STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1316

In the Matter of the Welfare of the Child of:
X. M. B. and J. C. B.-G., Parents.

Filed February 18, 2025
Affirmed
Bjorkman, Judge

Olmsted County District Court
File No. 55-JV-24-2078

Daniel T. Donnelly, Donnelly Law Office, Austin, Minnesota (for appellant-mother X.M.B. a/k/a X.H.)

Mark A. Ostrem, Olmsted County Attorney, Derek T. Johnson, Sr. Assistant County Attorney, Rochester, Minnesota (for respondent Olmsted County Health, Housing, and Human Services)

Jennifer Nguyen, Rochester, Minnesota (guardian ad litem)

Considered and decided by Bjorkman, Presiding Judge; Frisch, Chief Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant-mother challenges the termination of her parental rights to one child, arguing that the district court clearly erred by finding that respondent-county made reasonable efforts to reunite mother and child, and abused its discretion by determining

that there is at least one statutory ground for termination and termination is in the child's best interests. We affirm.

FACTS

Appellant X.H.[1] (mother) and J.C.B.-G. (father) are the parents of L.T.B.-G. (child), who was born in 2021.[2] Respondent Olmsted County Health, Housing, and Human Services (the county) first became involved with mother and child in June 2023, when it received a child-maltreatment report. The report identified numerous concerns, including that (1) mother gave child melatonin and then left him alone for three and one-half hours; (2) child had bruises on his face as a result of mother "slapping" him; (3) mother picked child up by his arms and "slamm[ed] him onto the floor"; (4) mother had twice covered child's nose and mouth, obstructing his breathing; (5) mother has mental-health issues and threatened suicide; and (6) child's material needs were not being met.

In response, a county social worker met with mother to discuss the allegations and to assess whether services were needed. Mother denied physically abusing child but admitted leaving child alone for several hours, explaining that she provided supervision by placing a cell phone near child that was connected to hers via video call. Mother also

[1] During the district court proceedings, mother married and changed her name. The case caption reflects mother's former name, X.M.B., because "[t]he title of the action shall not be changed in consequence of the appeal." Minn. R. Civ. App. P. 143.01.

[2] Because father signed an affidavit in support of involuntary termination of his parental rights, he is not a party to this appeal.

admitted giving child melatonin, but agreed not to do so again after the social worker told her the product was not recommended for children under 12.

During the assessment period, the county also learned that child has "very high-needs"; exhibits "severe behaviors"; has medical issues involving his ears, nose, and throat; and has speech delays. In addition, the county discovered that child frequently witnessed domestic violence between parents and mother's mental-health struggles. Mother disclosed that she suffers from anxiety and depression, and she admitted to having suicidal ideation and engaging in self-harm "in the form of head-banging" in front of child.

By the end of June, mother's mental-health symptoms were increasing, and she agreed to place child in foster care. In August, the county filed a child-in-need-of-protection-or-services (CHIPS) petition. The district court awarded custody to the county in September, after mother admitted that child lacked proper parental care.

The county developed a case plan that laid out the steps mother must take to be reunited with child. The plan required mother to address and maintain her mental health; obtain stable housing; and demonstrate the ability to meet child's material, physical, and emotional needs. Among the numerous services the county provided to help mother achieve these goals were case management, supervised parenting time, case-planning and family conferences, a parenting-capacity assessment, and transportation. County social workers focused their efforts on addressing mother's mental-health needs and housing instability but were unable to provide significant assistance because mother moved to the

Twin Cities—out of Olmsted County, where child was placed—and many services have residency requirements.[3]

Pursuant to the case plan, mother received three and one-half hours of supervised parenting time three times per week. During these sessions, county social workers provided mother feedback and coaching on her parenting skills. Despite these efforts, mother continued to struggle to safely and effectively care for child. Multiple social workers independently observed that mother was unable to understand child's "cues," such as distress or dysregulation. Similarly, the social workers noted that mother consistently failed to employ simple measures to ensure child's safety during parenting time, such as handholding near busy roads or instructing child to sit up while eating.

