STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1577

In the Matter of the Welfare of the Child of: D. A. C., Parent.

Filed April 21, 2025
Affirmed
Bentley, Judge

Dakota County District Court
File No. 19HA-JV-23-1095

Anne M. Carlson, Anne M. Carlson Law Office, PLLC, St. Paul, Minnesota (for appellant mother D.A.C.)

Kathryn M. Keena, Dakota County Attorney, Jennifer L. Jackson, Eric P. Yeakel, Assistant County Attorneys, Hastings, Minnesota (for respondent Dakota County Social Services)

Sydney Smoot, St. Paul, Minnesota (guardian ad litem)

Considered and decided by Bentley, Presiding Judge; Ede, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

On appeal from the termination of her parental rights, appellant argues that the record does not support the district court's determinations that (1) the county made reasonable efforts to reunite the family, (2) there were statutory grounds for terminating her parental rights, and (3) it is in the best interests of the child to terminate parental rights. We discern no basis to disturb the district court's decision and therefore affirm.

FACTS

This case relates to the welfare of A.O. (the child), whose mother is appellant D.A.C. (mother). The alleged father, T.O., never legally established that he is A.O.'s father, so only mother's parental rights are at issue in this appeal.

On November 9, 2023, respondent Dakota County Social Services (the county) received a child-protection report about mother. It was reported that, earlier that day, police officers went to mother's home to execute three felony arrest warrants related to criminal charges in Wisconsin. One of those warrants was for child neglect. When the officers arrived, mother "swallowed drugs." The officers took mother to the hospital instead of executing the warrants, while the child remained at home with T.O. It was also reported that, earlier that year, a Wisconsin court had involuntarily terminated mother's parental rights to another child, T.J.O. The petition in that matter alleged that T.J.O. was removed from mother's care immediately after his birth because he "was born with several illicit substances in his system, resulting in hospitalization for nearly a month for medical monitoring as he detoxed."

On the same day as the report, the county removed A.O. from the home, placed her in protective care, and later placed her in foster care. The county then petitioned to terminate mother's parental rights to A.O. *See* Minn. Stat. § 260C.503, subd. 2(a)(7) (2024) (requiring agencies to ask the county attorney to immediately file a termination of parental rights petition when a parent's rights to another child have been terminated). The petition alleged three statutory grounds for termination: (1) mother neglected parental duties; (2) mother was palpably unfit to parent; and (3) the child was neglected and in foster care.

On November 15, 2023, the district court held an emergency protective-care hearing, as required under Minn. Stat. § 260C.178 (2024). The court found that continuing out-of-home placement was in the child's best interests. And, to facilitate "an appropriate case plan for reunification," the court ordered mother to complete a mental-health evaluation, parenting assessment, and a chemical-dependency evaluation that considers "collateral information supplied by the social worker or other appropriate resources."[1] *See* Minn. Stat. § 260C.178, subd. 1(m) (permitting the court to order a chemical dependency and mental health evaluation). The court also approved recommendations for reunification that the county submitted. The recommendations were that the mother and T.O. (1) have only supervised visitation with the child; (2) cooperate with random drug tests, such that any missed tests would be considered positive; (3) sign all necessary releases of information so the county could communicate with service providers; and (4) complete the evaluations ordered by the district court.

The county promptly began providing various services to the family to aid compliance with the court's recommendations. For example, the county provided supervision and a venue for mother to have one hour of visitation with the child twice a week, beginning in December 2023. Mother consistently attended scheduled supervised

[1] The county must provide reasonable efforts to reunite the family unless the district court determines that a petition makes a prima facie showing that one of seven statutory exceptions applies. Minn. Stat. § 260.012(a) (2024). Those exceptions include the circumstance where "the parental rights of the parent to another child have been terminated involuntarily." *Id.* § 260.012(a)(2). But despite the prior termination here, the parties agree that the district court did not relieve the county of its duty to make reasonable efforts in this case.

visitation, and the guardian ad litem noted that mother and the child had a "strong attachment" and that the guardian ad litem had no significant concerns.

