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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0161**

In the Matter of the Welfare of the Child of:
L. G. R., Parent.

**Filed July 6, 2021
Affirmed
Bjorkman, Judge**

Lyon County District Court
File No. 42-JV-19-125

Daniel L. Giles, Stoneberg, Giles & Stroup, P.A., Marshall, Minnesota (for appellant mother L.G.R.)

Richard R. Maes, Lyon County Attorney, Nicole A. Springstead, Assistant County Attorney, Marshall, Minnesota (for respondent Southwest Health and Human Services)

Alexis Watts, Office of the Public Defender, Marshall, Minnesota (for child)

Shanna Latterell, Marshall, Minnesota (guardian ad litem)

Considered and decided by Reyes, Presiding Judge; Larkin, Judge; and Bjorkman, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant mother challenges the involuntary termination of her parental rights, arguing that (1) the record does not support the finding that respondent agency made reasonable efforts to reunite appellant with the child, (2) the district court abused its discretion by determining that respondent proved statutory grounds for termination, and

(3) the district court abused its discretion by determining that termination is in the child's best interests. We affirm.

FACTS

In February 2007, appellant L.G.R. (mother) was living in California and gave birth to the child who is the subject of this appeal. At some point in the child's early years, she was removed from mother's care after being left unsupervised and spent several months in foster care. Mother had two more children, born in 2011 and 2013. At the end of 2014, the family moved to Mexico.

In August 2017, mother sent the child to live in Minnesota with an aunt. It was the last time they saw each other in person. Mother did not provide the aunt any documentation authorizing her to provide for the child's health care or education. While the child resided with the aunt, mother did not send money, clothes, or other items to contribute to the child's care. And they often went months without talking.

In May 2019, the child disclosed that she was physically and sexually abused in the aunt's home. Respondent Southwest Health and Human Services (the agency) removed the child from the home and placed her in emergency foster care. At first, mother did not believe the child and wanted her returned to the aunt's home. But mother later admitted that the child needed protection or services. The agency developed a case plan requiring mother to (1) demonstrate that she can "safely and appropriately care for the child" by contacting the Mexican Consulate and following its recommendations, cooperating "with a social worker in Mexico to determine if her home environment is safe for the child," and completing parenting classes to "learn appropriate communication techniques and

discipline techniques other than corporal discipline”; (2) maintain contact with the child, including a requirement that she have “appropriate interactions with the child”; and (3) cooperate with the agency and the guardian ad litem. The district court found that it was in the child’s best interests to remain in foster care and ordered mother to comply with the case plan to demonstrate that she “can provide a safe environment for her child.”

The agency encountered numerous hurdles as it implemented the case plan, and mother did not consistently meet the agency’s expectations. The Mexican Consulate informed mother that it could not assist her because she is a citizen of Guatemala. The social worker assigned to the family urged mother, who had then resided in Mexico for nearly five years, to pursue Mexican citizenship as a means of obtaining assistance; she did not. Both mother and the social worker looked for a local social worker and parenting classes but could not find a qualified person or program near mother. The social worker offered to do a home assessment through video conferencing, but mother did not download the necessary phone application.

Mother’s contacts with the child also fell short of expectations, both in frequency and substance. Supervised phone calls were scheduled to occur weekly, but mother often missed calls or cut them short—sometimes because local conditions interfered with reception, sometimes because she chose to tend to her other children instead. When the calls did take place, mother’s comments routinely upset the child. For example, mother told the child that when she returned to Mexico, she could just forget about what happened to her in her aunt’s home and not talk about it anymore, which was “distressing” for the

child.¹ Indeed, comments like these led the child to end calls or act out afterward. Sometimes, she asked to take a break from the calls, after which mother and the child did not speak for weeks. And mother told the social worker she would delete unnecessary phone applications to enable video calls but never did so.

The social worker and the child's therapist sought to educate mother about more appropriate ways to communicate with the child, but the problems persisted, precluding unsupervised contacts. The child's therapist recommended family therapy but noted that she would not be an appropriate provider since she was already working with the child individually. The social worker tried to enlist a family therapist but was unable to secure one because of concerns related to conducting the therapy virtually.

In December 2019, the agency filed a petition to terminate mother's parental rights. The petition alleges that mother neglects her parental duties, reasonable efforts have not corrected the conditions leading to the child's out-of-home placement, and the child is neglected and in foster care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (5), (8) (2020).

