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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0047**

In the Matter of the Welfare of the Children of:
S. J., R. K. B., and A. D. C., Parents

**Filed July 1, 2013
Affirmed
Smith, Judge**

Hennepin County District Court
File No. 27-JV-11-6931

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Considered and decided by Chutich, Presiding Judge; Peterson, Judge; and Smith, Judge.

UNPUBLISHED OPINION

SMITH, Judge

Appellant challenges the district court's termination of parental rights (TPR) to her five minor children, arguing that the district court erred (1) in its TPR determination because none of the statutory grounds cited by the district court support the TPR, and

(2) by admitting opinion evidence of the guardian ad litem (GAL) and social worker. We affirm.

FACTS

Appellant-mother S.J. challenges the district court's TPR order. The children involved in this appeal are J.M.B. (DOB 12/1/2001), Jh.D.C. (DOB 4/1/2004), JI.D.C. (DOB 6/16/2006), A.M.C. (DOB 10/17/2007), and L.D.C. (DOB 1/5/2009).¹

Removal from the home

In January 2011, S.J. was investigated for criminal child neglect and endangerment. *See* Minn. Stat. § 609.378, subd. 1, 1(b) (2010). The charges arose from a report that then-six-year-old Jh.D.C. made when staying at a crisis nursery. She reported that a man, later identified as "Ricky," stays at her house with her mom and "touches me in my private parts, and pins me against the walls and kisses on me . . . he puts his fingers in my privates." Jh.D.C. continued that S.J. was aware of Ricky's actions but did not care and told Jh.D.C. to "take it like a good girlfriend should." Jh.D.C. also revealed that Ricky and Jh.D.C. sleep in the same bed and that Ricky occasionally urinates in Jh.D.C.'s bed. Jh.D.C. also stated that S.J. locks Jh.D.C. in her bedroom and refuses Jh.D.C. access to food, water, and "use the potty."

When questioned by law enforcement, Jh.D.C. added that S.J. wanted to divorce all of her children, that S.J. "whoops" Jh.D.C. with a belt, forces her to share a bedroom with Ricky, and says that Ricky is Jh.D.C.'s boyfriend, which bothers Jh.D.C. As

¹ The children's respective fathers have not been involved in the children's lives, prompting the district court to conclude that the fathers have legally abandoned their children. That conclusion is not challenged in this appeal.

Jh.D.C. was discussing these issues, she was “tearful and sad” and stated her desire for a new mother.

The other children were also questioned about Ricky. Jh.D.C. said that Ricky is her father and treats her well. She described Ricky’s physical appearance and his vehicle. She confirmed that Jh.D.C. is “whooped” and reported that she is “whooped” as well. A.M.C. reported living at home with her mother and father, both of whom she loved. When the oldest child, J.M.B. was located, he said that S.J. was single and that he had never heard of Ricky. J.M.B. confirmed that he gets “whooped” by S.J. and added that the beatings leave marks and bruises for several days. He said the younger children get locked in their rooms both as punishment at night, and to assist them in falling asleep.

The children were removed from S.J.’s care pending investigation. S.J. did not attend a scheduled appointment at the police department regarding the allegations because she was in custody for another, unrelated, charge. When law enforcement eventually spoke with S.J., she denied physically punishing the children, said she uses time-outs to discipline them, reported being single, and asserted that Jh.D.C. had fabricated the allegations based on a television show character named Ricky.

At a subsequent interview, Jh.D.C. confirmed her earlier statements about Ricky and the sexual abuse she endured. She added that S.J. and J.M.B. take photographs of her and that S.J. photographed Ricky and Jh.D.C. while Ricky was “doing things” with Jh.D.C. in her bedroom. She also noted that S.J. transferred those photographs to her cellular telephone, where Jh.D.C. viewed them. Law enforcement seized S.J.’s cellular

telephone and camera but a forensic search did not reveal any current or deleted photographs as described by Jh.D.C.

