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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0784**

In re the Matter of the Welfare of the Children of:
J. R. S. and T. A. S., Parents.

**Filed November 12, 2019
Affirmed
Jesson, Judge**

Otter Tail County District Court
File No. 56-JV-18-3657

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Considered and decided by Ross, Presiding Judge; Rodenberg, Judge; and
Jesson, Judge.

UNPUBLISHED OPINION

JESSON, Judge

Appellant mother, whose young children tested positive for high levels of drugs, challenges the district court's termination of her parental rights. Because the record supports the district court's findings that at least one statutory ground was proven by clear and convincing evidence, that the county made reasonable efforts, and that it is in the children's best interests to terminate mother's rights, we affirm.

FACTS

Appellant mother J.R.S. and father had two children, a six-year-old and a newborn baby. The Otter Tail County Department of Human Services (the county) received a report that the baby tested positive at birth for methamphetamine and amphetamine. The county offered chemical-health services to the family but shortly after that, the family moved out of the county.

After the family moved back to the area, the county received another child-protection report. The family was homeless and staying with mother's grandparents. Father screamed at the baby and the grandparents were afraid of mother and father, according to the reporter. During its investigation of this report, the county discovered that father was required to register as a predatory offender. And while trying to arrange a meeting with the family, the county received yet another report that the younger child, then six months old, was admitted to the hospital for skull fractures from being dropped on his head.

While at the hospital, staff observed erratic behavior by the parents: father was yelling and swearing at staff while mother kept falling asleep. The parents took the child home from the hospital the next day. But later that evening, police arrested father for selling controlled substances, fleeing police, and obstructing justice. The county investigated, and the family's relatives shared additional concerns about the children's safety and well-being because of the parents' drug use. Initially, the county sought to assist the family on a voluntary basis, which included requests to undergo drug testing. But the parents refused both the tests and the assistance.

As a result, the county requested emergency protective care of the children and filed a petition alleging the children were in need of protection or services. The district court granted the request, and the county assumed custody of the children. Both children tested positive for methamphetamine,¹ with the older child's test results more than double the level required for a result to be deemed positive. The younger child also tested positive for THC, a compound found in marijuana. The children were adjudicated as children in need of protection or services later that month.

The county developed out-of-home placement plans for the family to address the reasons the children were removed from the home, as well as the children's needs. The county referred the family for a number of services to work on their plan goals, including help with housing and rent payments, and services for chemical health, mental health, and parenting.

Initially, mother followed the plan and did well. Because of her progress, the county returned the children to her on a trial home visit in September 2017. Given the family's progress, the county returned full custody to mother in March 2018 but still provided protective supervision and services.

In June 2018, a child-protection worker went to the family home for a case-closure meeting. The home smelled like marijuana, although mother denied using drugs. Following that meeting, the county had trouble engaging the family and mother refused urinalysis testing. That fall, the county received additional child-welfare reports involving

¹ The children were drug tested through a hair follicle test.

the older child about his behavior and attendance at school, his mother not answering the door when he got off the school bus, and an incident where he was brought to school by police because the home was being searched.

As a result, at a December review hearing, the agency requested the whole family be drug tested. Because the parents tested positive for high levels of amphetamine and methamphetamine immediately after the hearing, the children were taken back to foster care, and the county filed a termination-of-parental-rights (TPR) petition. Shortly after that, the county received the results of the children's drug tests, which were positive for high levels of methamphetamine.

Trial on the TPR petition took place four months later. During two days of testimony, the district court heard from the two child-protection workers assigned to the family, the guardian ad litem, and mother. On the second day of trial, the parents arrived late, and the county requested they submit to immediate urinalysis testing. Mother complied after a court order to do so and tested positive for amphetamine and methamphetamine. The county called mother as the last witness and she testified that she made progress on her case plan and had an earlier period of sobriety but that she was now struggling and could not provide what the children needed. At the time of the trial, the children had been in foster care for a total of 603 days.

The district court terminated mother's and father's parental rights, finding that the statutory grounds were proven by clear and convincing evidence, that the county made reasonable efforts for reunification, and that it was in the children's best interests to have all parental rights terminated. Mother appeals.

DECISION

Mother argues that the district court erred in terminating her parental rights for three reasons. First, she contends that the evidence is insufficient to prove the two statutory bases: that she (1) failed to comply with her duties as a parent and (2) failed to correct the conditions that led to her children's removal. Second, she contends that the county did not make reasonable efforts for reunification. Finally, she asserts that clear and convincing evidence failed to support the district court's determination that termination of her rights was in the best interests of her children.

