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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A16-1935**

In the Matter of the Welfare of the Children of:  
R. M. K. and K. S. F., Parents.

**Filed April 17, 2017  
Affirmed  
Bjorkman, Judge**

Rice County District Court  
File No. 66-JV-16-1613

R.M.K., St. Paul, Minnesota (pro se respondent)

K.S.F., New Hope, Minnesota (pro se appellant)

John Fossum, Rice County Attorney, Terence Swihart, Assistant County Attorney,  
Faribault, Minnesota (for respondent Rice County)

Michelle Holmblad, Faribault, Minnesota (guardian ad litem)

Considered and decided by Bjorkman, Presiding Judge; Johnson, Judge; and  
Randall, Judge.\*

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

## UNPUBLISHED OPINION

**BJORKMAN**, Judge

Appellant-father challenges the termination of his parental rights to two children, arguing that respondent-county did not establish statutory grounds for termination and did not make reasonable efforts to unite him with the children. We affirm.

### FACTS

Appellant K.S.F. is the noncustodial father of two children born in 2014 and 2015.<sup>1</sup> On August 21, 2015, respondent Rice County filed a petition as to mother (R.M.K.), alleging that the children were in need of protection or services due to mother's chemical use, housing instability, and domestic-violence incidents. At the August 24 emergency protective-care hearing, the district court found the county established a prima facie case that the children needed protection or services, and ordered the children to remain in out-of-home placement. Minn. Stat. § 260C.178, subd. 1(g) (2016). On October 26, mother admitted to the petition. On January 7, 2016, after a trial home visit with mother ended badly, the district court adjudicated the children as needing protection or services and made father a party. Although not required to do so, because the children have never been in father's custody, the district court directed the county to offer services to father. And the court ordered father to follow the direction of his probation officer and comply with the county's case plan. The plan conditions included: completing a psychological evaluation, refraining from assaultive or abusive behavior, refraining from the use or possession of

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<sup>1</sup> Father's status was confirmed through paternity testing, but there is no family court order granting him custodial rights or parenting time.

alcohol or controlled substances, submitting to chemical testing, and maintaining safe and stable housing for the children.

Father was charged with domestic assault by strangulation involving mother that occurred on March 5. The county advised the district court of the incident during the April 21 review hearing. In response, the district court ordered father to complete a domestic-violence assessment and follow the recommendations. On July 12, the county filed a termination-of-parental-rights (TPR) petition citing, among other things, father's recent charge, and alleging he is not able to consistently provide for the children's needs.

Our limited record<sup>2</sup> reveals that father complied with several aspects of the district court's order and his case plan. As of the October 17 trial, father had completed a domestic-violence program, had not used controlled substances or alcohol, and had maintained full-time employment. And father had begun having unsupervised visits with the children at least two to three times a week. But he had not taken responsibility for his domestic violence, and had not engaged in a parenting class or worked with a parenting mentor, due in part to the fact that the case manager was unable to provide a referral for these services in the county where father resides. Additionally, he was charged with a gross misdemeanor for the March 5 assault on mother. And he had not established safe and stable housing by the time of trial.

At the conclusion of the trial, the district court found that father has shown "improvement throughout this case" and that he has "done as much as he can in the time

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<sup>2</sup> Because father did not provide a transcript, we rely on the documents of record, trial exhibits, and the facts found by the district court.

that has been available.” But based on its findings of fact, the district court determined the county had proven two statutory grounds for termination: father’s failure to comply with the duties imposed by the parent-child relationship and the children’s status as neglected and in foster care. Noting the testimony of the case manager and guardian ad litem, the district court concluded that the best interests of the children are served by terminating father’s parental rights. Father appeals.<sup>3</sup>

### DECISION

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). Termination requires clear and convincing evidence that (1) the county has made reasonable efforts to reunite the family, (2) there is at least one statutory ground for termination, and (3) termination is in the children’s best interests. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). We generally review a district court’s factual findings for clear error, and its conclusion that a statutory ground for termination has been established for abuse of discretion. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012). But where, as here, an appellant fails to provide a transcript on appeal, our review is limited to whether the district court’s findings of fact support its conclusions of law. *Bormann v. Bormann*, 644 N.W.2d 478, 481 (Minn. App. 2002).

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<sup>3</sup> The challenged order also terminates mother’s parental rights. Mother does not appeal.

Father does not challenge the district court's best-interests determination, but argues the county did not establish the two statutory grounds for termination or make reasonable efforts to unite him with his children. We do not find father's arguments persuasive.

**I. The district court's findings of fact support its determination that the children are neglected and in foster care.**

A district court may terminate parental rights if a child is neglected and in foster care. Minn. Stat. § 260C.301, subd. 1(b)(8) (2016). A child is considered to be neglected and in foster care if (1) the child is in foster care by court order; (2) the child's "parents' circumstances, condition, or conduct are such that the child cannot be returned to them"; and (3) the child's parents, "despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child." Minn. Stat. § 260C.007, subd. 24 (2016).

Father argues that his "circumstances, conditions, and conduct should allow the children to be reunited with their father" and that he has "exceeded reasonable efforts." This argument is defeated by the district court's relevant findings of fact. First, the children have been in foster care since August 24, 2015, with the exception of a two-month trial placement with mother that ended on December 23, 2015. Second, father had not secured safe and stable housing for the children at the time of the trial. Third, father did not participate in parenting education or mentoring, and did not refrain from domestic abuse. Because the district court's findings of fact address all three statutory requirements, we

discern no abuse of discretion in the district court's conclusion that the children are neglected and in foster care.<sup>4</sup>

**II. The district court's findings of fact support its conclusion that the county made reasonable efforts to unite father and the children.**

In any TPR proceeding, the district court must make specific findings: (1) "that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made," or (2) "that reasonable efforts for reunification are not required as provided under section 260.012." Minn. Stat. § 260C.301, subd. 8 (2016). Reasonable efforts are designed to reunite a child "with the parent or guardian *from whom the child was removed.*" Minn. Stat. § 260.012(e)(1) (2016) (emphasis added). In determining whether the county made reasonable efforts, we must consider whether the county offered services that were "(1) relevant to the safety and protection of the child; (2) adequate to meet the needs of the child and family; (3) culturally appropriate; (4) available and accessible; (5) consistent and timely; and (6) realistic under the circumstances." Minn. Stat. § 260.012(h) (2016).

It is undisputed that the children have never been in father's custody. Accordingly, the county was not required to provide services to father. But the county did so at the district court's direction. The district court found that the county, among other things, "provided a Parental Capacity Evaluation to [f]ather, provided visits and talked with him regarding parenting education and housing available in his area." Father contends that the services the county provided "were neither (5) consistent and timely or (6) realistic under

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<sup>4</sup> Because there is at least one statutory basis to terminate parental rights and it is in the best interests of the children, we need not address the other termination ground. *J.R.B.*, 805 N.W.2d at 905.

[the] circumstances.” He specifically asserts that he “was not given adequate time to complete or find parenting classes by the deadline.” We are unable to review this challenge in the absence of a transcript. *Godbout v. Norton*, 262 N.W.2d 374, 376 (Minn. 1977). On the limited record before us, we conclude that the district court did not err in determining the county made reasonable efforts to unite father with the children. We recognize father’s commendable efforts to develop his parenting skills and establish a parental relationship with these two young children. But on this record, we discern no abuse of discretion by the district court in terminating father’s parental rights.

**Affirmed.**