To help mother correct the conditions that led to the child's out-of-home placement, a county social worker sought to create a case plan with mother. *See* Minn. Stat. § 260C.212, subd. 1(b) (2024) (requiring agency to prepare an out-of-home placement plan jointly with the parents that is "individualized to the needs of the child and the child's parents"). The county's first case plan, filed in January 2024, lacked mother's signature. *See id.*, subd. 1(b) (providing that, as appropriate, the case plan shall be signed by the parent and submitted to the court for approval). The case plan was filed again in February and indicated that mother had "refused to sign." In May, mother signed a case plan, which stated that, to address the conditions leading to the child's removal, mother needed to (1) complete chemical-dependency, psychological, and parenting evaluations and follow any resulting recommendations; (2) abstain from using alcohol and controlled substances and demonstrate her abstinence through random drug testing; (3) find safe and suitable housing; and (4) demonstrate her ability to provide for the child's ongoing needs.

Mother had difficulty complying with any of the case plan recommendations. With respect to her chemical-dependency issues, mother did not follow through on recommended treatment programs. After completing a chemical-dependency assessment, mother was recommended for residential treatment. Mother instead entered outpatient treatment and was discharged in February 2024 for not meeting program expectations. Mother later enrolled in inpatient treatment in July 2024, but, one week after enrolling, she left against staff advice. While she was at the inpatient treatment program, she took two

drug tests that were positive for opioids and fentanyl. In her discharge paperwork, the inpatient treatment provider stated that mother was at a high risk of relapse outside of a residential treatment program.

Mother also did not consistently submit to drug tests provided by the county, which began in January 2024. Before the first test, a county social worker provided instructions and offered transportation assistance to ensure mother made it to the tests. Mother did not respond to the social worker's text messages about transportation assistance. After missing drug tests, mother stated that she would arrange her own transportation but may miss some tests if she "turns herself in" in Wisconsin, referring to an outstanding warrant. Between January and July, mother submitted only two samples: one in May, which was inconclusive for opiates, and one near the end of July, which was negative for tested substances. She was marked as a "no show" for 50 tests.

With respect to the parenting evaluation, mother did not complete an assessment. A social worker testified that, before obtaining a referral for the parenting assessment, the provider "request[s] that a client be sober for thirty days." Because mother did not demonstrate sobriety, the social worker delayed the referral until July 2024. Mother attempted to schedule an assessment at that point, but the provider had no appointments available until after the scheduled trial date.

On August 16, 2024, the district court held a trial on the petition to terminate mother's parental rights to A.O. The court had ordered mother to attend the trial in person after she previously attended hearings remotely without permission, but she nevertheless appeared remotely at the trial. The county objected and moved to proceed by default under

rule 18.01 of the Minnesota Rules of Juvenile Protection Procedure, which the district court granted.

At trial, the county was the only party to offer evidence. *See* Minn. R. Juv. Prot. P. 18.01 (permitting the district court to "receive evidence in support of the petition" despite a parent's failure to appear). The district court received 16 exhibits, including the petition and order relating to the Wisconsin termination of parental rights to T.J.O., case plans, records relating to mother's chemical-abuse treatment, and text messages between mother and county social workers. The district court also heard testimony from a county social worker and the guardian ad litem. Both witnesses supported the petition for termination. The social worker did not believe that mother could meet the child's needs at the time of trial because of mother's chemical-dependency issues. Mother's attorney was present at trial, cross-examined witnesses, and made a written closing argument.

Following the trial, the district court issued an order terminating mother's parental rights under all three statutory grounds raised in the petition. The court determined that the county had made reasonable efforts to reunite the family and that mother had failed to comply substantially with the case plan and to address the chemical-dependency issues that led to the out-of-home placement. The court also determined that termination was in the child's best interests because the court found that mother is unable to care for the child for the foreseeable future.

Mother appeals.

DECISION

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," or those efforts were not required by statute; "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). The evidence supporting termination must address conditions in existence at the time of the termination hearing, and it must appear that those conditions will continue for a prolonged, indeterminate period. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 901-02 (Minn. App. 2011) (quoting *In re Welfare of Chosa*, 290 N.W.2d 766, 769 (Minn. 1980)).

We review a district court's determinations of the statutory grounds for termination, the best interests of the child, and the ultimate decision to terminate parental rights for an abuse of discretion. *J.H.*, 968 N.W.2d at 600. We also review a district court's reasonable-efforts determination for abuse of discretion. *See In re Welfare of Child of T.M.A.*, 11 N.W.3d 346, 358 (Minn. App. 2024) (applying abuse-of-discretion standard to a reasonable-efforts ruling). In reviewing a decision for abuse of discretion, we will reverse only if the district court "makes findings of fact that lack evidentiary support, misapplies the law, or resolves discretionary matters in a manner contrary to logic and facts on record." *Id.* at 355.