A medical examination of Jh.D.C. followed. When speaking with the medical professional, Jh.D.C. reported genital pain when Ricky sexually abused her, and attributed a scar on her body to a time that S.J. hit her with a belt. The medical examination revealed no physical findings of sexual abuse, which neither confirmed nor discounted Jh.D.C.'s account. The examination also revealed dental cavities that required urgent attention to prevent abscess formation. During the medical examination and interview with law enforcement, Jh.D.C. initially said that she did not want to talk about the "bad stuff." However, she confirmed the abuse to law enforcement, adding that Ricky rubs baby oil on her body. The investigator noted inconsistencies in Jh.D.C.'s story—for example, Jh.D.C. said that Ricky had at times sexually abused her when her siblings were at school and S.J. was at work, but some of Jh.D.C.'s siblings are too young to attend school and S.J. is unemployed. The police also noted the lack of locks outside of the bedroom doors. Due to the lack of physical evidence, inconsistencies in Jh.D.C.'s report, and their inability to locate Ricky, the police closed the case until further leads developed.

CHIPS proceeding and TPR petition

On January 20, 2011, the children were placed out of the home. In February 2011, Relationships, LLC, conducted a detailed parental assessment. That report and others noted that S.J. used the crisis nursery at least twenty times in recent years, and described S.J.'s past romantic involvement with men who were physically and verbally abusive,

and had chemical dependency issues and criminal convictions. The father of some of the children had been convicted of criminal sexual conduct, although S.J. reported that he was never alone with the children for sustained periods of time. She denied that her children had experienced physical, emotional, or sexual abuse. Relationships, LLC was unable to conduct the parent-child observation because it was cancelled after S.J. failed to attend on time. The assessor was “serious[ly] concern[ed]” regarding the reported sexual abuse, which S.J. insisted was fictitious.

It was estimated that S.J. and her children moved 25 times within three years. In February 2011, the children had attended five different schools in the past five months. S.J. attributed Jh.D.C.’s complaint of sexual abuse to Jh.D.C.’s “wild imagination.”

In April 2011, the district court issued a child-in-need-of-protection-or-services (CHIPS) order, and the children were placed in foster care. In the CHIPS order, the district court outlined a number of requirements for S.J. to complete.

S.J.’s cancelled and missed appointments with various providers were an ongoing problem throughout the CHIPS and TPR process. After she failed to complete the CHIPS case plan, Hennepin County initiated further action. On August 5, 2011, Hennepin County filed a petition to terminate S.J.’s parental rights. The petition highlighted that S.J. failed to comply with the CHIPS court order, failed to comply with her case plan by completing various mental health sessions and requirements, had not maintained visitation with her children, and had not maintained a place to live, instead living with various friends and relatives. S.J. had cancelled appointments, and Hennepin County had numerous problems communicating with S.J. because her address and

telephone number changed frequently, she did not inform Hennepin County of her whereabouts, and she could not be reached via telephone. S.J. missed several appointments with Relationships, LLC, but eventually completed the parenting assessment. However, Hennepin County was unable to arrange for parenting programming because of S.J.'s lack of communication. S.J. was evicted from her housing after refusing to comply with the rental lease and declining to pay for utilities even after being provided with checks designated to pay for such.

S.J.'s contact with the children was sporadic. Although visitation was permitted, she ceased visiting her children by early June 2011, leading to a termination of visitation in July 2011. However, S.J. was eventually able to schedule weekly visitation with the foster mother, though as discussed below, her relationship with the foster mother was tumultuous. In April 2012, S.J. was denied telephone calls with the children because the calls were upsetting the children.

The children's mental health and behavioral problems

J.M.B., born 12/1/2001

J.M.B. reported that S.J. "whoops" him with a shoe, belt, and a switch, and that S.J. "whoops" him when he is wet in the shower. To do this, she turns the water hot, then cold, and then "whoops" him. When the interviewer asked if J.M.B. was sure, he insisted he was and said the interviewer could ask Jh.D.C. for confirmation of the accusations. Jh.D.C. corroborated the story.