The district court has discretion to decide whether to terminate parental rights. *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 654 (Minn. App. 2018). This court will affirm a district court's termination of parental rights when at least one 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 for reunification. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). And this court's review of a district court's findings in a termination matter is limited "to whether the findings address the statutory criteria, whether those findings are supported by substantial evidence, and whether they are clearly erroneous." *In re Welfare of D.D.G.*, 558 N.W.2d 481, 484 (Minn. 1997).

To assess whether the evidence was clear and convincing, this court "must closely inquire" into the sufficiency of the evidence. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012) (quotation omitted). And this court reviews the statutory bases for an abuse of discretion and the factual findings for clear error. *Id.* "A

finding is clearly erroneous if it is manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *Id.* (quotation omitted). Finally, this court reviews “a district court’s ultimate determination that termination is in a child’s best interest for an abuse of discretion.” *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012). With these standards in mind, we review each of mother’s arguments in turn.

I. The district court did not abuse its discretion in finding that mother failed to comply with her duties as a parent.

Mother argues that the evidence was insufficient to prove a statutory basis for termination. Because the record supports the district court’s conclusion that clear and convincing evidence demonstrated that mother failed to comply with her duties as a parent in the parent-child relationship, we agree.²

We begin with the statutory language delineating failure to comply with parental duties, found in Minnesota Statutes section 260C.301, subdivision 1(b)(2) (2018). When a parent has substantially, continuously, or repeatedly neglected to comply with their duties in the parent-child relationship, “including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child’s physical, mental, or emotional health and development,” termination of parental rights may be warranted. Minn. Stat. § 260C.301, subd. 1(b)(2).

² Because the record supports the first statutory basis, we do not need to address the second basis. *See S.E.P.*, 744 N.W.2d at 385 (holding that only one statutory basis for termination is necessary to terminate parental rights, when termination is in the best interests of the children and the county made reasonable efforts for reunification).

Here, the record amply supports the district court's finding that mother failed in her duties as a parent. While mother initially complied with her case plan and had her children returned to her care, she relapsed. Before the children were removed the second time, the oldest child was struggling at school and the parents requested he stop receiving therapy. The presence of a stabbing victim in the family's home in the middle of the night, with the older child waking up to blood in the living room and police searching the home for a weapon, raised serious concerns for the children's safety.

And when the children were removed from mother's care the second time, they tested positive for high levels of methamphetamine. The older child tested positive at seven times the level of a positive test and the younger child's result was 26 times higher. This demonstrates that the children were exposed to chemicals that were likely to affect their physical, mental, and emotional health. And following the children's second removal from the home, mother refused to cooperate with the county or address her drug use by getting an updated chemical-health assessment or providing urinalyses. This shows that mother was refusing to address the key issue that prevented her from being able to meet the children's needs. In sum, despite being given opportunities to be successful, mother failed to comply with her parental duties.

Still, mother contends that the district court erred. First, she argues that the court failed to consider the conditions as they existed at the time of the termination hearing. In a termination proceeding, "the evidence relating to termination must address conditions that exist at the time of the hearing" and the conditions must be expected to continue for the foreseeable future. *In re Welfare of Chosa*, 290 N.W.2d 766, 769 (Minn. 1980).

That evidence is starkly present here. Mother’s methamphetamine use persisted through the trial—she tested positive on the final day. And she testified at trial that her use of methamphetamine “got worse” after the children were removed the second time and that she was still struggling with sobriety.

Second, mother contends that the district court failed to consider that she completed her case plan. But a completed case plan does not necessarily equate to a correction of the conditions that led to a child’s placement. *J.K.T.*, 814 N.W.2d at 89. And while mother did well initially, her failure to continue engaging with services and her relapse led to the termination proceedings.³

The district court did not abuse its discretion in concluding that clear and convincing evidence demonstrates that mother failed to comply with her duties as a parent in the parent-child relationship.

II. The district court did not err in finding that the county made reasonable efforts for reunification.

Mother argues that the evidence was insufficient to prove that the county made reasonable efforts for reunification. In our careful review of the evidence, we conclude that the county’s efforts were supported by clear and convincing evidence.

