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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0190**

In the Matter of the Welfare of the Child of

C. M. D. and M. R. H., Parents.

**Filed July 6, 2020
Affirmed
Cochran, Judge**

Olmsted County District Court
File No. 55-JV-19-6221

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Considered and decided by Cochran, Presiding Judge; Slieter, Judge; and
Bryan, Judge.

UNPUBLISHED OPINION

COCHRAN, Judge

Appellant-mother challenges the district court's order transferring permanent legal
and physical custody of the child to respondent-father. We affirm.

FACTS

Appellant-mother and respondent-father are the parents of one child (the child), who was born in 2011. Mother and father previously lived together for approximately three years, during which time the child was born. Mother and father were never married. Mother is also the parent of two younger children from another relationship.

Olmsted County Health, Housing, and Human Services (the county) has been involved in the lives of mother and the child since 2013. Between 2013 and 2019, the county provided a number of services to mother. In 2019, the county became increasingly concerned about the child's safety because mother was not responding to social workers and was avoiding drug tests required by the county.

On February 4, 2019, the county received a report that the child had been sexually abused. Two days later, after mother failed to bring the child to a scheduled CornerHouse interview, a social worker went to mother's house. Mother did not allow the social worker to enter the home and told the social worker to stop communicating with her. At that time, the child was living with mother and mother's other children. Later that day, all three children were taken into police protective custody and placed in foster care due to ongoing concerns regarding mother's drug use. Though father shared joint legal custody of the child and had split parenting time evenly with mother, the county did not place the child with father because of concerns that the child may have been sexually abused by father. After the county determined that the sexual abuse reports were unsubstantiated, the child was placed in father's care. Soon thereafter, the court issued an order granting father temporary physical and legal custody of the child.

On July 24, 2019, following a court trial, the child was adjudicated in need of protection or services (CHIPS) with respect to mother. The child remained in father's custody, and mother was allowed supervised visitation. The county provided both parents with a "family assessment service plan." Mother's plan required her to participate in supervised parenting-time with a parenting coach, participate in mental health assessments, remain sober, and cooperate with drug tests. The plan also required mother to build up her positive supports, establish a stable living environment and employment, and attend therapy to resolve domestic violence issues. Father's plan required him to remain sober, provide stable housing, create consistency for the child, maintain employment, and meet the basic needs of the child. The plans provided that the county would check in regularly with the child's school to monitor the child's progress and provide monthly visits with the child to monitor mother's and father's ability to care for the child. The goal of the plans was to establish a safe, permanent residence for the child.

In August 2019, mother was arrested for fraud in Iowa. Because she was in custody, mother did not participate in supervised parenting-time. A week after her arrest, the county petitioned the court for a transfer of permanent legal and physical custody of the child to father. A trial was originally scheduled in early October 2019, but was continued to December to allow mother to be present after she was released from custody.

At the court trial on the petition to transfer permanent legal and physical custody, the district court heard testimony from the child's therapist, a county social worker, the guardian ad litem, father, and mother. The district court also received exhibits, took judicial notice of relevant case files including the CHIPS case file, and heard arguments

from the parties. At the end of trial, the district court made a “general finding” that it was in the child’s best interests to transfer custody to father. The district court later issued a detailed order transferring permanent legal and physical custody of the child to father.

Mother appeals.

D E C I S I O N

“The paramount consideration in all juvenile protection proceedings is the health, safety, and best interests of the child.” Minn. Stat. § 260C.001, subd. 2(a) (2018). “The laws relating to the juvenile protection proceedings shall be liberally construed to carry out these purposes.” *Id.*, subd. 4 (2018).

A district court “may order permanent legal and physical custody to a fit and willing relative in the best interests of the child.” Minn. Stat. § 260C.515, subd. 4 (2018). An order permanently transferring legal and physical custody of a child must address:

- (1) how the child’s best interests are served by the order;
- (2) the nature and extent of the responsible social services agency’s reasonable efforts . . . to reunify the child with the parent . . . where reasonable efforts are required;
- (3) the parent’s or parents’ efforts and ability to use services to correct the conditions which led to the out-of-home placement; and
- (4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

Minn. Stat. § 260C.517(a) (2018). Each of the four statutory findings must be proved by “clear and convincing evidence.” *See* Minn. R. Juv. Prot. P. 58.03, subd. 2(a).