A psychological evaluation and reports from others established that J.M.B. exhibited numerous behavioral issues both at home and at school. At the foster home, he

and his sister placed a heater under another child's bedcovers, attempting to set the child on fire. L.D.C. is a frequent target of J.M.B.'s violence. J.M.B. attempted to drown L.D.C. and another time attempted to smother L.D.C. with a pillow. He also threw apples at L.D.C.'s head, fracturing L.D.C.'s nose, which required a hospital visit. L.D.C. now avoids J.M.B. J.M.B. also physically harmed Jh.D.C. and at one point hit three of his siblings because they were not listening to him. Other aggression includes throwing rocks at the foster family's dog and windows, engaging in assaultive behavior at summer camp, and assaulting two adults who were transporting him home from summer camp. Once J.M.B. hit another child in the face because he was angry about losing a game. His foster mother suspected him of killing her pet bird.

He also discusses violence frequently. When his psychologist asked him to draw a person, he drew a figure that, as J.M.B. described, cuts others' throats. He has also commented on what it would be like to hurt people while they are sleeping.

J.M.B. was suspended from school several times for punching and kicking other children. His teacher was concerned about him and noted a number of disruptive and aggressive behaviors, rudeness to others, and an incident in which he pretended to cut himself with a scissor. He has committed theft, and was suspended from school for writing inappropriate words about a classmate, threw a sharp pencil at a classmate, poked a classmate, and left his classroom to search lockers. Finally, he removed a razor from a pencil sharpener and cut his lip with it.

J.M.B. stole from his foster mother and he and Jh.D.C. both reported that S.J. utilized them to steal from stores. Before out-of-home placement, he tried both alcohol and marijuana. In July 2012, he stated that he wanted his foster mother to adopt him.

Jh.D.C., born 4/1/2004

Jh.D.C. displays numerous problems with the other children living in the foster home. She told a six-year-old child to “pull down her panties so [Jh.D.C.] could suck on her vagina and butt,” attempted to force her body on a fourteen-year-old child, danced inappropriately² by emphasizing her bottom, and repeatedly attempted to touch other children’s body parts. Jh.D.C. was also involved in a plan to set a child on fire. Jh.D.C. is very defiant and has kicked holes in the walls at both S.J.’s home and the foster home. She has said that she wishes to be dead. Jh.D.C. stole from her foster mother and she and J.M.B. both reported that S.J. used them to steal from stores.

Jh.D.C.’s foster mother reported that Jh.D.C. “displayed [a] poor understanding of appropriate boundaries” and persisted in displaying and committing sexual acts. Examples include lifting her top to display her upper chest, pulling a younger sibling under a blanket to kiss him during a movie night, and telling a fellow foster child that they needed to bathe together even though the foster mother had made clear that Jh.D.C. was to bathe alone.

By early 2012, Jh.D.C.’s foster mother demanded that Jh.D.C. be removed from her home due to the extreme disruptions she caused to the family and other children. At this time, Jh.D.C. reported she would like to live with her father and that she would be

² All three girls—Jh.D.C., JI.D.C., and A.M.C.—engaged in sexually suggestive dance.

happiest in a home without children. Jh.D.C. was moved to a separate foster home from the rest of the children. In April 2012, Jh.D.C. was hospitalized for ten days for mental health issues after threatening to commit suicide.

At school, Jh.D.C.'s teacher described her as a bully and said she lies, can be physically cruel, and steals and deliberately damages property. She also makes sexually suggestive comments and had attempted to run away from school. Jh.D.C. was expelled from after-school activities and the school bus for inappropriate behaviors and for cursing at and threatening others.

Her foster mother brought her in for regular therapy, which helped Jh.D.C. make significant improvements. Her psychologist recommended that Jh.D.C. continue therapy for "an extended period of time" to repair her emotions, behavior, and trust. Jh.D.C.'s psychologist believed that the sexual abuse that Jh.D.C. reported occurred. The psychologist noted that Jh.D.C. has received messages that "her body exists for the pleasure of an adult male and that she had no right to say 'no' to experiences she does not like." The psychologist also recommended that S.J. stop blaming Jh.D.C. for the family not being together and that S.J. take responsibility for the family not being together.