Because mother's parenting skills did not improve, the county scheduled a parenting-capacity assessment. The January 2024 assessment included a thorough review of mother's and child's records, observations of mother interacting with child, and a personal interview with mother. The parenting assessor concluded that mother has "no clear idea of [what child] needs," has "no understanding of the long-term impact" her actions will have on child, and lacks the maturity to properly care for him in the future. And the parenting assessor observed child demonstrate multiple concerning behaviors, including banging his head against the wall in the same way mother does and violently kicking mother. Accordingly, the parenting assessor recommended that child be placed outside of mother's care on a permanent basis and that her parenting time be reduced to

[3] The county also provided numerous services to child, including foster-care placement, speech therapy, and medical care addressing his physical needs and symptoms of post-traumatic-stress disorder.

one 90-minute session per week. Thereafter, the county reduced mother's parenting time accordingly.

In March, the county filed a termination-of-parental-rights (TPR) petition. A two-day trial commenced in late June, during which the district court heard testimony from 12 witnesses and received nine exhibits. Six social workers, including the parenting assessor and mother's case manager, testified on behalf of the county and consistent with the facts detailed above. All six social workers acknowledged that mother loves child and was on time for and engaged during the supervised parenting time. Nevertheless, all six social workers supported termination due to mother's lack of progress toward meeting child's needs, including reading child's cues and safely caring for him. Describing the termination recommendation as "heartbreaking" but necessary, one social worker explained that mother lacked maturity, and that "there's not really a service or support that can make someone more mature and [cure mother's] lack of insight in regards to her behaviors and how they impact [child] and what [child] needs in the moment." Similarly, both guardians ad litem involved in the case testified in support of termination.

Mother testified that during the approximately two and one-half years child lived with her, they moved at least ten times. They usually stayed with family members or friends for a few weeks or months. Mother married after the TPR petition was filed and believes she is in a healthy relationship. At the time of trial, she lived with her new husband in his parents' home—a living arrangement where child was not welcome. But she explained that she had recently been approved for a subsidized, two-bedroom apartment that would accommodate child.

Mother acknowledged the county's concerns about her mental health, self-harming behavior, housing instability, and inability to understand child's cues and ensure child's safety. While agreeing these issues warranted the county's involvement, mother expressed her belief that, with proper parenting coaching and therapy, she will be able to overcome those obstacles. Mother had been attending weekly therapy sessions with a consistent provider since February and participated in three of eight one-hour "Baby and Me" parenting classes. She described the classes as "helping quite a lot," and estimated that she would be ready to provide "full-time or close to full-time parenting" within one or two months.

Following the trial, the district court filed an order terminating mother's parental rights. The district court determined that clear and convincing evidence supports two statutory bases for termination: failure to comply with parental duties under Minn. Stat. § 260C.301, subd. 1(b)(2) (2024), and palpable unfitness to parent under Minn. Stat. § 260C.301, subd. 1(b)(3) (2024).[4] The court further determined that the county made reasonable efforts toward reunification and that termination of mother's parental rights is in child's best interests.

Mother appeals.

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[4] Minn. Stat. § 260C.301, subd. 1(b), was amended twice in 2024. 2024 Minn. Laws ch. 80, art. 8, § 27, at 333-34; 2024 Minn. Laws ch. 115, art. 18, § 38, at 1742-44. The 2022 version of the statute was in effect at the time of the district court's final order. The amendment does not alter the language relevant to this appeal but did result in the renumbering of subdivision 1(b). We cite the most recent version of the statute because "appellate courts apply the law as it exists at the time they rule on a case." *Interstate Power Co. v. Nobles Cty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000).

DECISION

A district court may terminate parental rights when "(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). When examining a district court's termination of parental rights, we review underlying findings of fact for clear error. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012). And we review the determinations of whether a statutory ground for termination exists and whether termination is in a child's best interests for abuse of discretion. *J.H.*, 968 N.W.2d at 600.

When engaging in clear-error review, we defer to the district court's credibility determinations. *J.K.T.*, 814 N.W.2d at 90. 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 Child. of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted). A district court abuses its discretion when it "improperly applies the law." *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 654 (Minn. App. 2018).

I. The district court did not abuse its discretion by determining that a statutory ground exists for terminating mother's parental rights.

Mother argues that the district court abused its discretion when determining that clear and convincing evidence supports two statutory grounds for termination. Although we "need only conclude that one ground is supported in order to affirm," we address both grounds below. *J.H.*, 968 N.W.2d at 602.

A. Failure to Comply with Parental Duties

Parental rights may be terminated if a parent "has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship" and reasonable efforts have "failed to correct the conditions that formed the basis of the petition or . . . would be futile and therefore unreasonable." Minn. Stat. § 260C.301, subd. 1(b)(2). Noncompliance with parental duties includes, but is not limited to, failure to provide a child with "food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development." *Id.* A parent's failure to meet the requirements of a court-ordered case plan is evidence of their failure to comply with the duties described in Minn. Stat. § 260C.301, subd. 1(b)(2). *In re Welfare of Child. of K.S.F.*, 823 N.W.2d 656, 666 (Minn. App. 2012).