Around that same time, mother traveled to Guatemala to renew her passport so she could travel to Minnesota. She requested financial support. The agency declined, so mother moved the district court to order the agency to pay for her travel. The court denied the motion, noting that "mother cannot legally travel to the United States" but stated that if she obtained the required travel documents, she could renew her request. Mother asked the social worker to write a letter on her behalf so she could get a travel visa. But she never

¹ The child's therapist explained that "trauma research shows that it is not in a child's best interest to stop talking about the trauma or to pretend that they didn't happen."

gave the social worker the name or address of the person she needed to contact. And mother did not renew her motion for financial assistance.

Despite these challenges, the agency continued its reunification efforts. Because she was unable to locate a parenting educator near mother's home, in January 2020, the social worker enrolled mother in a 12-hour online parenting-education course in Spanish. She set up an account for mother, confirmed that mother was able to log in, and regularly checked in with mother about her progress. In June, mother told the social worker she was almost done. But by the end of the year, mother had completed only 7% of the course. Mother explained that she did not progress because she has inconsistent internet service and was "busy" with her other children and "chores."

The agency also facilitated a neuropsychological evaluation of the child in March 2020, which revealed that the child has a below-average IQ and significant mental-health challenges. She receives physical therapy, occupational therapy, psychological services, academic assistance, and speech therapy. The evaluator opined that the child will continue to need these supports along with consistent and structured parenting. The foster parent and social worker summarized this information for mother. The social worker concluded mother did not understand the seriousness of the child's needs, citing as an example that mother dismissed her need for speech therapy because the child "could talk just fine."

At a three-day trial in December 2020, the agency presented evidence of the efforts it made to assist mother and her failure to satisfy many of the case plan's requirements. By that time, the child had been in foster care for 587 days. The child testified that she prefers not to return to mother and would rather stay "with a kind and loving family" like her foster

family. And the guardian ad litem opined that it would be in the child's best interests to honor the child's preference and allow her to "remain in Minnesota and be adopted." The district court ordered termination of mother's parental rights, finding clear and convincing evidence that the agency made reasonable efforts to reunify the family, the agency proved all three statutory grounds for termination, and termination is in the child's best interests. Mother appeals.

DECISION

On appeal from an order terminating parental rights, we consider whether the district court's findings address the statutory termination criteria and have substantial evidentiary support. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). 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). In doing so, we defer to the district court's credibility determinations. *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 90 (Minn. App. 2012). But we will not disturb a district court's decision whether clear and convincing evidence supports a particular ground for termination, absent an abuse of discretion. *J.R.B.*, 805 N.W.2d at 899, 901. We will affirm the decision to terminate parental rights when at least one statutory termination ground is supported by clear and convincing evidence, the county has made reasonable efforts to reunite the family, and termination is in the child's best interests. *S.E.P.*, 744 N.W.2d at 385.

I. The record supports the district court’s finding that the agency made reasonable efforts to reunite mother with the child.

Termination of parental rights requires clear and convincing evidence that “reasonable efforts were made to reunite the parent with the child.” *Id.* at 655. Whether the responsible social services agency made reasonable efforts turns on “the length of the time the [agency] 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). In evaluating if the efforts were reasonable, a district court must consider whether services 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) (2020). But reasonable efforts do not include services that would be futile. *Id.* The court must make “individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family.” Minn. Stat. § 260C.301, subd. 8(1) (2020).

Mother challenges the district court’s determination that the agency made reasonable efforts toward reunification. She contends the agency’s failure to offer two services—family therapy and financial assistance for her to travel to Minnesota—renders the overall efforts unreasonable. We disagree. Because the court-ordered case plan did not provide for either service, we presume the agency acted reasonably in not providing them. *See In re Welfare of Children of T.R.*, 750 N.W.2d 656, 665 (Minn. 2008) (stating

that court-ordered case plan is presumed reasonable).² And our review of the record confirms the district court’s determinations as to the reasonableness of the agency’s actions with respect to both services.

Regarding family therapy, mother is correct that the record shows the social worker was initially confused about whether the child’s therapist recommended family therapy. But despite that confusion, the social worker ultimately did pursue family therapy. It did not materialize because she was unable to secure a provider’s agreement to conduct the therapy under the available circumstances—virtual therapy, with an interpreter, and without a secure connection to ensure confidentiality. Mother’s conduct also supported the agency’s decision not to pursue this service further. The fact she was unable to complete 12 hours of online parenting instruction over the course of almost 12 months suggests she was unprepared to engage with the more intensive family therapy. So does her failure to respond to education regarding how to communicate with the child. As the guardian ad litem observed, in light of the “lack of forward progress in communication between [mother] and [the child],” family therapy would not have been beneficial.