Jl.D.C., born 6/16/2006

Jl.D.C. engages in seductive behavior. During a community event, Jl.D.C.'s foster mother found her performing a seductive dance for an adult man. Jl.D.C. reported that S.J. taught her to dance that way. She also reported that she danced that way for "Uncle Dante" when she was living with S.J. and that he touched her but told her to keep secrets. She would not provide the medical professional with additional details about Uncle

Dante's actions, but on the trip home from the appointment with that medical professional, JI.D.C.'s foster mother said JI.D.C. was "very relieved" and continued to discuss things Dante tried to do to her.

JI.D.C. exhibits continued aggression in her foster home, including kicking another child in the face and choking another child. JI.D.C. demonstrated boundary issues with A.M.C., including inappropriate touching. This prompted the foster mother to discuss "good touch, bad touch" with them. It was recommended that the foster mother supervise JI.D.C. constantly to prevent aggression toward others, as well as inappropriate touching of others.

JI.D.C. has problems at school, where she refuses to follow directions.

A.M.C., born 10/17/2007

A.M.C. performs seductive dances and has acted out sexually on others, lying on top of them and imitating sexual thrusts. A.M.C. also demonstrated boundary issues with JI.D.C., including inappropriate touching. The foster mother discussed "good touch, bad touch" with A.M.C. and strives to supervise her constantly.

A.M.C. also killed her foster mother's pet bird. When she was sent to her room for killing the bird, she was angry and so went upstairs and unplugged her foster grandmother's oxygen supply. In a separate incident when she was sent to her room, she again unplugged her foster grandmother's oxygen supply.

A.M.C. exhibits aggression toward her pre-school classmates both in school and on the bus, prompting the school to occasionally request that the foster mother ride the bus with A.M.C.

L.D.C., born 1/5/2009

L.D.C.'s foster mother reported some verbal aggression, as well as other troubling behavior. When L.D.C.'s foster mother told him to put a stick on the ground, L.D.C. responded by thrusting it into a visiting child's stomach. The resulting injury required surgery. He also dug his nails into his foster mother's skin when he was disciplined and refused to stop when requested. He spits on the floor and furniture. Further, he punches and kicks his siblings.

Parenting assessment

The parenting assessment was completed in 2012. Before S.J. arrived, the assessor spent time with the children, during which one of the children told the assessor that S.J. hits them, and all the others agreed, and that S.J. hits them with a belt, and again, all the children agreed. Even so, at that time, all the children said they wanted to go home with their mother.

Because S.J. was an hour late, the assessor was only able to observe S.J. with the children for 25 minutes. The assessor noted that S.J.'s visit with the children was chaotic and that when J.M.B. complained that S.J. was late, S.J. replied that he should be happy that she came at all. The short visit between S.J. and the children was punctuated by numerous angry exchanges and behavioral outbursts. At one point J.L.D.C. "stood up, screamed and angrily drew a line on the table with her marker . . . and screamed [at S.J.], 'You just shouldn't have come at all!'" J.L.D.C. said she wanted to kill herself and later said that "I want to kill somebody." S.J. did not respond directly to these statements,

instead addressing all the children and said she is doing the best she could. She accused the children of not listening to her and said they were “doing stuff on purpose!”

When the assessor informed S.J. that Jh.D.C. described the sexual abuse in great detail and seemed greatly distressed by the events, S.J. continued to insist that the events described by Jh.D.C. did not occur. The assessor highlighted that, even if the reports of sexual abuse were untrue, the allegations and Jh.D.C.’s other behavior demonstrated what Jh.D.C. is dealing with concerning mental health issues. The assessor noted that S.J. “seemed to minimize the concerns.” S.J. acknowledged that her attendance during scheduled visitation with her children was inconsistent and that she often missed or was late for the visits. She also acknowledged that she had not followed through on various assessments and therapy, explaining that these services were not useful.

