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STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0461

In the Matter of the Welfare of the Children of: M. N. and J. J. N., Parents.

Filed August 31, 2020
Affirmed
Florey, Judge

Chisago County District Court
File No. 13-JV-19-235

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Considered and decided by Hooten, Presiding Judge; Jesson, Judge; and Florey, Judge.

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

FLOREY, Judge

Appellant mother challenges the district court's termination of her parental rights, arguing that the state did not make reasonable efforts to reunify the family. We affirm.

FACTS

Appellant is the mother of four children who, at present, are ages 5, 8, 9, and 13 (the children).[1] The children have been the subject of a number of child-protection matters in the past. In 2015, respondent Chisago County Health & Human Services (the county) received a report that one of the children—who was four years old at the time—followed her sibling to school in the morning, unbeknownst to mother, and was gone for over two hours. The county offered mother voluntary services, and she accepted and signed a case plan. In 2016, following mother's positive test for methamphetamine and a report that the children's father struck one of the children, the court ordered the children out of their parents' care and required mother to complete an out-of-home case plan. To date, a total of ten child-protection reports asserting issues of neglect and abuse of the children had been filed since 2015.

In June 2019, the county received the report that lead to the instant appeal.[2] The report alleged that mother's domestic partner lifted one of the children off the ground by the child's neck, and the county initiated a child-in-need-of-protection-or-services (CHIPS) proceeding. In July 2019, the district court granted the county emergency protective care over the children. The county removed the children and placed them with an aunt and uncle. In August, mother appeared at an admit/deny hearing where she admitted to the

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[1] Earlier in these proceedings, the children's father voluntarily entered into a consent-to-adopt and therefore is not involved in this appeal.

[2] While mother had started living with a new domestic partner, and while that person was the alleged abuser in the most recent report, his involvement is not pertinent to the issues presented in this appeal.

allegations in the county's petition. The court found the children to be in need of protection or services and scheduled a disposition hearing.

At the disposition hearing, the district court was presented with case plans for the children developed by mother's caseworker.[3] The court adopted the case plans, but mother initially refused to sign them resulting in the county filing the petition to terminate parental rights (TPR) involved herein. For more than one month following the disposition hearing, the caseworker attempted to meet with mother to encourage her to sign the plans or to discuss any additions or suggestions mother might have wanted. The district court found that

> [mother] was uncooperative and stated to [the caseworker] that she had addressed all of her problems in the previous 2016 child protection case and that she did not struggle with chemical dependency issues and mental health issues. [Mother] never presented a reasonable basis for her refusal to sign the case plans nor did she submit her own recommendations.

Mother did eventually sign the case plans on October 25, 2019—the day following the county's TPR petition.

The case plans identified three concerns with respect to mother and her parenting: "(1) a significant history of domestic violence and physical abuse of the children in [her] home, (2) [her] drug use, and (3) [her] mental health issues." The district court found that, under the case plans provided by the county, (1) mother was required to maintain regular

[3] There were also case plans for each of the four children pertaining to mother's new domestic partner because mother "indicated that [he] would be part of the children's life if reunification occurred."

communication with the caseworker; (2) mother was required to complete chemical-dependency and mental-health assessments; (3) mother was required to complete a Rule 25 chemical-dependency assessment, follow all recommendations, and submit to random and regularly scheduled drug testing; and (4) mother was required to address her mental-health issues by completing a mental-health assessment, follow all subsequent recommendations, and work with an adult-mental-health worker.

The county's TPR petition made three primary allegations in support of termination: (1) the parents failed to comply with their statutory parental duties under Minn. Stat. § 260C.301, subd. (1)(b)(2) (2018); (2) the parents were palpably unfit for the parent-child relationship under Minn. Stat. § 260C.301, subd. 1(b)(4) (2018); and (3) the county made reasonable but unfruitful efforts—under the direction of the court—to correct the conditions underlying the out-of-home placement under Minn. Stat. § 260C.301, subd. 1(b)(5) (2018).

The permanency trial was held on February 4, 2020. The district court granted the TPR petition and terminated mother's parental rights on all three grounds. Mother appealed, arguing that the district court erred in finding—in accordance with Minn. Stat. § 260C.301, subd. 8 (2018)—that the county made reasonable efforts to reunify her and the children.

D E C I S I O N

In reviewing TPR orders, this court sets out "to determine whether the district court's findings address the statutory criteria and whether those findings are supported by substantial evidence and are not clearly erroneous." *In re Welfare of P.R.L.*, 622 N.W.2d

538, 543 (Minn. 2001). "We examine the record to determine whether the evidence is clear and convincing," but "[p]arental rights may be terminated only for grave and weighty reasons. . . . [and] the best interests of the child are the paramount consideration." *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 543 (Minn. App. 2009) (quotation omitted).

