STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0849
A19-0850
A19-0851
A19-0852

In re the Matter of the Welfare of the Child of:
K. L. M. Z. and J. C. D. J., Parents (A19-0849, A19-0851),

and

In re the Matter of the Welfare of the Children of:
K. L. M. Z., A. S. D., and M. M. Z., Parents (A19-0850),

and

In re the Matter of the Welfare of the Children of:
K. L. M. Z., J. C. D. J., A. S. D., and M. M. Z., Parents (A19-0852).

Filed December 16, 2019
Affirmed
Johnson, Judge

Scott County District Court
File Nos. 70-JV-19-180, 70-JV-18-5117, 70-JV-18-19093, 70-JV-18-19094

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Considered and decided by Hooten, Presiding Judge; Johnson, Judge; and Tracy M. Smith, Judge.

U N P U B L I S H E D O P I N I O N

JOHNSON, Judge

These consolidated appeals arise from juvenile-protection cases concerning four children. The district court terminated parental rights to three of the children, transferred custody of the other child, and limited the mother's visitation with that child. The children's biological mother and the father of one child appeal. We affirm.

FACTS

K.L.M.Z. is the biological mother of four children, whom we will identify as: Child 1, Child 2, Child 3, and Child 4. J.C.D.J. is the father of Child 1 and Child 2. A.S.D. is the father of Child 3. M.M.Z. is the father of Child 4. At all relevant times, K.L.M.Z. and M.M.Z. lived together with Child 1, Child 3, and Child 4. Meanwhile, pursuant to an informal arrangement, Child 2 lived with J.C.D.J. and visited K.L.M.Z. on weekends.

In September 2017, Child 3, who then was four years old, and Child 4, who then was two years old, were found unattended in the street near their home two afternoons in a row. Scott County investigated for neglect. One week later, after a law-enforcement officer found seven-year-old Child 1 locked out of the home and Child 3 and Child 4 inside unattended, the county opened a second investigation for neglect and lack of supervision.

A few months later, in January 2018, a law-enforcement officer found the four children unattended in a vehicle in a casino parking lot while K.L.M.Z. was inside the casino. The vehicle was not running, and the outdoor temperature was below freezing.

There were no child-safety seats or booster seats in the vehicle. The county opened a third investigation.

In early March 2018, a teacher overheard Child 1 tell a friend about "the scary things that happen to me at night." When the teacher inquired, Child 1 told her, "Sometimes my dad drinks too much and he does sexy things to me." She said that her mother told her "to watch what I say or I could get taken away." Four days later, a police detective and a school counselor interviewed Child 1 at school. Child 1 said that her mother caught a man "doing stuff that I don't really know what it's called" with his private parts in Child 1's bedroom. She said that she is unsure "who it is" but believes that it is her stepfather, M.M.Z. When the detective asked whether she had been warned not to talk about it, she responded in the affirmative. She told the detective that she is afraid of M.M.Z. and that, when she is home alone with him, she goes to her bedroom and locks the door. All four of K.L.M.Z.'s children were removed from the home for 72 hours.

Two days later, a nurse at Midwest Children's Resource Center (MCRC) interviewed Child 1. In this interview, Child 1 described incidents that happened "a long, long time ago," when she was five years old, which were perpetrated by a former housemate, not M.M.Z. She explained, "I thought it was my stepdad, but it really wasn't." The nurse later testified that this was the first time in her experience of more than 2,000 cases of child sexual abuse that a child identified two different perpetrators for a particular instance of abuse. She testified that she had concerns that Child 1 had been coached to change her story. In an examination by a physician, Child 1 tested positive for chlamydia. The evidence at trial showed that M.M.Z. was treated for chlamydia in November 2015,

when Child 1 was five years old. The physician made a clinical diagnosis of child sexual abuse.