On appeal from a permanent-placement order transferring legal custody, we apply a two-part standard of review. *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315,

321-22 (Minn. App. 2015), *review denied* (Minn. July 20, 2015). We review the district court’s factual findings to determine whether they are clearly erroneous. *Id.* at 321. “A finding is clearly erroneous only if there is no reasonable evidence to support the finding or when an appellate court is left with the definite and firm conviction that a mistake occurred.” *Id.* at 322 (quotation omitted). And we review the district court’s ultimate determination that there was a statutory basis for a permanency disposition for an abuse of discretion. *Id.* at 321. “A district court abuses its discretion if it improperly applies the law.” *Id.* (quoting *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 93 (Minn. App. 2012)).

Mother challenges the district court’s findings on all four of the statutory factors set forth in Minn. Stat. § 260C.517(a). We address mother’s arguments regarding each statutory factor in turn.

A. Best Interests of the Child

In making a permanency disposition order, the district court “must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.” Minn. Stat. § 260C.511(b) (2018). To be sufficient, a district court’s best-interests findings must facilitate effective appellate review, provide insight into which facts or opinions were most persuasive for the court’s ultimate decision, and demonstrate the court’s comprehensive consideration of the statutory criteria. *In re Tanghe*, 672 N.W.2d 623, 626 (Minn. App. 2003).

Here, the district court reviewed the relationship between the child and relatives and the relationship between the child and other persons important to the child. The district

court found that the child “has a great relationship ground[ed] in caring and love with his/her father.” And, the district court found that father has helped the child maintain relationships with the child’s siblings and extended family. The district court also found that while residing with father, the child’s needs were being met. Specifically, the child was “receiving regular medical and dental care,” was “consistently seeing a therapist,” “has been involved in chess club, dance and ballet,” and “has participated in summer camp.” The district court concluded that child “is doing exceptionally well with his/her father.”

The district court also considered the child’s relationship with mother and whether mother was able to meet the child’s needs. The district court found that mother’s “chaotic lifestyle” prevents her from meeting the child’s needs, that the child was exposed to “violence, instability and chaos” in mother’s care, and that mother’s “accumulation of debt and ongoing alleged criminal activity speaks to her inability to care for the child.” The court noted that mother failed to take the child to a CornerHouse interview and that mother did not attend a family group conference in July 2019. And, the district court found that the child’s positive and meaningful connections in the community would not occur if the child was placed in mother’s care. The district court concluded that “[i]t is unequivocally in the child’s best interest that the physical and legal custody of the child be transferred to his/her father . . . due to [mother’s] inability to consistently provide for a safe and stable living environment for the child that is able to meet his/her social, emotional, developmental, and educational needs.”

Mother’s challenge to the best-interests determination is limited to three specific factual findings that she contends are not supported by the record. On that basis, she argues

the district court's best-interests determination lacks support. We conclude that mother's argument lacks merit.

First, mother challenges the district court's finding that "the child has improved at school in his/her academics and social relationships since being in his/her father's care." Mother maintains that the finding of school improvement is clearly erroneous because there is a lack of evidence of the child's school experience while living with mother. The record shows otherwise. The social worker testified that while in mother's care, the child frequently missed school. The social worker also testified that when the child did attend school, the child was tired and struggled to make friends. Conversely, father testified that since the child has been living with father, the child's grades have improved and the child has made friends at school that the child sees on a regular basis. The district court's factual finding that the child has shown improvement in school since living with father is not clearly erroneous.

Second, mother contends that the district court clearly erred when it found that the county utilized the ten best-interests factors analysis in making its decision to place the child with father. *See* Minn. Stat. § 260C.212, subd. 2(b)(1)-(10) (2018) (identifying ten factors that the county shall consider in determining the needs of a child). The ten best-interests factors include the child's current functioning and behaviors, medical needs, educational needs, developmental needs, history and past experience, religious and cultural needs, connection with community and school, interests, relationship to caretakers, and preference. *See id.* Again, the record refutes mother's argument. The social worker's testimony touched on the best-interests factors, and at the end of trial, she explicitly

explained her analysis of the factors. In addition, the district court made its own findings on each of the ten factors—all of which are supported by the record—in analyzing whether to award custody of the child to father. The district court’s factual finding that the county analyzed the required factors is not clearly erroneous.