The assessor described the relationship between S.J. and the children as filled with stress and described S.J. as “impatient and insensitive with the children.” The assessor also noted that S.J. did not understand or respect their feelings. Because S.J.’s tardiness caused the children to be upset with S.J. before S.J. arrived, the assessor found it difficult to assess the overall aspects of S.J.’s relationship with her children, or her parenting skills. The assessor determined that S.J. seemed to love her children and understood basic parenting knowledge, but she was unable to implement that information to meet the children’s needs and denied the issues that her children are facing. Moreover, the assessor found that S.J. was unable to understand or empathize with her children’s emotional distress—making it difficult to meet their emotional needs. The assessor

concluded that S.J. “does not seem to be able to effectively parent her children now, or within the next six months to a year.”³

Problems throughout the CHIPS/TPR process

Throughout this process, S.J. frequently failed to schedule and failed to attend required appointments. As trial approached, S.J. admitted that Jh.D.C. has problems with truthfulness and has mental health problems that need to be addressed. S.J. also admitted she had not been doing what she should have done regarding keeping appointments with her therapists and other court-ordered professionals.

The police became involved with S.J. and the foster mother, with the foster mother alleging that S.J. threatened to kill her and that S.J. engaged in a number of other behaviors to threaten and upset the foster mother. The foster mother also alleged that S.J. told Jh.D.C. to assault the foster mother’s biological daughter and to light her on fire. S.J. called the authorities numerous times alleging abuse by the foster mother. After various investigations, the police described these calls as “continued false allegations and manipulation by [S.J.] to obtain her children back.”

³ In July 2012, the psychologist treating S.J. noted that, after numerous missed appointments, she had been cooperating with treatment since later March 2012. He recommended that she be reunified with her children in the near future. However, the district court found this psychologist’s recommendation to be unreliable because it was based on gross and repeated material misrepresentations by S.J. The district court also noted that this psychologist did not participate in any parent-child observation, did not contact the parenting worker, and relied on materially false, self-selected information from S.J.

The TPR trial

S.J. testified at the TPR trial and admitted that she did not engage in the prior court-ordered activities and had only recently started meeting with professionals because the case was “ridiculous.” She said she did not need the various court-ordered services but “now I see, regardless if I need them or not, I need to do it because I want my kids back.” When asked if she thought she was a good parent, she responded, “I believe I’m a great parent. I love my children.”

The assigned social worker also testified, opining that the children’s best interests were served by terminating S.J.’s parental rights. The social worker testified that S.J. started to comply with the case plan in June or July 2012, but that S.J. was merely going through the motions, and not actually developing a change in attitude or behavior. The social worker reported that she had “never seen even a small bit of [actual attitudinal or behavioral change] from [S.J.] to this date.” The GAL also testified that TPR would be in the best interests of the children.

The district court completed detailed findings of fact, conclusions of law, and order for TPR. It found that termination was supported by four different statutory grounds. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), (8) (2012). After the TPR, S.J. moved for a new trial and amended findings. She moved for a new trial regarding the GAL’s and social worker’s testimony, arguing that the district court’s admission of the GAL’s and social worker’s testimony regarding the best interests of the children was erroneous. The district court denied these motions, citing caselaw, statutes, and relevant facts to support his conclusion that the GAL’s and social worker’s respective testimony

was based on each person's specialized knowledge of the case, had foundational reliability, was rationally based on the witnesses' perceptions, and was helpful to the district court as the trier of fact. This appeal followed.

DECISION

I.

Parental rights may be terminated only “for grave and weighty reasons.” *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 709 (Minn. App. 2004). Terminating a parent's rights requires clear and convincing evidence that there is (1) at least one statutory ground for termination and (2) that 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). The district court must make findings addressing the county's reasonable efforts to reunify the children and parent or that such efforts are not required. Minn. Stat. § 260C.301, subd. 8 (2012).