The district court determined that, despite the county's reasonable efforts, mother failed to meet several aspects of her case plan, including demonstrating the ability to (1) maintain stable housing for child, (2) support child emotionally, and (3) mitigate risks to child's safety. The record supports these determinations.

It is undisputed that mother has a long history of residing with friends or family for short stints of time. She moved with child ten times and has individually moved three times since child was removed from her care. Mother testified that she only began looking for independent housing after the county filed the TPR petition and, at the time of trial, she resided in a home that could not accommodate child. While she was recently

approved for an apartment, the rental agreement had not been finalized and she did not identify what plans—if any—she had to ensure future housing stability.

As to mother's capacity to support child emotionally, multiple social workers testified to mother's inability to understand and meet child's needs, even after receiving feedback and coaching during parenting sessions. For example, one social worker saw mother pull child down a set of stairs backwards in his stroller, causing child to appear very "anxious and uncertain" and let out nervous laughter. Mother did not understand that her conduct negatively affected child, instead telling the social worker that child "really likes this activity because he's laughing." Another social worker explained that mother could not understand that child was overwhelmed when he hid under a table, threw things, and pushed her away. And the parenting assessor noted a "very disturbed attachment formation" between mother and child, concluding that mother is "unable to experience true empathy towards her son because she genuinely does not understand what his emotional experience has felt like."

Finally, the evidence revealed numerous safety risks that arose while child was in mother's care. Mother gave child melatonin and left him unsupervised for hours. She repeatedly failed to hold child's hand in parking lots and near busy roadways, despite child being a "busy runner" and receiving multiple prompts to do so. Mother permitted child to snack while lying prone on the ground, causing him to choke. And—against social-worker-provided advice—mother insisted upon toilet training child in a manner that put him at risk of falling and prompted him to hit himself and roll around half naked

on the bathroom floor. In short, the record supports the district court's determination that mother repeatedly refused or neglected to meet her parental duties.

B. Palpable Unfitness to Parent

A district court may terminate parental rights when a parent is "palpably unfit to be a party to the parent and child relationship." Minn. Stat. § 260C.301, subd. 1(b)(3). A parent is palpably unfit when they demonstrate a "consistent pattern of specific conduct before the child" or "specific conditions directly relating to the parent and child relationship" that the court determines 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." *Id.*

Mental illness alone does not render a parent palpably unfit. *T.R.*, 750 N.W.2d at 661. Rather, parental fitness turns on the "actual conduct of the parent," including the impact their mental illness may have on that conduct. *Id.* at 661-62 (quotation omitted). A district court may consider a parent's past patterns of conduct in determining whether such conduct is likely to continue. *See In re Welfare of J.D.L.*, 522 N.W.2d 364, 368-69 (Minn. App. 1994).

The district court determined that mother is palpably unfit to be a party to the parent-child relationship, noting her capacity to parent has failed to "substantially improve[]" despite significant intervention from the county. The court found that mother "cannot comprehend cause and effect, connect actions with concepts, understand the steps needed to achieve a goal, or anticipate potential problems" with regard to parenting.

And it grounded its decision in mother's "inability to gain capacity in the necessary time period to form a healthy parent-child relationship."

Mother contends that clear and convincing evidence does not support the district court's determination because the evidence shows that her "alleged parenting deficits are highly remediable, with the appropriate interventions." We are not persuaded.

Six social workers testified that mother consistently failed to respond to child's behaviors despite instruction on how to do so—putting child's emotional and physical safety at risk. One social worker testified that

> if it was one thing one time or one thing over a couple of months where we had some conversations, then we would—I mean, hopefully we would see some change. But the big—the worry is that there's been all these little things that make big things in regards to [child's] ability to trust, [child's] ability to be calm, [child's] ability to regulate himself because he sees other people regulating themselves. And so I think all of it put together makes it so that it's this big deal.

And mother's stagnant parenting-skills progression and lack of comprehension regarding how her mental health impacts child led the parenting assessor to conclude that mother was not benefiting from the services she was receiving.[5] Simply put, mother's consistent pattern of conduct demonstrates her inability to recognize and respond to child's needs and to safely parent him.