Throughout the child-protection proceedings, the county struggled to get K.L.M.Z. to engage in services. After the initial investigations for neglect and lack of supervision, the county continued to find the children unattended in the home. In March 2018, following the report of child sexual abuse, the county met with K.L.M.Z. and developed a safety plan, which included a promise to not allow any men to stay inside the home. The day after K.L.M.Z. signed the safety plan, a social worker visited K.L.M.Z.'s home and found M.M.Z. in a back bedroom with Child 4. The children again were removed from the home for 72 hours.

On March 20, 2018, the county filed a petition to adjudicate the four children as in need of protection and services. After an emergency protective-care hearing, the district court ordered that Child 1, Child 3, and Child 4 be placed in foster care and that Child 2 be placed in the temporary custody of his father, J.C.D.J. One week later, the district court ordered that Child 1 also be placed in J.C.D.J.'s temporary custody. The district court adjudicated all four children as in need of protection or services in May 2018.

During the out-of-home placement, the case plan limited K.L.M.Z.'s contact with the children to supervised visitation. But the county learned that K.L.M.Z. had picked up the children for several unapproved, unsupervised visits. On one occasion, K.L.M.Z. picked up Child 1 from J.C.D.J.'s house and brought her home overnight. On another occasion, K.L.M.Z. had an unsupervised visit with Child 2 and Child 1, which she facilitated by manipulating J.C.D.J. with text messages that suggested that the visit had

been approved. Child 1 later reported that she saw M.M.Z. during that visit but stayed close to K.L.M.Z. and locked her bedroom door so the "problem thing" would not happen again. The county obtained an *ex parte* order for Child 1's immediate custody and placed her in a foster home based on J.C.D.J.'s inability to keep Child 1 away from K.L.M.Z.

In November 2018, the county petitioned to terminate the parental rights of K.L.M.Z. and A.S.D. to Child 3 and the parental rights of K.L.M.Z. and M.M.Z. to Child 4. A.S.D. did not respond, and his parental rights were terminated by default. The county also petitioned to transfer permanent legal and physical custody of Child 1 and Child 2 from K.L.M.Z. to J.C.D.J. In January 2019, the county amended its permanency petition concerning Child 1 by seeking to terminate K.L.M.Z.'s and J.C.D.J.'s parental rights. In February 2019, the county developed out-of-home-placement plans for K.L.M.Z. with respect to all four children and for M.M.Z. with respect to Child 4. The plans detailed the county's concerns about lack of supervision, neglect, and drug use and listed the steps that each parent needed to take for the children to return home. In March 2019, K.L.M.Z. voluntarily transferred permanent legal and physical custody of Child 2 to J.C.D.J., and K.L.M.Z. and J.C.D.J. agreed that the district court would determine at trial whether K.L.M.Z. has a right to visitation with Child 2.

The consolidated cases were tried over 12 days in March and April 2019. The county presented the testimony of 16 witnesses. K.L.M.Z. testified on her own behalf and called five other witnesses. M.M.Z. testified on his own behalf and called one other witness. J.C.D.J. testified on his own behalf and called no other witnesses.

In May 2019, the district court issued separate orders in four case files with findings of fact and conclusions of law. The district court terminated K.L.M.Z.'s parental rights to Child 1, Child 3, and Child 4 on four statutory grounds. The district court transferred permanent legal and physical custody of Child 2 to J.C.D.J. and ordered that K.L.M.Z. could have no visitation with Child 2 "until she makes substantial progress in addressing her mental health and chemical health needs." And the district court terminated M.M.Z.'s parental rights to Child 4 on the statutory ground that he had committed an act of egregious harm upon a child in his care. In June 2019, the district court denied K.L.M.Z.'s motion for a new trial. K.L.M.Z. and M.M.Z. filed separates notices of appeal. This court consolidated the appeals.

D E C I S I O N

I. Appeal of K.L.M.Z.

K.L.M.Z. argues that the district court erred in granting the county's petition to terminate her parental rights to Child 1, Child 3, and Child 4 and in temporarily preventing her from having visitation with Child 2.