³ Mother also argues that the district court failed to consider that the county was at fault for not closing the case sooner. We fail to see how this supports her assertion. Mother’s argument rests on the assumption that if the county had closed her case sooner, her relapse would have escaped detection, but that does not show how she fulfilled her duties as a parent. And even if the county had closed the case earlier, it would have likely reopened the case once it learned of her relapse.

To assess a county's reasonable efforts, we first consider whether the services provided to a family were relevant, adequate, culturally appropriate, available, accessible, consistent, timely, and realistic. *A.M.C.*, 920 N.W.2d at 655. Here, the child-protection workers testified about how their efforts were specific to the family's needs at each stage of the case. The guardian ad litem echoed their testimony and explained that all of the services the county offered the family were "astounding" and that the county "pulled out all of the stops trying to accommodate [the family] in every way they could."

We next turn to the "length of the time the county was involved and the quality of effort given." *In re Welfare of H.K.*, 455 N.W.2d 529, 532 (Minn. App. 1990), *review denied* (Minn. July 6, 1990). Here, the case was open from October 2016 until termination in April 2019—two and one-half years total. The county was consistently involved with the family throughout that time and provided ongoing support for mother. While mother alleges that the county went several weeks without communicating with her, even though "[a]t all times" she had a working phone number and voicemail, this argument is contrary to the record. The child-protection worker testified that she met with the family at least monthly from January to June 2018. The worker also noted the family was hard to reach after the June 2018 meeting because there were frequent telephone number changes. And the workers' ongoing case notes support their testimony, contradicting mother's claims.

Mother's testimony regarding the county's support is, perhaps, the most telling evidence of reasonable reunification efforts. At trial, mother agreed with the state that the county provided services that helped her drug use such that the children were able to return home for some time. And mother agreed that the services were reasonable and appropriate.

Mother even said that she felt like there were “too many services” and that the services “were overdone.” Mother’s own admissions at trial undermine her argument that the county’s efforts were insufficient.

In our review of the record, it is clear that the county provided reasonable—indeed significant—efforts for reunification. The district court’s conclusion in that regard is supported by the record.

III. The district court did not abuse its discretion in finding that termination of parental rights was in the best interests of the children.

Mother argues that the district court erred in finding that termination of her parental rights was in her children’s best interests because the children had a strong interest in preserving their relationship with her. The district court concluded that the children’s needs outweighed the mother’s interests in preserving the parent-child relationship. We agree.

A district court must balance three factors when considering the children’s best interests: (1) the children’s interest in preserving the parent-child relationship; (2) the parent’s interest in the same; and (3) any competing interests of the children. *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). The competing interests can include a stable environment, health considerations, and the children’s preferences. *J.R.B.*, 805 N.W.2d at 905. But when the interests of the children and parent conflict, the interests of the children are paramount. Minn. Stat. § 260C.301, subd. 7 (2018).

Here, the children had minimal interest in preserving the parent-child relationship because mother exposed them to high levels of drugs and neglected their needs for safety

and stability at home. We acknowledge mother's hard work to get sober, but she relapsed and subsequently refused to address her drug use. This significantly affected her children. When they were removed the second time, the younger child's drug test revealed higher levels of methamphetamine in his system than mother's.

While, as mother argues, she was the children's primary caretaker while they were in her care, the children were out of their home for a significant portion of their young lives. The younger child was first removed at six months old and spent more than 600 days in foster care in the two and one-half years the case was open. And despite mother's interest in continuing the parent-child relationship, the children's needs are paramount and outweigh any of her interests. *In re Welfare of Children of K.S.F.*, 823 N.W.2d 656, 668 (Minn. App. 2012). The guardian ad litem testified about how much the children were struggling and how traumatic this situation has been for them, describing the time of the trial as the "point of no return" in the parent-child relationship.⁴ And mother herself testified that she was struggling with her sobriety and that she could not offer what her children needed right now—including stability, consistency, and happiness—and she did not know when she would be able to in the future.

Based on the substantial evidence in the record, the district court did not abuse its discretion in determining that the children's best interests outweigh mother's and are best

⁴ The district court credited the guardian ad litem's testimony, noting that her opinions were "well-founded and supported by the facts." A determination of the best interests of a child involves credibility determinations, *In re Tanghe*, 672 N.W.2d 623, 625 (Minn. App. 2003), and this court defers to the credibility determinations of the district court, *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988).

served by termination of parental rights. And because at least one statutory ground for termination is supported by clear and convincing evidence, the county made reasonable efforts for reunification, and termination is in the best interests of the children, we affirm.

Affirmed.