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[5] Mother argues that the district court erred by relying on the fact that she suffers from an "emotional and cognitive disorder" without making a finding as to a "particular diagnosis." She posits that, without a diagnosis, the district court has "failed to make clear and specific findings" underlying the termination of her parental rights. But it is undisputed that mother has significant mental-health issues. The district court appropriately focused on mother's conduct as a parent and her compliance with the requirements set out in her case plan—not on the fact that she has a mental-health condition. *See T.R.*, 750 N.W.2d at 661-62.

Already, this conduct is having a tangible, negative impact on child. When child is emotionally dysregulated, he often engages in self-harming behaviors, like head-banging or hitting himself hard enough to leave red marks, mimicking actions taken by mother in his presence. One social worker testified that, as child's "anger and frustration disconnect" with mother grows, so will his "emotional disturbance and his maladaptive behaviors." Notably, child's behaviors improved after his weekly parenting time with mother was reduced at the parenting assessor's recommendation.

In sum, based on our careful review of the record, we discern no abuse of discretion by the district court in determining that mother failed to comply with her parental duties. And because the record contains ample evidence that mother consistently fails to demonstrate the ability to safely and supportively parent child—even after approximately one year of intervention efforts by the county—we see no abuse of discretion in the district court's determination that mother is palpably unfit to participate in the parent-child relationship. *See T.R.*, 750 N.W.2d at 661-62 (explaining that parental rights may be terminated when a parent's mental illness leads to conduct that is detrimental to the child).

II. The district court did not clearly err by finding that the county made reasonable efforts to reunite mother and child.[6]

Where, as here, reasonable efforts to reunify are required, the district court must consider whether the services provided were:

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

Minn. Stat. § 260.012(h) (2024). In addition, the court must consider the amount of time the county has been involved in the case and quality of the efforts provided. *A.M.C.*, 920 N.W.2d at 655. Whether the services provided constitute "reasonable efforts" depends on the facts of each case. *J.H.*, 968 N.W.2d at 601.

The district court found that the county made "[e]xtensive reasonable efforts" and that the many services it provided were "appropriate, reasonable, available, and necessary" for mother to correct the conditions that led to child's out-of-home placement.

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[6] We note the caselaw is not clear regarding the standard of review applied to a district court's reasonable-efforts determination. *Compare In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 322-23 (Minn. App. 2015) (reviewing the district court's reasonable-efforts statutory findings for abuse of discretion and the court's underlying factual determinations for clear error), *rev. denied* (Minn. July 20, 2015), *with J.H.*, 968 N.W.2d at 601 (reviewing the district court's reasonable-efforts determination as a factual finding for clear error). But we need not resolve this issue because mother only challenges the district court's factual findings.

Mother does not contend the services the county provided were inappropriate. But she argues that the district court clearly erred in finding they constitute reasonable efforts because the county (1) "did not work with [her] in good faith," and (2) "omitted services [from her case plan] that would have been more appropriate" for her and child. We disagree.

First, the record refutes mother's contention that the social workers repeatedly criticized her for not reading child's "cues" and never offered her assistance that would help her do so.[7] Four different social workers who supervised mother's parenting time testified that they provided "coaching" and direction to mother in real time. They explained how they offered feedback on mother's interactions with child, but that mother was inconsistent in implementing their instructions, often ignoring them entirely in a manner that compromised child's safety and well-being. For instance, after being instructed multiple times to hold child's hand or pick him up while in a parking lot, mother opted to grab child by the hood of his sweatshirt to prevent him from "dart[ing]" off, creating a choking hazard.

Second, mother's reliance on the testimony of the parenting assessor and her case manager for the proposition that the county failed to make reasonable efforts because it

[7] Mother suggests that the district court improperly focused on her inability to read child's "cues," arguing that she is being punished for being unable to "read[] the mind of her child." This argument is unconvincing. The district court, along with the social workers, uses the phrase "read[ing] . . . [c]hild's cues" to concisely capture mother's inability to recognize and respond to child's needs. Moreover, the "cues" terminology is commonly used in TPR cases. *See, e.g.*, *In re Welfare of Child of T.D.*, 731 N.W.2d 548, 555 (Minn. App. 2007) (affirming the termination of parental rights in part because service-providers explained that mother "struggle[d] to read her daughter's cues and react appropriately"), *rev. denied* (Minn. July 17, 2007).

did not provide two particular services is misplaced. The parenting assessor described mother as a "concrete learner" who would benefit from hands-on demonstrations related to parenting. That is exactly what the social workers supplied when they coached and directed mother during her supervised parenting time. Mother's case manager testified that the only additional service mother could have benefited from was a "whole family placement" in foster care. But the case manager explained that this was not available because such placements are rare and only offered to "teen parents," which mother is not. *See* Minn. Stat. § 260.012(h)(8) (stating that services must be "realistic under the circumstances").