Challenges to a district court's factual findings are reviewed for clear error. *Id.* at 354. A finding of fact is clearly erroneous if it is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Civ. Commitment*

of Kenney, 963 N.W.2d 214, 221 (Minn. 2021); *see J.H.*, 968 N.W.2d at 601 n.6 (applying *Kenney* in a juvenile-protection case). Under clear-error review, appellate courts "view the evidence in the light most favorable to the findings, do not find their own facts, do not reweigh the evidence, [and] do not reconcile conflicting evidence." *T.M.A.*, 11 N.W.3d at 355 (citing *Kenney*, 963 N.W.2d at 221-22).

Turning to our analysis of the district court's decision in this case, we first review the district court's determination that the county made reasonable efforts to reunite the family. We then review its determination that at least one statutory ground for termination exists. And finally, we review its determination that termination is in the child's best interests.

I

Mother challenges the district court's determination that the county made reasonable efforts to reunite the family. To determine whether reasonable efforts have been made, the district court must consider whether services to the child and family 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). "[A] district court must also consider how long the county was involved and the quality of its efforts." *In re Welfare of Child of R.V.M.*, 8 N.W.3d 680, 695 (Minn. App. 2024) (quoting *J.H.*, 968 N.W.2d at 601), *rev. denied* (Minn. July

19, 2024). We determine whether the county made reasonable efforts by considering "the facts of each case." *Id.* (quotation omitted).

Relatedly, the county must prepare an "out-of-home placement plan" after placing a child in foster care. Minn. Stat. § 260C.212, subd. 1(a) (2024). "An out-of-home placement plan means a written document individualized to the needs of the child and the child's parents . . . that is prepared by the responsible social services agency jointly with the child's parents[.]" *Id.*, subd. 1(b). The plan must describe the problems that led to the child's removal from the home and "the specific actions to be taken by the parent[s] . . . to eliminate or correct the problems." *Id.*, subd. 1(c)(3)(i) (2024). "As appropriate, the plan shall be" submitted to the court for approval, ordered by the court, and signed by the parents. *Id.*, subd. 1(b). In the context of reasonable efforts, the crucial inquiry is whether the parents understand "the conditions they must satisfy to achieve reunification." *R.V.M.*, 8 N.W.3d at 696.

Here, the district court determined that the county provided reasonable efforts. The court found that the county created case plans that were "aimed at providing services to assist the family to correct the conditions that led to out of home placement," offered resources to enable compliance with the case plan, provided referrals to services, and attempted to maintain regular contact with mother. The court also found that mother had access to the case plans, understood their requirements, and had opportunities to propose modifications. Our review of the record reveals that the case plans describe the conditions leading to placement and the specific actions the parties needed to take to address those conditions.

Mother argues that the district court abused its discretion because (1) the case plan was inadequate, (2) the county did not timely refer mother to appropriate services, and (3) the district court made erroneous factual findings. We are not persuaded.

First, mother argues that the district court erred by relying on the case plans because "the record doesn't contain evidence that Mother understood the expectations of her case plan" or that the case plans were made in collaboration with mother. But our review of the record suggests otherwise. County records show that social workers had phone calls to review the case plan with mother, scheduled Zoom meetings for a more detailed review, brought copies of the case plan to supervised visitation, solicited questions about the plan, checked in about compliance, and obtained mother's signature on the final plan. The county also filed three case plans with the court, enabling mother and her attorney to "engage with the court about what aspects of the case plan are reasonable under the circumstances." *R.V.M.*, 8 N.W.3d at 695. These efforts spanned from January to July. We therefore hold that the district court did not clearly err in finding that the county "attempt[ed] to jointly plan with Mother" and that mother had access to the case plans.

Mother also suggests that the county did not provide reasonable efforts because the case plans were not ordered by the district court, and some were not signed by her. None of the authority mother cites supports her argument. She relies on *In re Welfare of the Children of A.R.B.*, a case in which the county provided no written case plan and we held that the county failed to make reasonable efforts for reunification. 906 N.W.2d 894, 900 (Minn. App. 2018). But here, the county produced written case plans and attempted to jointly plan with mother. The case plan is not facially inadequate because it lacks mother's

signature or is not court-ordered, as those are required only "[a]s appropriate." Minn. Stat. § 260C.212, subd. 1(b). Indeed, we have affirmed district court determinations that reasonable efforts were provided even when a parent did not sign a case plan, *T.M.A.*, 11 N.W.3d at 357-58; *R.V.M.*, 8 N.W.3d at 696, and where the county did not file a case plan with the district court, *R.V.M.*, 8 N.W.3d at 696. For these reasons, we discern no error in the district court's reliance on the case plans.

