentanyl.

In February 2023, following father's admission, the district court adjudicated the child in need of protection or services and adopted a case plan requiring father to:

- Comply with drug testing;
- Complete a chemical-use assessment and follow recommendations;
- Complete a parenting assessment and follow recommendations;
- Participate in a mental-health assessment for the child and follow recommendations;
- Attend and participate appropriately in visitation with the child;
- Provide safe and appropriate housing and resources for the child;
- Cooperate and stay in contact with the county; and
- Remain law abiding.

Although the county provided services to father, he struggled to comply with some requirements of the case plan, including attending visitation and participating appropriately. In October 2023, the county petitioned to terminate the parental rights (TPR) of father.

The district court conducted a TPR trial. During the trial, the district court heard testimony from the *guardian ad litem*, the social worker, the case manager, father's drug-testing coordinator, the child's foster parent, and father. The district court admitted 13 exhibits, including father's chemical-use and parenting assessments, and the child's

mental-health assessment. The district court issued an order terminating father's parental rights. It determined that the county proved by clear and convincing evidence three statutory grounds for termination, that the county made reasonable efforts at reunification of father and child, and that terminating father's parental rights was in the child's best interests. Father appeals.

DECISION

A district court can terminate parental rights if (1) at least one statutory ground is supported by clear and convincing evidence, (2) the county made reasonable efforts to reunite the parent and the child or the district court ruled that those efforts were unnecessary, and (3) termination is in the child's best interests. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008); Minn. Stat. § 260C.301, subd. 1(b) (2022) (setting out statutory grounds for involuntary termination of parental rights); *see* Minn. Stat. § 260.012(a) (2022) (addressing when reasonable efforts are not needed). Father challenges each of these.

Appellate courts review a TPR order "to determine whether the district court's findings address the statutory criteria and whether the district court's findings are supported by substantial evidence and are not clearly erroneous." *S.E.P.*, 744 N.W.2d at 385. Although "[p]arental rights are terminated only for grave and weighty reasons," *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990), this court gives "considerable deference to the district court's decision to terminate parental rights," *S.E.P.*, 744 N.W.2d at 385. As a result, an appellate court must "fully and fairly consider the evidence, but so far only as is necessary to determine beyond question that [the evidence] tends to support

the findings of the factfinder." *In re Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (quotation omitted). Thus, "[w]hen the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id.* (quotation omitted). When the prerequisites for an involuntary termination are present, appellate courts review a district court's TPR decision for an abuse of discretion. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136-37 (Minn. 2014).

I. The district court acted within its discretion by determining that a statutory ground existed for terminating father's parental rights.

The district court determined that all three statutory bases alleged in the TPR petition existed. We first consider whether the district court correctly determined that reasonable efforts failed to correct the conditions leading to the child's out-of-home placement.[1]

A district court may terminate parental rights if, "following the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement." Minn. Stat. § 260C.301, subd. 1(b)(5). Reasonable efforts are presumed to have failed if:

[1] On appeal, father does not challenge the district court's determination that clear and convincing evidence proved that reasonable efforts had failed to correct the conditions leading to the child's out-of-home placement. *In re Child of T.A.A.*, 702 N.W.2d 703, 708 (Minn. 2005); *see also State Dep't of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to reach an issue that was not briefed); *In re Welfare of Child of P.T.*, 657 N.W.2d 577, 586 n.1 (Minn. App. 2003) (applying *Wintz* in a TPR appeal), *rev. denied* (Minn. Apr. 15, 2003). Nevertheless, to be thorough, we consider whether evidence supports the district court's decision.

> (i) a child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months. . . . ;
>
> (ii) the court has approved the out-of-home placement plan . . . ;
>
> (iii) conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child's out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan; and
>
> (iv) reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.

Id. The record supports the district court's determination that all four factors were present. First, the child has never resided in father's home, including at any point in the 12 months before the trial. Second, the district court approved the out-of-home placement plan.

Third, the record supports the district court's finding that conditions have not been corrected because father did not substantially comply with the plan, as detailed by the testimony of the social workers. As the social worker testified, father had a positive drug test in May 2023, and his drug test in August was tampered with and, therefore, counted as another positive result. He repeatedly delayed scheduling his chemical-use assessment and parenting assessment. Once the assessments were complete, father struggled to follow the recommendations, including completing the parenting assessment, participating in individual therapy, and obtaining employment. Of the 43 scheduled visits with the child, he only attended 18.

As to the fourth factor, father claims that the county's efforts to reunify him with the child were not reasonable. Father contends that the efforts by the county were not culturally appropriate, and that the county did not meet its obligation of providing reasonable efforts when it suspended the visits.

As part of its reasonable-efforts determination, the district court found that the county had provided father with the following services:

- Case management;
- Relative search and placement;
- Visitation coordination and supervision;
- Facilitation of drug testing, and referrals to chemical and mental-health services;
- Transportation, payment to reinstate father's driver's license, and assistance in locating a low-cost vehicle-repair provider for father;
- Translation;
- Scheduling assistance, and;
- Monitoring the needs of the child, and mental-health services for the child.

The district court further found that "[t]he services offered were relevant to the safety and protection of the child, adequate to meet the needs of the child and family, culturally appropriate, available and accessible, consistent and timely, and realistic under the circumstances."

