

*This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-0440**

In the Matter of the Welfare of the Child of:  
S. S. W. and J. L. W., Parents.

**Filed July 31, 2017  
Affirmed  
Kirk, Judge**

McLeod County District Court  
File Nos. 43-JV-16-156, 43-JV-15-182

Amber R. Donley, Gavin, Donley & Ostlund, Ltd., Glencoe, Minnesota (for appellant S.S.W.)

Michael Junge, McLeod County Attorney, Amy E. Olson, Assistant County Attorney, Glencoe, Minnesota (for respondent McLeod County)

Troy Scotting, Hutchinson, Minnesota (for respondent J.L.W.)

Dianne Schaefer, Chaska, Minnesota (guardian ad litem)

Considered and decided by Rodenberg, Presiding Judge; Kirk, Judge; and Florey, Judge.

**UNPUBLISHED OPINION**

**KIRK**, Judge

Appellant-mother argues that there was insufficient evidence to support the involuntary termination of her parental rights. Because clear and convincing evidence supports the district court's conclusion that (1) reasonable efforts failed to correct the conditions that led to the child's out-of-home placement; (2) reunification would not be

possible in the foreseeable future; and (3) termination was in the child's best interests, we affirm.

## **FACTS**

In April 2015, the child J.J.W. was born to appellant-mother S.S.W., a minor. Mother grew up in an extremely dysfunctional home. On July 8, 2015, mother was removed from her parents' home in a CHIPS<sup>1</sup> proceeding and placed in out-of-home placement with the child. From July 2015 to May 2016, mother lived in four different out-of-home placements because her negative behaviors caused her to be relocated.

In September 2015, mother and the child moved to mother's second out-of-home placement, where the child continues to reside. In October 2015, mother was arrested for assaulting the child's father J.L.W. in the child's presence.<sup>2</sup> Earlier that day, mother felt overwhelmed and texted J.L.W. that she had shaken the child and hoped that the child would fall off the bed. The child was not harmed, and mother later described the text messages as a cry for help. The county filed a CHIPS petition for the child, and the child was removed from mother's care and custody. The child was placed in foster care status, but remained with mother in the second out-of-home placement until January 22, 2016, when mother was moved to her third out-of-home placement. The child has not lived in the same residence as mother since January 2016. In February, mother moved to her last placement, a group home focused on developing independent living skills.

---

<sup>1</sup> Child in Need of Protection or Services.

<sup>2</sup> J.L.W. voluntarily terminated his parental rights and is not a party to this appeal.

In May, shortly before her 18th birthday, mother chose to leave her out-of-home placement to live with her parents. Mother made this decision, despite having discussions with her service providers about the option of extended foster care and the other benefits available to her until the age of 21. The court made clear at that time that reunification with the child would be very difficult if mother left her placement to live with her parents.

After residing with her parents for a short time, from June until the January 2017 trial, mother lived in three rental units. Mother's residence at her first two rentals was terminated for non-payment of rent. Mother had only lived in the third rental for a few weeks at the time of trial, and it appeared unlikely that she would be able to make future rent payments without assistance from her parents. Mother claimed at trial that she had completely distanced herself from her parents in the three weeks prior, but the record shows that they had ongoing contact and that she received financial assistance from them. Mother had also been employed for a few weeks at the time of trial, but the record shows that mother failed to maintain consistent employment or demonstrate financial stability throughout the proceedings, as required by her case plans.

Starting before the child's birth and throughout mother's and the child's CHIPS cases, the county provided, recommended, and arranged for services, treatment, and providers to help rehabilitate mother and facilitate her reunification with the child. Mother was required to complete or comply with these services as part of her various court-approved case plans. The county's efforts included: providing or offering out-of-home placements for both mother and the child; over 100 hours of in-home parenting education; in-home public health nursing services; probation support and services; social worker case

management; education support and services; medication management services; a psychological evaluation; children's mental health case management and adult mental health case management; arrangements and referrals for individual therapy and dialectical behavior therapy (DBT); and extended foster care or benefits until the age of 21.

Mother's engagement with, follow through, and success in following her case plans during the proceedings was inconsistent at best. Mother showed sporadic success and developed a pattern of showing initial motivation and effort, which then deteriorated after a short time. Mother struggles with several mental health issues and often exhibited emotional instability, volatile behavior, and defiance. Mother's therapists, out-of-home placement providers, social workers, parent educator, public health nurse, and the child's guardian ad litem testified that mother presented as resistant to the advice and support of providers and demonstrated an unwillingness or inability to meaningfully engage or make significant progress. Despite this, in June 2016, the court extended the permanency timeline by six months to give mother additional time to prove herself. The county filed a permanency petition for the child in September.