Second, mother argues that the county did not make reasonable efforts because it did not refer her to substance-use treatment and it referred her to services for a parenting assessment only 21 days before trial. The district court considered this argument but found that (1) the county did not refer mother to chemical dependency treatment because she "sought out treatment programs on her own and did not accept assistance from [the social worker]," and (2) the county did not refer mother to the parenting assessment earlier in the case because of mother's "inability to demonstrate at least 30 days' of sobriety as required by [the county] and the parenting assessor."

The record supports the district court's findings. A social worker testified that mother declined an offer for help finding chemical-dependency treatment programs. It is undisputed that mother found her own treatment programs but did not complete them. Regarding the parenting assessment, the social worker testified that mother needed to be sober for 30 days for a parenting assessment to be "valid." The county gave mother a chance to demonstrate sobriety starting in January 2024, but mother did not comply with the drug testing requirement despite the county's efforts to explain the testing program and assist with transportation. Still, the social worker referred mother to the parenting

assessment as soon as mother enrolled in inpatient treatment, even though she had not demonstrated sobriety for 30 days. In short, the record supports the district court's determination that the county made reasonable efforts to refer mother to chemical dependency treatment and a parenting assessment.

Third, mother challenges the factual finding that she "was in and out of custody during the pendency of the case." But supervised visitation notes indicate that mother missed a visitation in February 2024 because she was in custody, and in March 2024, the social worker temporarily lost contact with mother and later found out that she was in custody again. Further, an assessment from the inpatient treatment provider notes that mother reported "she was in jail for 10 days in March 2024." The finding that mother was "in and out of custody" was therefore not clearly erroneous.[2] *See Kenney*, 963 N.W.2d at 221.

In sum, the district court's determination that the county made reasonable efforts to reunite the family is supported by the record, and we discern no basis to conclude that the district court abused its discretion.

II

The district court must also determine that at least one statutory ground for termination is supported by clear and convincing evidence. *J.H.*, 968 N.W.2d at 600. The

[2] Even if the custody finding was clearly erroneous, reversal would not be required because mother merely assigned error without explaining how she was prejudiced by the finding. *See In re Welfare of Child of A.H.*, 879 N.W.2d 1, 6 (Minn. App. 2016) ("[W]e will not reverse a correct decision simply because it is based on incorrect reasons.") (quoting *Katz v. Katz*, 408 N.W.2d 835, 839 (Minn. 1987)).

district court determined that there are three grounds for termination, but because we are persuaded to affirm on one ground—neglect of parental duties—we need not address the other two. *Id.* at 602.

A district court has grounds to terminate parental rights if a parent "has substantially, continuously, or repeatedly refused to comply" with parental duties, and either the county's reasonable efforts "have failed to correct the conditions that formed the basis of the petition" to terminate parental rights or further efforts would be futile and unreasonable. Minn. Stat. § 260C.301, subd. 1(b)(2). We addressed the reasonable-efforts prong above, so our focus here is on the parental-duties prong. To terminate parental rights on this ground, "[t]he [district] court must find that at the time of termination, the parent is not presently able and willing to assume [her] responsibilities and that the parent's neglect of these duties will continue for a prolonged, indeterminate period." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 90 (Minn. App. 2012) (quotations omitted). "[A] parent's failure to comply with a reasonable case plan may constitute evidence of neglect of parental duties." *J.H.*, 968 N.W.2d at 603.

Here, the district court determined that mother failed to comply with her parental duties by not correcting the conditions leading to the child's out-of-home placement and "is unable to care for the child for the reasonably foreseeable future due to her consistent pattern of chemical use." The court found that mother failed to meet many aspects of her case plan: she did not comply with the drug-testing requirement, she used drugs as recently as a month before trial, she did not complete inpatient chemical-dependency treatment as recommended, and she was dishonest in her chemical-use assessment. This was "evidence

of neglect of parental duties" that the district court could consider. *J.H.*, 968 N.W.2d at 603.