The record also belies mother’s contention that the agency unreasonably refused to assist her in traveling to Minnesota. The guardian ad litem acknowledged that it might have been beneficial for mother and the child to meet in person, but it was not part of the case plan or necessary for reunification. Nor did mother genuinely pursue travel assistance.

² To the extent mother believes the case plan was unreasonable because it did not include family therapy or travel funding, she could have asked the district court to change it. *S.E.P.*, 744 N.W.2d at 388.

She never provided the social worker the necessary information to assist her in obtaining a visa. And she did not renew her motion to require the agency to pay for her airfare, despite the district court's express invitation to do so.

Moreover, the record contains ample and largely undisputed evidence of the agency's continued efforts toward reunifications over a period 19 months, including nearly a year after the agency petitioned to terminate mother's parental rights. The agency worked diligently with mother to improve the consistency and quality of her communication with the child. It also sought to facilitate local services to support mother in completing parenting education and a home visit. When those efforts proved unsuccessful, the agency offered virtual substitutes at no cost to mother. And the agency provided the extraordinary service of facilitating communication between mother and her attorney, to accommodate for her remote location and language barrier. On this record, we discern no clear error or abuse of discretion in the district court's determination that the agency made reasonable efforts to reunify the family.

II. The district court did not abuse its discretion by determining that the agency proved statutory grounds for termination.

A district court may terminate parental rights when clear and convincing evidence shows "that following the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement." Minn. Stat. § 260C.301, subd. 1(b)(5). A parent's failure to comply with "a reasonable case plan" can establish that the conditions leading to the child's placement have not been corrected. *Id.*, subd. 1(b)(5)(iii).

As noted above, the record supports the district court's finding that the agency made reasonable efforts to address the conditions leading to the child's 587-day out-of-home placement. The record demonstrates that, despite the agency's efforts, the conditions persisted. From the beginning, the district court told mother she needed to comply with her case plan and to demonstrate that her home environment would be safe for the child. When no local resources were available to evaluate mother's home, the social worker offered to perform a virtual home visit; mother never installed the necessary application on her phone. Mother was required to complete parenting education. Again, no local resources were available, so the social worker enrolled mother in an online course; mother completed barely any of it and lied about her progress. Mother was required to maintain consistent and appropriate contact with the child. She regularly missed or truncated phone calls in favor of her other children or "chores." And despite the persistent efforts of the social worker, the child's therapist, and the foster parent to improve the quality of her communication with the child, mother regularly made comments that disregarded the child's significant mental-health needs, causing the child distress and leading to further interruptions of contact. We discern no abuse of discretion in the district court's determination that clear and convincing evidence shows the agency's reasonable efforts failed to correct the conditions that led to the child's out-of-home placement.

Because this statutory ground is sufficient for us to affirm the district court's termination of parental rights, we need not address the other two statutory grounds. *J.R.B.*,

805 N.W.2d at 906. Nonetheless, we note that we have carefully reviewed the record and conclude that clear and convincing evidence also supports these alternative grounds.³

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

The child’s best interests are the paramount consideration in a termination-of-parental-rights proceeding. Minn. Stat. § 260C.301, subd. 7 (2020). When analyzing a child’s best interests, the court must balance: “(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.” *J.R.B.*, 805 N.W.2d at 905 (quotation omitted); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (same). We review a district court’s best-interests determination for abuse of discretion. *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 657 (Minn. App. 2018).

Mother argues termination is not in the child’s best interests, pointing to her own testimony that she is aware of the child’s needs and is prepared to meet them in Mexico if the child is returned to her. The district court expressly discredited this testimony. It also made several findings regarding the child’s best interests that mother does not dispute—that mother has not seen or provided support for the child since 2017; mother’s conduct has shown that she is unwilling to provide the safe and stable environment that the child

³ Mother argues that the record does not support the district court’s finding that she has the financial ability to comply with parental duties, as required for termination based on neglect of parental duties. *See* Minn. Stat. § 260C.301, subd. 1(b)(2). Although we do not address this statutory ground in depth, we observe that the record confirms that mother was not prevented from complying with parental duties because of financial barriers—her significant other is employed and they have two houses. More importantly, mother fell short of parenting duties and case-plan requirements that were not related to finances.

requires; the parent/child bond is now “extremely limited” because of the lack of consistent, appropriate communication; and the child is “flourishing in foster care.” On this record, we see no abuse of discretion by the district court in determining that termination is in the child’s best interests.

Affirmed.