A. Hearsay Evidence

We first consider K.L.M.Z.'s argument that the district court erred by overruling her objection to hearsay testimony. In general, a district court may admit evidence in a CHIPS proceeding only if the evidence would be admissible in a civil trial. Minn. R. Juv. Prot. P. 3.02, subd. 1. But a district court may admit out-of-court statements by children under ten years of age concerning acts of sexual penetration or contact, so long as opposing parties are notified and the district court finds "sufficient indicia of reliability." *Id.*, subd. 2; *see*

also Minn. Stat. § 260C.165 (2018). This court applies an abuse-of-discretion standard of review to evidentiary rulings in a TPR trial. *In re Child of Simon*, 662 N.W.2d 155, 160 (Minn. App. 2003).

K.L.M.Z. first contends that the district court should have excluded the hearsay statements of Child 1's eight-year-old cousin, whom Child 1 visited during her out-of-home placement. The county responds that the exhibit containing the cousin's statements "was not actually offered or entered in evidence." We agree. Thus, K.L.M.Z.'s first contention is moot.

K.L.M.Z. also contends that the district court should have excluded the testimony of Child 1's aunt concerning a statement Child 1 made to her cousin, which the aunt overheard. K.L.M.Z. asserts that the aunt's testimony is unreliable because the children were speaking in English and the aunt has limited English-language skills. The district court ruled that the aunt had been "vigorously cross-examined" about her ability to understand English and credited her testimony to the extent that she overheard Child 1 say, in English, "[M.M.Z.] . . . touch . . . private parts." Through an interpreter, the aunt acknowledged that she does not speak English fluently, but she testified that English-language conversations are easier to understand when words sound similar to their Spanish counterparts, which she testified was true on that occasion. The district court did not abuse its discretion by deeming the aunt's testimony reliable and by admitting it.

B. Reasonable Efforts

K.L.M.Z. also argues that the district court erred by finding that the county made reasonable efforts to reunite her with the children.

After a CHIPS adjudication, a county social services agency must make "reasonable efforts . . . to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time." Minn. Stat. § 260.012(a) (2018). A county must, among other things, "prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care." Minn. Stat. § 260C.219(a)(2)(i) (2018). An "out-of-home placement plan" is a written document prepared "jointly with the parent or parents or guardian of the child" that describes the specific reasons for out-of-home placement and explains the changes and services needed to allow the child to safely return home. Minn. Stat. § 260C.212, subd. 1(b), (c)(2) (2018). The plan must signed by the parent, submitted to the district court for approval, and explained to all persons involved in its implementation. *In re Welfare of A.R.B.*, 906 N.W.2d 894, 897 (Minn. App. 2018). "Reasonable efforts at rehabilitation are services that go beyond mere matters of form so as to include real, genuine assistance." *In re Welfare of Children of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quotations omitted), *review denied* (Minn. Mar. 28, 2007). In determining whether a county has made reasonable efforts, a district court shall consider whether the services offered 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).

In this case, the district court found that the county made reasonable efforts to "rehabilitate and reunify the children with" their mother. These efforts included various

assessments, chemical testing, educational programming, and therapy for both K.L.M.Z. and the children. K.L.M.Z. contends that the county's efforts were not reasonable because the county required K.L.M.Z. to adopt the belief that M.M.Z. abused Child 1. The county developed multiple case plans, each of which demonstrated concern about K.L.M.Z.'s ongoing contact with M.M.Z. and sought to keep the children "safe from unsafe people and sexual abuse in the future." K.L.M.Z. reviewed and signed each case plan. The district court approved the case plans. But K.L.M.Z. did not comply with them. Even after the county made a maltreatment finding against M.M.Z. based on a preponderance of the evidence, K.L.M.Z. secretly removed the children from their placements and brought them to her own house, where she exposed them to M.M.Z. The district court later found by clear and convincing evidence that M.M.Z. committed sexual abuse against Child 1. Thus, the district court did not err by finding that the county's efforts to ensure the children's safety were reasonable.

C. Statutory Grounds for Termination

K.L.M.Z. next argues that the district court erred by concluding that the county proved a statutory ground for termination.