To prevail on a petition to terminate parental rights, the county must present clear and convincing evidence that (1) at least one statutory ground for termination exists; (2) termination is in the children's best interests; and (3) the petitioner made reasonable efforts to reunite the parent and children. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). Here, mother's sole argument is that the district court erred by concluding that the county made reasonable efforts to reunite the family. We interpret her argument as challenging the district court's findings on the subdivision 8 reasonable efforts because there would be no basis upon which the termination could be upheld were mother to succeed on her challenge to subdivision 8.[4] *See* Minn. Stat. § 260C.301, subd. 8 (requiring the district court to make specific findings on the issue of reasonable efforts "[i]n *any* proceeding under this section" (emphasis added)); *In re Welfare of S.Z.*, 547 N.W.2d 886, 892 (Minn. 1996) ("[I]t is clear that provision of reasonable efforts must be evaluated by the court in every case.").

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[4] In her brief, mother does not specify whether she is challenging the district court's findings on the reasonable-efforts requirements that are built in to two of the statutory grounds for termination held to be applicable—failure to comply with statutory parental duties under subdivision 1(b)(2) and the failure to correct the conditions that led to the out-of-home placement under subdivision 1(b)(5)—or the stand-alone requirement of subdivision 8 which applies to all terminations. Minn. Stat. § 260C.301 (2018). Even a successful challenge to both statutory grounds would leave one ground—palpable unfitness under subdivision 1(b)(4)—remaining and therefore would not change the result.

Mother argues that the county made reasonable efforts on two of the concerns identified in her case plan—mental health and chemical dependency—but that it did not make any efforts to remedy or mitigate the third: domestic violence in her home. "Reasonable efforts" means "the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family." Minn. Stat. § 260.012(f) (2018). The district court, when investigating whether the petitioner made reasonable efforts to reunify the family, "shall consider whether services to the child and family 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)(1)-(6) (2018).

In support of its conclusion that the county made reasonable efforts to reunite the family, the district court found that the county: (1) ensured that the children were well cared for in their placement with family members; (2) facilitated communication between mother and the foster parents and other professionals to provide proper services to the children and mother; (3) tailored a case plan to mother's particular needs and the unique needs of the children; (4) provided reasonable supervised visitation; (5) helped with "locating, arranging, and providing referrals for [mother] to complete her mental health and chemical use assessments"; and (6) attempted to keep in contact with mother to assist with the provision of these services and completion of the goals in her case plan. The district court's thorough order, containing 44 pages of findings of fact and conclusions of law, describes many examples of the services the county attempted to provide and its efforts to encourage

mother to use them—many of which related to mental health and drug abuse. Nevertheless, mother argues that none of these were explicitly tailored to the TPR petition's concern about domestic violence.

We agree with the district court's analysis of the county's reasonable efforts. Not only would mental-health and drug-abuse services relate to and help with issues of domestic violence, but they seem to be the only services at the county's disposal that could. Despite obtaining the court-ordered chemical-dependency and mental-health assessments, mother failed to follow any of the recommendations. Addressing the domestic-violence issue was an implicitly intended result of the mental-health and addiction services. Indeed, in mother's testimony, which the district court found credible, she acknowledged that the trauma of her own domestic abuse significantly affected her mental health. She further admitted that her use of drugs related to her ability to take care of the children.

In fact, the evidence established that mother continued to use methamphetamine as recently as the day before the TPR trial, and she was held in contempt on the morning of trial for refusing to submit to a test. Mother ultimately submitted, and the test came back positive for methamphetamine. Addressing the issues related to mother's chemical dependency and mental health were part and parcel with addressing the domestic violence in her home. Tellingly, mother does not offer or speculate as to any types of services that would target domestic abuse specifically and therefore should have been provided by the county.

Further, the district court's findings are rife with uncontested instances in which mother forewent many of the services that were offered to her—even after repeated

encouragement from the county. In *S.E.P.*, the father of the child at issue repeatedly physically abused both the child and the child's mother. 744 N.W.2d at 382-84. S.E.P.'s case plan included a goal of "hav[ing] a home and lifestyle free from domestic violence." *Id.* at 383. The petitioner offered S.E.P. a number of resources, such as in-home parenting education, shared family foster care, an in-home social worker, individual counseling and group therapy, and frequent meetings with her social worker. *Id.* at 387. There, like here, S.E.P.'s mother refused to partake in many of the offered services. *Id.* 386-87. The supreme court reversed the court of appeals and reinstated the termination of S.E.P.'s parental rights, concluding that the county's provision of mental-health and social services constituted reasonable efforts to address the problems presented, which included the domestic violence identified in the case plan. *Id.*

The district court's extensive findings, including the findings that the county made reasonable efforts to reunite the family, are amply supported by the record, and on that basis we affirm the order terminating mother's parental rights.

Affirmed.