Finally, mother argues that the district court’s best-interests findings do not reflect that her life has “stabilized” and that she is sober and free of domestic violence. The district court’s findings do include findings that mother began attending outpatient chemical-dependency treatment in June 2019 and provided clean drug tests. The district court also found that mother has been “working on building healthy supports in her life but has failed to consistently work with and stay in contact with these positive supports.” The district court also noted that mother “consistently” minimizes her mental health issues and has sought to “refute” her mental health diagnoses. And the district court found that in August 2019 mother was arrested in Iowa for forgery. The district court also found that mother owes money to a prior landlord for rent and property damage. These findings are supported by evidence in the record and address the extent to which mother’s life has stabilized.

In sum, the district court’s findings regarding the best interests of the child are not clearly erroneous. Therefore, the district court acted within its discretion when it determined that the transfer of sole physical and legal custody to father was in the best interests of the child. *D.L.D.*, 865 N.W.2d at 322.

B. Agency's Reasonable Efforts to Reunify Parent and Child

Mother next challenges the district court's findings regarding the nature and extent of the county's reunification efforts. Subject to certain exceptions not applicable here, reasonable efforts for reunification are always required. Minn. Stat. § 260.012(a) (2018). "[T]he nature of the services which constitute 'reasonable efforts' depends on the problem presented." *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 664 (Minn. 2008) (quoting *In re Welfare of S.Z.*, 547 N.W.2d 886, 892 (Minn. 1996)). At the time of the petition, the county's primary concerns were mother's history of drug use, domestic violence in the home, mother's mental health issues, and mother's ability to care for the child.

Mother argues that the district court's findings regarding whether the county made reasonable reunification efforts are inadequate because they focus more on the county's efforts "to finalize the permanency plan" with father rather than the county's efforts to reunify mother and the child. We are not persuaded. The district court's order includes specific findings regarding the county's efforts to reunify mother and the child, including the county's efforts to address its concerns regarding mother. The district court's findings reflect that mother was provided with opportunities for treatment to address her chemical dependency issues and assessments to address her mental health issues. The district court's order also includes findings that the county provided a variety of services to mother including supervised visitation, assistance with transportation, financial assistance, regular case-planning conferences, communication with foster family to maintain sibling connections, drug screening, and regular visits to the child's home. Based on these

findings, which are supported by evidence in the record, the district court determined that the county “made active and reasonable efforts to reunify the family.”

The district court’s factual findings regarding the county’s reunification efforts are sufficient and are not clearly erroneous. *See D.L.D.*, 865 N.W.2d at 322. Accordingly, the district court did not abuse its discretion when it concluded that the county made reasonable efforts for reunification.

C. Parent’s Efforts to Use Services to Correct Conditions and Whether the Conditions that Led to Out-of-Home Placement Were Corrected

The final two statutory factors set forth in Minn. Stat. § 260C.517(a) are the “parent’s . . . efforts and ability to use services to correct the conditions which led to the out-of-home placement” and whether the conditions have “been corrected so that the child can safely return home.” Minn. Stat. § 260C.517(a)(3), (4). Mother contends that the district court did not make *any* findings on either of these statutory factors. We disagree.

Particularized findings of fact are necessary to enable appellate review, to ensure the district court properly applied the law, and to assure the parties that the district court fairly considered and decided the issues. *Reyes v. Schmidt*, 403 N.W.2d 291, 293 (Minn. App. 1987). Here, the district court’s order includes particularized findings of fact on these statutory factors.

In its order, the district court made a number of findings addressing mother’s efforts and ability to use the services provided by the county, mother’s failure to correct the conditions that led to the out-of-home placement, and her current inability to safely care for the child. As discussed above, the district court recognized in its findings that mother

had made some progress in addressing her drug use, but also found that mother “has not dealt with her mental health issues in a meaningful way.” The district court found that mother “consistently” minimized her mental health issues and “has sought out other professionals in an attempt to refute the diagnoses.” The district court also found that the child’s medical and community needs would not be met if left in mother’s care and that mother’s “accumulation of debt and ongoing alleged criminal activity speaks to her inability to care for the child.” The findings are sufficient to demonstrate that the district court fairly considered the third and fourth statutory factors—“the parent’s . . . efforts and ability to use services to correct the conditions which led to the out-of-home placement” and whether the conditions have “been corrected so that the child can safely return home.” *See* Minn. Stat. § 260C.517(a)(3), (4). And the record reflects that evidence supports the district court’s findings in that regard.

In sum, we conclude that the district court’s findings sufficiently address all four of the statutory factors and are not clearly erroneous. We further conclude that the district court’s decision to award sole legal and physical custody of the child to father was not an abuse of discretion.

Affirmed.