This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2018).

STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0746

In the Matter of the Welfare of the Children of:
A. W., W. F., III, V. M., and A. W., Parents.

Filed September 30, 2019
Affirmed
Bjorkman, Judge

Waseca County District Court
File No. 81-JV-18-876

Russell E. Hardeman, Patton, Hoversten & Berg, P.A., Waseca, Minnesota (for appellant mother A.G.W.)

Rachel V. Cornelius, Waseca County Attorney, Waseca, Minnesota (for respondent Minnesota Prairie County Alliance)

Julie A. Nelson, Owatonna, Minnesota (guardian ad litem)

Considered and decided by Bratvold, Presiding Judge; Bjorkman, Judge; and Jesson, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges the termination of her parental rights, arguing that the district court erred by determining that (1) respondent county made reasonable efforts to reunify her with her children and (2) termination is in her children's best interests. We affirm.

FACTS

Appellant-mother has five children, born March 2007 (child 1), December 2008 (child 2), November 2009 (child 3), October 2013 (child 4), and June 2018 (child 5). Mother has a history of domestic violence with the fathers of her children, especially W.F. (the father of child 2, child 3, and child 5), with whom she has been involved on and off since 2008, despite his violence toward her, the children, and others.[1] Mother has moved with the children repeatedly, across three states and multiple Minnesota counties, and they have experienced periods of homelessness. Throughout, child-protection agencies have been consistently involved with the family to address concerns of physical and educational neglect, physical abuse around and toward the children, sexual abuse of child 1 and child 3, and illicit drug use. The four older children have been removed from mother's care multiple times.

Respondent Minnesota Prairie County Alliance (the county) became involved with mother in mid-May 2018, seven months after the four older children returned from an eight-month out-of-home placement in St. Louis County. The county investigated an incident at mother's residence in which a man, suspected to be W.F., broke in and threatened mother and at least one of the children with a firearm; mother denied the man was W.F. A couple weeks later, child 5 was born and testing of her urine and meconium revealed the presence of THC and cocaine. The county removed all five children from the home and filed a petition alleging that they are in need of protection or services (CHIPS).

---

[1] W.F. has multiple convictions for violent crimes and was convicted of second-degree manslaughter in 2010 for the death of his infant child with another woman.

Mother admitted that the children's environment was dangerous. The district court adjudicated the children CHIPS and ordered their continued placement in foster care.

The county established a case plan for mother, requiring chemical abstinence and testing; parenting evaluation and education; mental-health treatment, including anger-management and domestic-violence programs and individual therapy; and maintenance of a safe and adequate living environment. The county also advised mother that she faced a short timeline:

> These services need to be put into place and moving in a positive direction as soon as possible due to a short time line on the case. Sept. 2018 will be the 12 month mark for the children being in out of home placement as they were in placement before through St. Louis County.[2]

Mother signed the case plan, which the district court approved.

While in foster care, the four older children exhibited disruptive, inappropriate, and harmful behaviors. These behaviors increased after visits with mother, so the district court suspended visitation in late August. The children's behavior and "high needs" also required several moves and their separation from each other. The children began therapy, and child 3 newly reported sexual abuse by her father, W.F., and child 1. Mother failed to acknowledge the children's needs and denied their behavioral issues, insisting that the children "did not have those behaviors when they left her care." And she did not comply with numerous aspects of her case plan.

---

[2] Minnesota law requires a proceeding to determine a child's permanent status after 12 cumulative months in out-of-home placement. Minn. Stat. § 260C.503, subds. 1, 3 (2018).

In late October, the county reported to the district court that mother was not "following through with the required services" and requested permission to cease reunification efforts; the district court granted the request. The county also petitioned to terminate mother's parental rights, alleging that she neglected her parental duties, she is palpably unfit to parent her children, reasonable efforts have failed to correct the conditions that led to the children's out-of-home placement, and a child has experienced egregious harm in her care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), (6) (2018). After a four-day trial, the district court ordered termination, finding all four statutory bases proved, that the county made reasonable efforts to keep the children together and reunite them with mother but further reunification efforts would be futile, and that termination is in the children's best interests. Mother appeals.