We review an order terminating parental rights "to determine whether the district court's findings address the statutory criteria and whether the district court's findings are supported by substantial evidence and are not clearly erroneous." *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). "Parental rights are terminated only for grave and weighty reasons," *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990), but this court gives "considerable deference to the district court's decision to terminate

parental rights," *S.E.P.*, 744 N.W.2d at 385. We apply a clear-error standard of review to a district court's findings of historical fact, and an abuse-of-discretion standard of review to a district court's ultimate finding as to whether a statutory basis for terminating parental rights is present. *In re Welfare of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

The county alleged four statutory grounds for the termination of K.L.M.Z.'s parental rights. The district court concluded that the county proved each alleged ground. On appeal, K.L.M.Z. acknowledges all four statutory grounds but challenges the district court's findings and conclusions only with respect to the allegations of palpable unfitness. *See* Minn. Stat. § 260C.301, subd. 1(b)(4) (2018). She has not made any argument as to why the district court erred with respect to the three other statutory grounds (that the children were neglected and in foster care; that she had refused and neglected to comply with her parental duties; and that reasonable efforts failed to correct the conditions that led to the children's out-of-home placement). A termination of parental rights may be affirmed if at least one statutory ground has been established. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004). The lack of any argument for reversal with respect to three statutory grounds is a sufficient basis for affirmance. *See id.* Nonetheless, in the interest of thorough appellate review, we will analyze K.L.M.Z.'s argument that the district court erred by determining that she is palpably unfit to be a party to the parent-child relationship. Specifically, K.L.M.Z. challenges the district court's findings about the children's safety around M.M.Z. and about her drug use.

A district court may terminate parental 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) (2018). Proving palpable unfitness is an onerous burden. *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 661 (Minn. 2008). The county must prove "a consistent pattern of specific conduct or specific conditions existing at the time of the hearing that appear will continue for a prolonged, indefinite period and that are permanently detrimental to the welfare of the child." *Id*. (quotation omitted).

K.L.M.Z. offers three reasons why the district court erred in concluding that she is palpably unfit to parent. First, she contends that she could not have "failed to protect Child 1 from sexual abuse" because the evidence is insufficient to prove that M.M.Z. sexually abused Child 1. K.L.M.Z. notes that Child 1 identified another man by name as the perpetrator of her sexual abuse and that, at the least, the conflicting evidence makes it impossible for the county to satisfy its burden of proof. The district court considered these evidentiary issues thoroughly. In finding that M.M.Z. abused Child 1, the district court credited the county's maltreatment finding against M.M.Z. as well as Child 1's disclosure on multiple occasions of M.M.Z. as her abuser. The district court also found that Child 1's identification of an alternative perpetrator was unreliable given "that she both saw and heard the perpetrator and held a memory for approximately two years that it was her stepfather." The district court found it compelling that Child 1 repeated her identification

of M.M.Z. as her abuser later in the case. The district court expressly found that M.M.Z.'s denials are not credible. The district court's finding that M.M.Z. committed sexual abuse against Child 1 is not clearly erroneous.

Second, K.L.M.Z. contends that the district court erred by finding that her drug use rendered her an unfit parent. The district court found that the "totality of the evidence points to [K.L.M.Z.] having an ongoing methamphetamine addiction" and concluded that K.L.M.Z. made little progress demonstrating sobriety or acknowledging her drug use. The evidence supports this finding. In June 2018, the county requested that K.L.M.Z. demonstrate sobriety or acknowledge a drug problem and work with the county on a resolution. The county provided "color wheel testing, UAs, hair follicle consultations, hair follicle testing, [and] chemical dependency assessments." K.L.M.Z. agreed to submit to random urine tests but failed to appear for multiple tests and never had a negative urine test. In November 2018, K.L.M.Z. passed a hair-follicle test but, after suspicions arose that she had adulterated the hair sample by bleaching her hair, she failed to produce urine samples for the color-wheel program or submit to a blood test. After testing positive for methamphetamine use on the first day of trial, K.L.M.Z. admitted in her testimony to using methamphetamine from December 2018 to March 2019 but denied "any need for treatment or assistance with her chemical dependency after being offered services and support from" county social workers, saying that she had quit on her own. A parent who refuses to complete drug treatment may be found palpably unfit to care for children. *See, e.g.*, *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 710-11 (Minn. App. 2004). Thus, the district

court did not clearly err by finding that K.L.M.Z. failed to make significant progress in demonstrating sobriety or acknowledging a drug problem.