On appeal, we examine whether the district court's findings address the statutory criteria and whether the findings are supported by clear and convincing evidence and not clearly erroneous. *In re Welfare of Children of K.S.F.*, 823 N.W.2d 656, 665 (Minn. App. 2012). But the district court's determination that the statutory requirements for termination have been established by clear and convincing evidence is reviewed for an abuse of discretion. *See In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 900-01, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

The district court terminated S.J.'s parental rights pursuant to Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5) and (8), finding that termination is in the children's best interests and that Hennepin County had “gone above and beyond” to assist S.J. in

reunifying with her children. S.J. argues that the district court erred by terminating her rights because none of the four statutory grounds the district court relied on supports TPR. We will examine whether the TPR was properly ordered.

A. Statutory ground for termination

Among other grounds, the district court may terminate a parent's rights 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). “[T]he county must prove a consistent pattern of specific conduct or specific conditions existing at the time of the hearing that, it appears, will continue for a prolonged, indefinite period and that are permanently detrimental to the welfare of the child.” *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 661 (Minn. 2008). “[W]e consider the actual conduct of the parent to determine fitness to parent.” *Id.* (quotation omitted).

The district court found that S.J. refused to acknowledge that the children have special needs. These special needs are demonstrated through the children's sexually suggestive and violent behavior, with the needs becoming more severe the longer the child was in S.J.'s care. The district court determined that S.J. refuses to cooperate with services necessary to address the children's needs, refuses to cooperate with her own

therapy, and that S.J. is in “profound denial” regarding her children’s behavioral and mental health issues, her lack of parenting skills, and her refusal to place her children’s needs before her own desires.

S.J. asserts that “no evidence” supports these findings. However, the record establishes that the district court’s determination is supported by clear and convincing evidence. The children, based on their inappropriately sexual, violent, and aggressive behavior, clearly have unique and complex mental health needs. Even so, S.J. describes herself as a “great parent.” S.J. has been defiant throughout the CHIPS and TPR processes and did not engage in various programs and therapy that would assist her in gaining her children’s return. It was not until shortly before the trial that S.J. began to cooperate. Even then, however, the parenting assessor concluded that S.J. “does not seem to be able to effectively parent her children now, or within the next six months to a year.” Similarly, the social worker and GAL both noted that S.J. does not possess the requisite skills or desire to care for her children’s mental health. S.J. also testified at the trial that she originally did not engage in the therapy and evaluations because she thought the TPR proceeding was “ridiculous” and that she only started to comply because “now I see, regardless if I need [the court-ordered services] or not, I need to do it because I want my kids back.”

S.J. insists that only two of her children have exhibited behavioral problems. This assertion is clearly unsupported by the record, which establishes that all five children exhibit disturbing behaviors. S.J.’s minimization of these actions reflects her denial of the serious issues that her family is facing and the frustration these actions caused others

and, most importantly, her children. *See In re Welfare of Child of P.T.*, 657 N.W.2d 577, 591 (Minn. App. 2003) (concluding that trial court did not clearly err in making determination of palpable unfitness given, in part, evidence of parents' lack of emotional connection with child and their failure to understand parenting deficits), *review denied* (Minn. Apr. 15, 2003).

Because clear and convincing evidence establishes the statutory requirements of section 260C.301, subdivision 1(b)(4), the district court did not abuse its discretion by finding the existence of that statutory basis to terminate parental rights, and we need not address the additional statutory grounds on which the district court relied. *See T.R.*, 750 N.W.2d at 661 (noting that clear and convincing evidence supporting a single statutory ground is sufficient to continue the TPR analysis).

B. Best interests of the children

The “paramount consideration” in all TPR proceedings is the best interests of the child. Minn. Stat. § 260C.301, subd. 7 (2012). A child’s best interests may preclude termination even if a statutory ground for termination exists. *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 545 (Minn. App. 2009). Analyzing the best interests of the child requires balancing the child’s interest in preserving a parent-child relationship, the parent’s interest in preserving that relationship, and any competing interest of the child. *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). “Competing interests include such things as a stable environment, health considerations and the child’s preferences.” *Id.* “Where the interests of parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7.