We review the district court's findings of the underlying facts for clear error, but we review its determination that the county has made reasonable efforts to reunite the family

for an abuse of discretion. *In re Welfare of D.L.D*, 865 N.W.2d 315, 323 (Minn. App. 2015) (concluding that the district court's reasonable-efforts finding was not an abuse of discretion). "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 J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012) (quotation omitted). A district court abuses its discretion if it misapplies the law. *Id.* at 93.

To determine whether the county's efforts were reasonable, the district court must consider whether the services were:

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

Minn. Stat. § 260.012(h) (2022). "The district court must also consider how long the county was involved and the quality of its efforts." *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 601 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021).

The district court's finding that the county's efforts were culturally appropriate is supported by the record. The first case manager testified that the county thoroughly "consider[ed] who would be the best provider for him[,] [b]ased on the language, based on the cultural perspective," and that it tried to "find somebody that would be . . . a good fit for [father]." The county also ensured father's assessments were done by culturally appropriate providers. The second case manager spent a significant amount of time researching local providers and eventually found and referred father to culturally appropriate options. Translation was available at the first visitation facility and provided to father during all meetings and services.

The district court's finding that the services the county provided to father were available and accessible is supported by the record. Father claims that the change in visitation location frustrated his ability to visit the child. The record, however, shows that the county provided father with transportation services. We, therefore, do not agree that the change of location rendered visitation neither available nor accessible.

Father contends that the September 2023 referral to a parenting-assistance program was too close to the February 2024 trial for him to show meaningful results. This, father claims, is unreasonable. The basis for the September 2023 referral for "therapeutic parenting, skill development, and relational work," however, was father's poor visitation attendance and his behavior during two visits. *See In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 663 (Minn. App. 2018) (concluding that the county's efforts, "although imperfect, were reasonable under the circumstances" as "efforts that the county made or

attempted were disrupted by father's repeated periods of incarceration"). And importantly, the county had already referred father to other similar services earlier in the year.

Although father points to other evidence in the record that, he asserts, demonstrates that the county provided neither culturally appropriate nor accessible reunification services, appellate courts do not reweigh conflicting evidence. *See Kenney*, 963 N.W.2d at 222 (stating that appellate courts do not reconcile conflicting evidence). The district court therefore did not clearly err by determining that the county provided reasonable efforts to reunify father and the child.

Because all four factors are supported by evidence presented to the district court, it acted within its discretion by determining that the county's reasonable efforts had failed to correct the conditions leading to the child's placement. Only one statutory ground for termination need be proved. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004). We, therefore, need not consider father's arguments with respect to the other statutory grounds.

II. The district court acted within its discretion by determining that terminating father's parental rights is in the best interests of the child.

Father argues that the district court abused its discretion by determining that it was in the best interests of the child to terminate his parental rights, contending that the district court "erred by not considering the child's own interest in maintaining her Hispanic cultural or ethnic bond with Father's heritage." We are not persuaded.

We review the district court's determination that termination is in the child's best interests for an abuse of discretion. *J.H.*, 968 N.W.2d at 600.

If a statutory ground for termination of parental rights is proved, "the best interests of the child must be the paramount consideration." Minn. Stat. § 260C.301, subd. 7 (2022). Thus, a district court's order terminating parental rights must include a finding that termination is in the child's best interests. *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 545 (Minn. App. 2009). "The 'best interests of the child' means all relevant factors to be considered and evaluated." Minn. Stat. § 260C.511(a) (2022).

A best-interests analysis requires consideration of 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 Child of W.L.P.*, 678 N.W.2d 703, 711 (Minn. App. 2004) (quotation omitted); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (requiring the district court to address these factors in a termination proceeding). Although the interests of the parent and the child must be balanced, this "does not mean that the interests of the parent and the child are weighed equally." *In re Welfare of Udstuen*, 349 N.W.2d 300, 304 (Minn. App. 1984). The best interests of the child are the paramount concern. Minn. Stat. § 260C.301, subd. 7; *P.T.*, 657 N.W.2d at 583.

The district court's finding that it is in the child's best interests to terminate father's parental rights is supported by the record. In determining whether termination is in the child's best interests, the district court focused on the safety and well-being of the child, stating that "[the child] is in need of stability. [The child] needs a caregiver who is consistent, predictable, and with whom [the child] feels safe. Father has not been able to provide that caregiver role for [the child]." This is supported by the record, as we described

above, in the testimony about father's inconsistent attendance at the supervised visits as well as his behavior during the visits.

Father missed more than half of the visits scheduled between December 2022 and the fall of 2023. The county employee that supervised visits testified that she did not think that father and the child shared a deep connection. The employee noted several incidents when the child refused father's affection, including an incident when the child told father that she did not love him. The employee also noted that there were times when she had to interpret the child's behaviors so that father could understand what the child was communicating. And regarding father's claim that the district court did not adequately consider the child's connection with her culture, as we have already described above, the record demonstrates that the county provided culturally appropriate services to father which have not corrected the conditions leading to out-of-home placement.

In short, the district court made findings, supported by the record, that showed that it was in the child's best interests to terminate father's parental rights.

Affirmed.