Moreover, mother offers no authority to support her argument that a county's failure to offer a single, specific service precludes a determination that the county's efforts were reasonable. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) (explaining that assertions unsupported by legal argument and authority are forfeited); *In re A.R.M.*, 611 N.W.2d 43, 50-51 (Minn. App. 2000) (citing *Schoepke* in a juvenile-protection appeal).

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

The best interests of the child are the "paramount consideration" in a TPR proceeding. Minn. Stat. § 260C.301, subd. 7 (2024). The best-interests analysis requires the district court to balance: (1) the child's interest in maintaining the parent-child relationship, (2) the parent's interest in maintaining the parent-child relationship, and (3) the competing interests of the child. *In re Welfare of Child of M.A.H.*, 839 N.W.2d

730, 744 (Minn. App. 2013); *see also* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). "Competing interests include such things as a stable environment, health considerations and the child's preferences." *K.S.F.*, 823 N.W.2d at 668 (quotation omitted). If the interests of the parent and child conflict, the child's interests take precedence. Minn. Stat. § 260C.301, subd. 7. We give "considerable deference" to the district court's best-interests analysis because it involves credibility determinations and the weighing of multiple factors. *J.K.T.*, 814 N.W.2d at 92.

Here, the district court expressly weighed the statutory factors, finding that, although child has an interest in preserving the parent-child relationship, he also has an interest in having a "safe, stable, and permanent home where his needs are consistently met." The court acknowledged that mother undoubtedly loves child and desires to care for him, but prioritized child's need for permanency, noting that there is no guarantee that mother will be able to sufficiently improve her parenting skills and maintain housing and her mental health in the foreseeable future. Finally, the district court found that child's "special needs" require him to be with caregivers who "recognize his signs of distress early and address him in a firm but kind way to ensure his physical safety and feeling of safety over time."

Mother contends that the district court abused its discretion in three regards. First, she argues that child's interest in the parent-child relationship has been "clouded" because the "ill-considered out-of-home placement" hindered its development. This argument is unavailing. Mother agreed to an out-of-home placement in June 2023. And she acknowledged at trial that the county had reason to be concerned about her mental

health, self-harming behaviors, and inability to read child's cues as they pertain to her ability to provide adequate care. Moreover, mother was able to maintain and grow her relationship with child during the generous parenting time she received during the pendency of the district court proceeding.

Second, mother asserts that her own interest in the parent-child relationship is strong because she has "no prior involuntary terminations," and she was "desperately trying to be the best mother she could be" given her history of trauma. The district court found as much, noting mother's difficult circumstances and love for child and commending her for "taking steps in the right direction." But the court determined that child's urgent need for permanency outweighed allowing mother more time to attempt to achieve essential parenting skills that she may never be able to master.

Third, mother contends that her inability to "satisfy the exacting standard of the 'experts'" with regard to child's special needs is not a reason to sever the parent-child relationship because she, like "most parents," is not a "child care professional." This assertion oversimplifies the testimony about mother's inability to understand child's basic nonverbal cues, such as distress or disinterest, and the evidence of mother's repeated failure to take simple actions to ensure child's safety. Six experienced social workers reached the same conclusion: mother is unable to comprehend how her behavior and actions impact child, which compromises her ability to safely care for child.

Like the district court, we do not doubt mother's love for child or desire to care for him. But on this record, and given the deference we must afford the district court in

weighing the best-interests factors, *J.K.T.*, 814 N.W.2d at 92, we conclude the district court did not abuse its discretion by finding that termination is in child's best interests.[8]

Affirmed.

[8] Mother also argues that the district court violated her due-process rights by failing to hold the county to the clear-and-convincing-evidence standard of proof required in TPR cases. *See In re Welfare of Child. of D.F.*, 752 N.W.2d 88, 97 (Minn. App. 2008) (providing that due process of law is required before parental rights may be terminated). But, as noted above, the district court expressly and consistently applied this standard, and the record supports the court's determinations. Accordingly, mother's due-process argument fails.