S.J. argues that “[n]o children’s best interests are served by permanent separation . . . from a rehabilitated mother.” But this statement assumes that S.J. is rehabilitated, which the record does not support. The district court noted that S.J.’s love for her children appears to be credible, but found that S.J. is unable to parent these children any time in the reasonably foreseeable future. Most tellingly, the district court noted that there “has been absolutely no risk reduction” from the time these children were removed from S.J.’s care. We agree.

The record supports the district court’s finding that instead of a genuine change, S.J. continues to put her needs before those of her children and that “it is clear that if the children were returned to her care, the children’s behaviors would continue to regress.” Despite the numerous accounts of physical abuse that were corroborated by the children, S.J. denied the need for the court-ordered services. Similarly, S.J. repeatedly dismissed Jh.D.C.’s allegations of sexual abuse and attributed Jh.D.C.’s graphic sexual descriptions as a result of Jh.D.C.’s “wild imagination.” The children each have mental health issues and violent tendencies, which are downplayed by S.J. Moreover, at various times the children have expressed their desire to be removed from S.J.’s care and adopted by others. Based on the severe mental health issues that the children are facing, the district court did not err in concluding that it was in the best interests of the children to terminate parental rights. *See In re Welfare of A.D.*, 535 N.W.2d 643, 650 (Minn.1995) (concluding that mother’s love for child and desire to regain custody were not sufficient where she failed to demonstrate requisite parenting skills).

II.

S.J. argues that the district court erred by permitting the guardian ad litem and social worker to testify that termination was in the best interests of the children. In her argument, S.J. outlines the relevant law but her sole analysis is that

[t]his testimony could not possibly have been helpful to the juvenile court. This juvenile court is a long-time federal prosecutor and was for a time the head of the U.S. Attorney's criminal prosecution division before moving to juvenile court. This kind of comment is better left for closing argument—not testimony.

S.J. appears to be referencing the district court's past public service work, though it is unclear how the district court's prosecution experience is relevant to the issue S.J. raised.

What is apparent—and undisputed—is that S.J. failed to object to the testimony given by both the GAL and social worker at trial. Even so, S.J. insists that the issue was preserved for appellate review by her motion requesting a new trial on these grounds.

Whether to admit or exclude evidence is discretionary with the district court. *See In re Welfare of Children of J.B.*, 698 N.W.2d 160, 172 (Minn. App. 2005), *review dismissed* (Minn. May 3, 2005). A district court abuses its discretion if it improperly applies the law. *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 46 (Minn. 1997). A new trial may be granted on the basis of an improper evidentiary ruling only if the appellant demonstrates prejudicial error. *Id.* An evidentiary error is not prejudicial if the record contains other evidence that is sufficient to support the finding. *See In re Welfare of S.R.A.*, 527 N.W.2d 835, 838 (Minn. App. 1995) (concluding that any error in admission of challenged evidence was harmless because it was cumulative to other evidence, and was therefore not prejudicial), *review denied* (Minn. Mar. 29, 1995).

Contrary to S.J.'s argument, our caselaw establishes that when “allegedly improper or prejudicial evidence has been admitted without objection, a party may not object to its admissibility for the first time *in a motion for a new trial* or on appeal.” *State v. Folkert*, 354 N.W.2d 583, 585 (Minn. App. 1984) (emphasis added) (quotation omitted).

Because S.J. admittedly failed to object to the GAL's and social worker's testimony at trial, she has waived review of it on appeal. *See In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 96 (Minn. App. 2012) (holding that because appellant failed to object to admission of exhibit at trial, she waived the right to appellate review as to that exhibit even though she raised it in a post-trial new-trial motion); *see also In re Welfare of T.D.*, 731 N.W.2d 548, 553 (Minn. App. 2007) (holding that parent waived appellate review of evidentiary ruling by failing to object until post-trial motion).

Even if we were to reach the merits of the claims regarding the GAL and social worker, we are not persuaded by S.J.'s argument that the testimony could not have been helpful because the district court was formerly a prosecutor.

Affirmed.