Third, K.L.M.Z. contends that the district court erred by finding that her "unresolved issues" with her mental health support the conclusion that she is palpably unfit. The evidence supports the district court's finding. According to K.L.M.Z.'s psychological evaluation, she has narcissistic and histrionic personality disorders, marked by "turbulent" behavior and an "unpredictable temperament." Her evaluator concluded that her diagnoses were "likely to impact her parenting" and recommended that she participate in group and individual DBT therapy for her personality disorder, as well as parenting classes. K.L.M.Z. completed only one of four DBT therapy modules and did not start family therapy. The district court credited the testimony of social workers who testified that K.L.M.Z.'s chronic tardiness for supervised visitations had a negative impact on her children. The district court also heard K.L.M.Z.'s own testimony that she prioritized her relationship with M.M.Z. over making progress on her case plan.

The district court may consider the impact of a parent's mental health if it "manifest[s] in negative behaviors toward" children. *In re Welfare of Children of B.M.*, 845 N.W.2d 558, 564 (Minn. App. 2014). The evidence indicates that K.L.M.Z.'s mental health has caused turbulent behavior and that her behavior has had and would continue to have a negative impact on her children. Thus, the district court did not clearly err by considering K.L.M.Z.'s mental health in its analysis of the palpable-unfitness issue.

In sum, the district court did not err by finding that the county proved by clear and convincing evidence that K.L.M.Z. is palpably unfit to parent. *See* Minn. Stat. § 260C.301, subd. 1(b)(4).

D. Visitation

K.L.M.Z. last argues that the district court erred by temporarily preventing her from having any visitation with Child 2. K.L.M.Z. voluntarily transferred permanent legal and physical custody of Child 2 to J.C.D.J. She executed an affidavit in which she asked the district court to approve the transfer and stated:

> The parties have agreed that the Court will decide the issue of my visitation with [Child 2] after the trial that will be heard by the Court pertaining to my other three children. I understand that this visitation order will be made by the Court in [Child 2's] best interests, and shall be binding upon me and [J.C.D.J.].

K.L.M.Z. confirmed the terms of this agreement at a pre-trial hearing the same day, waiving her right to trial on the custody issue and agreeing that the district court would decide the matter of her "visitation and parenting time" with Child 2. J.C.D.J. "agreed to try to the Court the issue of what [K.L.M.Z.'s] contact with [Child 2] looks like following the conclusion of this case." For purposes of this opinion, we assume without deciding that, by agreement, a district court may determine parental visitation time in connection with a permanent transfer of physical and legal custody. *Cf.* Minn. Stat. § 260C.515, subd. 4(3) (2018).

In this case, the district court concluded that it was in "Child 2's best interests to completely restrict Mother's parenting time until she takes substantial steps to address her

mental and chemical health." The district court found that visitation with K.L.M.Z. likely would endanger Child 2's emotional health and impair his emotional development, voicing concern about Child 2's young age and about K.L.M.Z.'s history of manipulation. The district court found that transferring custody "gives Mother substantially more time to make progress" on correcting the conditions that led to out-of-home placement under the CHIPS adjudication. The district court indefinitely suspended K.L.M.Z.'s visitation "until she makes substantial progress in addressing her mental health and chemical health needs," explaining:

> Substantial progress may be demonstrated in a manner that includes but is not limited to providing a letter from a treating therapist as to [K.L.M.Z.'s] progress in individual and DBT therapy, completion of a chemical use assessment, . . . demonstrated follow through with all recommendations, and demonstration of at least six months of sobriety as evidence by UAs, hair follicle, or other appropriate testing.