Mother disagrees and again focuses on the lack of a court-ordered case plan. We are not persuaded that a case plan must be court-ordered before a court may consider noncompliance for purposes of determining that a parent neglected parental duties. Mother relies on *In re Child of Simon*, where we stated that a parent's "failure to satisfy key elements of the court-ordered case plan provides ample evidence of his lack of compliance with the duties and responsibilities of the parent-child relationship." 662 N.W.2d 155, 163 (Minn. App. 2003). Although the case plan in *Simon* was court-ordered, our analysis of the parent's neglect of parental duties was focused on the parent's failure to comply with the requirements outlined in the case plan—not on the parent's failure to comply with a court order. *See id.* And when we restated the rule from *Simon* in *J.H.*, we did not consider whether the case plan was court-ordered—only whether the parent was noncompliant with "a reasonable case plan." 968 N.W.2d at 603 (citing *Simon*, 662 N.W.2d at 163). The case plan here was reasonable: it complied with statutory requirements and clarified the steps that mother needed to take to correct the conditions leading to placement. Thus, the district court did not err in relying on noncompliance with the case plan as evidence of mother's neglect of parental duties.

Mother also argues that the district court abused its discretion in finding that she neglected parental duties because the child's needs were met at the time of removal. Mother focuses on the wrong timeframe. "When we review the evidence of neglect, we address conditions at the time of the termination hearing and whether they are expected to continue

for the foreseeable future." *Id.* (citing *Chosa*, 290 N.W.2d at 769). The district court did not clearly err in finding that, at the time of the termination hearing, mother had not corrected her chemical-dependency issues that resulted in the child's removal from her care. For example, within one month of the termination hearing, mother left in-patient chemical-dependency treatment against staff advice and tested positive for opiates and fentanyl.[3]

In sum, the district court's factual findings are supported by the record, and it permissibly relied on noncompliance with the case plan in determining whether these grounds for termination were met by clear and convincing evidence. We discern no abuse of discretion.

III

If there is a statutory basis to terminate parental rights, the paramount consideration in determining whether parental rights should be terminated is the child's best interests. Minn. Stat. § 260C.301, subd. 7 (2024). We review whether termination is in the best interests of the child for an abuse of discretion. *J.H.*, 968 N.W.2d at 600. "Because the best-interests analysis involves credibility determinations and is 'generally not susceptible to an appellate court's global review of a record,' we give considerable deference to the

[3] Mother also contends that the district court clearly erred in finding that she "does not have a source of income to provide for her child." But that finding is supported by an assessment summary from the inpatient chemical-dependency-treatment provider from July 2024, which stated that "she currently has no income." The district court therefore did not clearly err in finding that mother had no income.

district court's findings." *J.K.T.*, 814 N.W.2d at 92 (quoting *In re Tanghe*, 672 N.W.2d 623, 625 (Minn. App. 2003)).

"The 'best interests of the child' means all relevant factors to be considered and evaluated," including the impact on "the relationship between the child and relatives." Minn. Stat. § 260C.511 (2024). The district court must explain its rationale for determining that termination is in the child's best interests after balancing 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) (enumerating the best-interests factors outlined in *R.T.B.*). "Where the interests of parent and child conflict, the interests of the child are paramount." Minn. Stat. § 260C.301, subd. 7.

The district court found that mother cannot provide the "safe, stable, and chemical free environment" that the child needs for the foreseeable future. Accordingly, the court determined that the child's "safety and need for permanency outweigh Mother's interests in preserving the parent-child relationship." On this subject, the district court found the social worker's and the guardian ad litem's testimony credible. Both opined that termination was in the child's best interests.

Mother argues that the district court abused its discretion in making its best-interests determination because although there was testimony that the child is doing well in foster care, there was also evidence that the child "appeared to be doing well prior to removal" and that "the child enjoys spending time with her parents." And, she argues, "in the absence

of evidence that Mother is unable to be rehabilitated," the district court erred by determining that the permanency of termination of mother's parental rights is in the child's best interests.

Again, the district court must consider the conditions at the time of the termination hearing and whether they are expected to continue for the foreseeable future, not the conditions before removal. *J.R.B.*, 805 N.W.2d at 901-02. As discussed above, the district court did not abuse its discretion in concluding that mother did not make adequate progress towards addressing the conditions leading to placement. This supports the district court's conclusion that she will be unable to care for the child "for the reasonably foreseeable future."

We have no doubt that mother deeply loves her child and that the child has a meaningful connection with mother. Yet we must afford the district court's well-supported factual findings and best-interests determinations "considerable deference." *J.K.T.*, 814 N.W.2d at 92. Based on the record before us, we conclude that the district court did not abuse its discretion.

Affirmed.