At the January 2017 trial, the district court concluded that despite exhaustive support, mother had: disrupted her out-of-home placements and declined extended foster care and benefits; not maintained employment or financial or housing stability; been discharged from two individual therapists and DBT therapy; failed to cooperate with and complete individual and DBT therapy; elected not to pursue adult mental health services; not engaged with, or was not meaningfully progressing in, her parenting skills with the support of the parent educator and the public health nurse; and mother would not be able

to independently parent the child on a full-time basis in the foreseeable future. The district court terminated mother's parental rights on February 27. Mother appeals.

## D E C I S I O N

Mother argues that the district court erred in concluding that: she was palpably unfit to parent the child, reasonable efforts failed to correct the conditions leading to the child's out-of-home placement, the child was neglected and in foster care, and termination of her parental rights was in the child's best interests. The court may terminate parental rights if clear and convincing evidence proves: (1) one or more of the statutory bases for termination set forth in Minn. Stat. § 260C.301, subd. 1(b)(1-9) (2014); (2) that reasonable efforts were made to reunite the family; and (3) that termination is in the child's best interests. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385-87 (Minn. 2008). "Only one [statutory] criterion needs to be proven to support termination." *In re Welfare of M.H.*, 595 N.W.2d 223, 227 (Minn. App. 1999).

Termination may be based on the failure of reasonable efforts to correct the conditions leading to the child's out-of-home placement. Minn. Stat. § 260C.301, subd. 1(b)(5). Mother does not dispute that the county's efforts were reasonable here. There is a presumption that reasonable efforts have failed if a child under the age of eight has been placed out of the home for more than six months, the parent has not substantially complied with a court-approved case plan, and the county has made reasonable efforts to rehabilitate the parent and reunite the family. *Id.*, subd. 1(b)(5)(i-iv). We review a district court's termination of parental rights to determine whether its findings address the statutory criteria, are supported by substantial evidence, and are not clearly erroneous. *Welfare of*

*S.E.P.*, 744 N.W.2d at 385. Termination of parental rights always lies within the discretion of the district court, even after one or more statutory bases for termination has been met. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136-37 (Minn. 2014). “We give considerable deference to the district court’s decision to terminate parental rights. But we closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing.” *Welfare of S.E.P.*, 744 N.W.2d at 385 (citations omitted).

The child entered out-of-home placement in October 2015. The record supports the district court’s finding that the county went above and beyond in its efforts to rehabilitate mother and to promote reunification. The district court detailed, and the record demonstrates, mother’s sporadic participation in and lack of progress with the extensive services provided to her. We agree with the district court that mother’s chaotic upbringing and her ongoing emotional, behavioral, and mental health issues impeded her ability and willingness to meaningfully engage in and benefit from the county’s rehabilitative efforts. Nonetheless, the record overwhelmingly supports the district court’s findings that mother failed to substantially comply with her court-approved case plans and failed to develop the skills necessary to independently parent the child on a full-time basis.

There is clear and convincing evidence in the record to support the district court’s conclusion that reasonable efforts did not correct the conditions that led to the child’s out-of-home placement, and consequently, reunification would not be possible in the foreseeable future. Because there is clear and convincing evidence to support termination under Minn. Stat. § 260C.301, subd. 1(b)(5), this court need not address the other two statutory bases found by the district court.

Once the district court has determined that there is a statutory basis for termination of parental rights, it must consider whether termination is in the child's best interests. *In re Welfare of the Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012). "We review a district court's ultimate determination that termination is in a child's best interest for an abuse of discretion." *Id.*

Mother argues that the district court erred in concluding that termination was in the child's best interests because she loves and is clearly bonded with the child and deserves more time to prove herself. The district court did not question mother's love for the child or that she seemed genuine about her recent progress at trial. But a parent's love and desire to regain custody may not be enough to establish that reunification is in the child's best interest. *See In re Welfare of A.D.*, 535 N.W.2d 643, 650 (Minn. 1995) (concluding that mother's love for the child and desire to regain custody were not sufficient where she failed to demonstrate requisite parenting skills).

Here, the district court relied on the collective and resolute opinions of the parent educator, social worker, and the child's guardian ad litem that termination was in the child's best interests. The court concluded that mother had not historically and could not currently provide a safe, secure, and stable environment for the child and that there was no reason to believe that mother would be able to do so in the foreseeable future. After 15 months in out-of-home placement, the law demanded permanency. The district court did not abuse its discretion in concluding that termination of mother's parental rights was in the child's best interests.

**Affirmed.**