The district court's analysis is supported by evidence in the record. K.L.M.Z. admitted to using methamphetamine but does not believe that she needs treatment. She has not demonstrated sobriety through testing, and she has not made substantial progress in therapy for her personality disorders. The district court's suspension of visitation is reasonably based on Child 2's best interests. Thus, the district court did not err by suspending K.L.M.Z.'s visitation time until she makes progress on her mental and chemical health.

II. Appeal of M.M.Z.

M.M.Z. argues that, for five reasons, the district court erred in terminating his parental rights to Child 4.

A. Reliance on Proposed Findings

We first consider M.M.Z.'s argument that the district court erred by adopting verbatim the county's proposed findings of fact. The supreme court has stated that, if a party submits proposed findings of fact, a district court should "independently develop its own findings." *In re Children of T.A.A.*, 702 N.W.2d 703, 707 n.2 (Minn. 2005) (citing *Pederson v. State*, 649 N.W.2d 161, 163 (Minn. 2002)). The supreme court has encouraged district courts to write findings that "reflect the district court's independent assessment of the evidence" and to exercise its "own skill and judgment in drafting its findings." *Id.* But the supreme court has "declined to adopt a blanket prohibition on the practice" of verbatim adoption of proposed findings in child-protection cases, acknowledging the "short deadline facing district courts in issuing an order on a petition to terminate parental rights." *Id.*

In this case, the county submitted proposed findings of fact. As in many termination cases, the district court's termination order bears some resemblance to the county's proposed order. But the two documents are not similar enough to raise concerns of the type previously expressed by the supreme court. M.M.Z. concedes that the district court modified many of the proposed findings. The district court rejected others entirely. The district court made numerous findings that were not proposed by the county. On the whole, the district court's findings sufficiently "reflect the district court's independent assessment of the evidence" and the exercise of its "own skill and judgment in drafting its findings." *See id.* Thus, the district court did not err by adopting some of the county's proposed findings.

B. Findings Regarding Sexual Abuse of Child 1

M.M.Z. argues that the district court erred by finding that he sexually abused Child 1. Specifically, M.M.Z. contends that the district court erred by deeming Child 1's identification of him reliable in light of her young age and her initial disclosure to the detective that she was not sure who had abused her. He also contends that the district court erred by relying on the county's four witnesses, despite their expressions of doubt about the reliability of Child 1's identification of an alternative perpetrator.

As discussed above, the district court did not rely solely on Child 1's interview with the detective. Child 1 spontaneously disclosed M.M.Z. as her abuser to eleven individuals over an extended period of time, identified an alternative perpetrator for only a short period of time, and later repeated her identification of M.M.Z. The county made a maltreatment finding against M.M.Z. based on interviews with multiple parties, including the children who shared a bedroom with Child 1. The district court also found the results of M.M.Z.'s psycho-social assessment and parenting assessment unpersuasive, based on the examiner's methodologies. The reconciliation of conflicting evidence is "exclusively the province" of the district court as fact-finder. *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004). Given the conflicting evidence, we do not have a "definite and firm conviction that a mistake occurred." *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 322 (Minn. App. 2015), *review denied* (Minn. July 20, 2015). Thus, the district court did not clearly err by finding that M.M.Z. sexually abused Child 1.

C. Findings Regarding Coaching of Child 1

M.M.Z. also argues that the district court erred by finding that K.L.M.Z. coached Child 1 to identify another man as her abuser. He contends that the district court ignored improper questioning by the detective during his first interview of Child 1.

The district court found, based on "all reasonable inferences to be made from" the trial testimony, that K.L.M.Z. coached Child 1 to identify an alternative perpetrator. The district court credited the testimony of five professionals and found K.L.M.Z.'s testimony not credible on that issue. The district court found that the circumstances indicated that K.L.M.Z. had spoken to Child 1 before the MCRC interview: "Unlike the time leading into the first interview at the school, Mother, who had repeatedly discouraged Child 1 from reporting the sexual abuse, was aware that sexual abuse would be discussed and had access to Child 1 before this evaluation." The district court found that Child 1 was aware of what would be discussed at the MCRC interview and indicated that she was not supposed to discuss the "problem thing."