D E C I S I O N

When reviewing an order terminating parental rights, we consider whether the district court's findings address the statutory termination criteria and are supported by substantial evidence. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012). We review "findings of underlying or basic facts for clear error." *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 the district court has discretion in determining whether a particular statutory basis for involuntary termination is present, and we will not disturb that determination absent an abuse of discretion. *Id.* "We will affirm the district court's termination of parental rights when a statutory ground for termination is supported by clear and convincing evidence, termination is in the best interests of the child, and the county has

made reasonable efforts to reunite the family." *In re Welfare of Children of A.R.B.*, 906 N.W.2d 894, 897 (Minn. App. 2018).

Mother urges this court to reverse the termination of her parental rights because the county did not make reasonable efforts to reunite her with the children and termination is not in the children's best interests. We address each argument in turn.

I. Substantial evidence supports the district court's finding that the county made reasonable efforts to reunify mother with her children.

When children are placed out of the home, the county generally must make "reasonable efforts" to reunite the family. Minn. Stat. § 260.012(a) (2018). But reunification efforts are not required if the district court determines that such efforts would be "futile and therefore unreasonable." *Id.* (a)(7); *see also In re Children of T.R.*, 750 N.W.2d 656, 666 (Minn. 2008) (stating that a county must seek "a court determination that reasonable efforts at reunification are no longer required"). The nature of the services that constitute reasonable efforts "depends on the problem presented." *T.R.*, 750 N.W.2d at 664 (quotation omitted). In determining whether the county made reasonable efforts, a district court considers 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) (2018). And the court must consider "the length of time the county was involved and the quality of effort given." *J.K.T.*, 814 N.W.2d at 88 (quotation omitted).

The record reflects that the county offered mother numerous chemical-dependency, mental-health, and parenting services, and established clear housing and communication expectations, to assist mother in addressing the violence, neglect, and substance-abuse related conditions that led to the children's out-of-home placement. The county appropriately accounted for the children's recent out-of-home placement in establishing the timeline for mother's participation in the offered services and expressly communicated the urgency of the short timeline to mother. Mother agreed to all aspects of the case plan, including its timeline. But she repeatedly declined services and complicated reunification efforts by being dishonest with or refusing to interact with the county. When the permanency deadline for the four older children expired, the district court considered mother's recalcitrance and relieved the county of its obligation to continue reunification efforts.

Mother now argues that the county's efforts were insufficient and the district court clearly erred by finding that additional efforts would have been futile. She contends the county should have made a greater effort to include her in the children's therapy and to establish a trusting and supportive relationship with her despite her "aggressive and difficult" behavior because that behavior was the result of her history of domestic violence. This argument is unavailing.

The county prioritized services that would best serve not only mother but also the children, which is why mother's demonstrably disruptive visits with the children were discontinued. *See* Minn. Stat. § 260C.001, subd. 2(a) (2018) ("The paramount consideration in all juvenile protection proceedings is the health, safety, and best interests

of the child.”). And the county considered mother’s history as both a perpetrator and victim of domestic violence, offering services tailored to meet mother’s unique needs. Mother refused to actively engage with these and other services the county offered. On this record, we discern no clear error by the district court in finding that the county’s reunification efforts were reasonable and that further reunification efforts would have been futile.

II. The district court did not abuse its discretion by determining that termination is in the children’s best interests.

We review a district court’s determination that termination is in the children’s best interests for an abuse of discretion. *J.R.B.*, 805 N.W.2d at 905.

Mother argues that the district court abused its discretion by determining that termination is in the children’s best interests because the current placement has been more harmful than helpful to the children and she is “trying to better herself.” The district court expressly rejected these assertions, and extensive evidence supports its best-interests findings.

During their young lives, the children have experienced a pattern of housing and educational instability, lived with illegal drug use, and witnessed and experienced physical and sexual violence. The effects of this ongoing trauma have been severe. By the time the four older children began their current out-of-home placement, they exhibited mental instability and numerous problematic behaviors—food hoarding and gorging, stealing, bed-wetting and other hygiene problems, self-harm, and violence toward others. These behaviors were so serious that the children could not even be placed together. Instead of engaging with the county to address these problems, mother denied them and refused to

communicate or cooperate with the county. Only through the focused efforts of therapeutic foster-care and treatment providers have the children begun to address their trauma and stabilize their behavior. On this record, the district court did not abuse its discretion by determining that it is in the children's best interests to terminate mother's parental rights to enable them to continue their recovery and development in a safe and stable environment.

Affirmed.