The evidence supports the district court's findings. Child 1 spontaneously identified M.M.Z. as the perpetrator when talking to her teacher and indicated that her mother warned her that she could get "taken away" for discussing the topic. Child 1 said that "mom gets mad" when she tells others about the abuse. Before the MCRC interview, Child 1 was in frequent telephone contact with K.L.M.Z. After Child 1 changed her story, the MCRC physician and nurse formed the opinion that Child 1 was coached or primed to identify an alternative perpetrator. To the extent that M.M.Z. argues that the detective improperly questioned Child 1 during her initial interview, M.M.Z. provides no support for this claim.

Thus, the district court did not clearly err by finding that K.L.M.Z. coached Child 1 to identify another man as her abuser.

D. Statutory Grounds for Termination

M.M.Z. also argues that the district court erred by finding that the county proved a statutory ground for the termination of his parental rights to Child 4.

The district court concluded that the county proved that a child had experienced egregious harm in M.M.Z.'s care. *See* Minn. Stat. § 260C.301, subd. 1(b)(6). Egregious harm is defined by statute to mean "the infliction of bodily harm to a child . . . which demonstrates a grossly inadequate ability to provide minimally adequate parental care." Minn. Stat. § 260C.007, subd. 14 (2018). To justify the termination of parental rights, egregious harm must be of a "nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care." Minn. Stat. § 260C.301, subd. 1(b)(6). "The statute does not require that the parent has inflicted egregious harm on his own child, but rather, that a child has experienced egregious harm in the parent's care." *In re Child of A.S.*, 698 N.W.2d 190, 197-98 (Minn. App. 2005), *review denied* (Minn. Sept. 20, 2005).

The district court found that Child 1 was a victim of criminal sexual conduct, "making her a child who has been subjected to egregious harm." The district court also found that M.M.Z., Child 1's stepfather, was the perpetrator of this abuse. For the reasons stated above, the evidentiary record supports the district court's finding that M.M.Z. sexually abused Child 1. *See supra* parts I.C, II.B. Furthermore, the district court found

that Child 1 was a child in M.M.Z.'s care. That finding is supported by evidence that M.M.Z. was Child 1's stepfather at the time of the reported abuse and that M.M.Z. watched the children when K.L.M.Z. slept or worked. Thus, the district court did not clearly err by finding that a child experienced egregious harm in M.M.Z.'s care.

E. Best Interests

M.M.Z. last argues that the district court erred by finding that the termination of his parental rights to Child 4 is in her best interests.

In termination cases, "the best interests of the child are the paramount consideration, and conflicts between the rights of the child and rights of the parents are resolved in favor of the child." *J.R.B.*, 805 N.W.2d at 902; *see also* Minn. Stat. § 260C.301, subd. 7. A district court "must balance three factors: (1) the child's interest in preserving the parent-child relationship; (2) the parent's interest in preserving the parent-child relationship; and (3) any competing interest of the child." *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992); *see also* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (2019). Competing interests of the child include a "stable environment, health considerations, and the child's preference." *R.T.B.*, 492 N.W.2d at 4. The district court "must . . . explain its rationale in its findings and conclusions." *In re Tanghe*, 672 N.W.2d 623, 626 (Minn. App. 2003). This court applies an abuse-of-discretion standard of review to a district court's best-interests finding. *J.R.B.*, 805 N.W.2d at 905.

In this case, the district court found that it was in Child 4's best interests to terminate M.M.Z.'s parental rights, reasoning that Child 4's need for safety, stability, and permanency outweighed M.M.Z.'s interest in his parental rights. The district court found

that M.M.Z. "loves his child and that his child loves him." But the district court found that there was a serious concern about Child 4's safety and stability if she were left in M.M.Z.'s care. The district court made findings on the three best-interests factors and concluded that "this little girl's interest in being safe from sexual abuse far outweighs" any interest in preserving the parent-child relationship. The district court did not abuse its discretion in so finding.

Affirmed.