STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0198

In the Matter of the Welfare of the Child of:
A. M. K. and S. A. G., Parents.

Filed July 25, 2022
Affirmed
Johnson, Judge

Waseca County District Court
File No. 81-JV-21-840

Connor B. Burton, Messick Law, P.L.L.C., Woodbury, Minnesota (for appellant-mother A.M.K.)

Rachel V. Cornelius, Waseca County Attorney, Waseca, Minnesota (for respondent Minnesota Prairie County Alliance)

Michael K. Mountain, Mankato, Minnesota (for respondent-father S.A.G.)

Renae Streich, West Concord, Minnesota (guardian *ad litem*)

Considered and decided by Slieter, Presiding Judge; Johnson, Judge; and Hooten, Judge.*

NONPRECEDENTIAL OPINION

JOHNSON, Judge

The district court terminated A.M.K.'s parental rights to a five-year-old child. We conclude that the district court did not err by concluding that the petitioner proved statutory

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

grounds for termination and that termination is in the child's best interests. Therefore, we affirm.

FACTS

A.M.K. gave birth to a child in June 2017. Shortly thereafter, the Minnesota Prairie County Alliance (MPCA), which provides social services on behalf of Waseca County, received reports that A.M.K. was homeless, had been diagnosed with a mental illness, and was struggling to care for both herself and her infant child. The MPCA learned that A.M.K. was experiencing undue stress in basic tasks such as grocery shopping, clothing the child, and changing diapers, and the MPCA was concerned about A.M.K.'s ability to appropriately care for and feed the child.

In January 2018, a public-health nurse reported that the child had two bruises on her head. The MPCA petitioned the district court to adjudicate the child as in need of protection or services (CHIPS), and the district court ordered that the child be removed from A.M.K.'s custody. The district court allowed a trial home visit in December 2018. Custody of the child was returned to A.M.K. in March 2019, and the CHIPS case was closed in June 2019.

In June 2020, the MPCA received a report that it was becoming "increasingly difficult for [A.M.K.] to manage mental health symptoms" and that there was "a concern for the overall well-being of [A.M.K.] and her child." A.M.K. was referred for voluntary assistance and services, and a social worker was assigned to the matter. During the next year, A.M.K. repeatedly was hospitalized for panic attacks and other mental-health issues, and the child repeatedly was placed with a respite caregiver. After one such hospitalization

in December 2020, A.M.K. indicated to a social worker that she had been suicidal. The child again was placed in respite care, and A.M.K. was admitted for in-patient mental-health treatment in Owatonna. A.M.K. was involuntarily discharged from that treatment program in late January 2021 and later was admitted to an intensive residential treatment program in Minneapolis. A.M.K. was released from the Minneapolis program in early June 2021, but her dysregulated behavior continued, and the child again was returned to respite care. The MPCA filed a second CHIPS petition in July 2021 after a bruise was discovered on the child's cheek. The district court ordered that the child be removed from A.M.K.'s custody and placed in foster care.

In November 2021, the MPCA petitioned the district court to terminate A.M.K.'s parental rights. The MPCA alleged that, since the second CHIPS petition was filed in July, there had been a lack of progress on A.M.K.'s parenting and mental-health goals. The petition alleged three statutory grounds for termination.

A two-day trial was held in January 2022. The child's father, who never was married to A.M.K., voluntarily consented to the termination of his parental rights. The MPCA and A.M.K. stipulated to the admission of a diagnostic assessment of the child, the CHIPS petitions, and two parental-capacity evaluations of A.M.K. The MPCA presented the testimony of four witnesses: two social workers, the child's foster parent, and A.M.K.'s parental-capacity evaluator.

The parental-capacity evaluator testified that A.M.K. had been diagnosed with generalized anxiety disorder and borderline personality disorder and had a history of depression, panic disorder, and persistent depressive disorder. She testified that A.M.K.

had "difficulty managing her emotions," a "chronic self-defeating attitude," and "chronic indications of suicidal ideation," which had remained fairly consistent from 2018 to 2021. She also testified that A.M.K. had "a very low frustration tolerance level" and had scored "very high" on three domestic-violence inventory scales. She recommended that A.M.K.'s parental rights be terminated because "the inconsistency in [A.M.K.'s] parenting and the instability for [the child] would place her at high risk for mental health and emotional health and behavioral issues."

Both social workers expressed concerns about A.M.K.'s ability to parent the child. The first social worker testified that A.M.K. had not made progress in treatment and was "aggressive" and "not willing to work [the] program." She testified that A.M.K.'s instability had adversely affected the child in that the child's behavior "mirrored" A.M.K.'s behavior. The second social worker testified that the child's mental-health issues are "pretty severe" and opined that the child would require "almost 24/7 care." She testified that A.M.K. "undoubtedly loves her child but cannot work past her mental health and her emotional health to meet the needs of" the child.

The child's foster parent testified that the child has "special needs," had been diagnosed with ADHD, and "was more like a two-year-old than a four-year-old." She testified that "structure and routine" were very important for the child as she "gets dysregulated pretty easy." She testified that the child was dysregulated after being with A.M.K. and that alternating between respite care and A.M.K.'s care "really took a toll on" the child.

A.M.K. testified on her own behalf. She testified that the child-protection proceedings had been stressful and had negatively affected her mental health but that she was "doing [her] best" and was "prepared to give [the child her] everything" if she were able to maintain her parental rights.

Finally, the guardian *ad litem* testified that A.M.K. "is just not capable of maintaining her own mental health enough to meet [the child]'s needs," that the child "needs a parent who can be with her 100 percent of the time," that A.M.K. "is available about half the time," and that A.M.K. has "struggled with her emotional needs when she is physically present as well." The guardian *ad litem* testified that termination of parental rights would be in the best interests of the child because A.M.K. cannot appropriately provide for the child's needs given her own mental-health needs.

In January 2022, the district court filed an order in which it granted the MPCA's petition and terminated A.M.K.'s parental rights to the child. A.M.K. appeals.

DECISION

A.M.K. argues that the district court erred by granting the MPCA's petition and terminating her parental rights.

This court reviews 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 determinations concerning the existence of statutory grounds for termination, the child's best interests, and the ultimate decision to terminate parental rights. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012); *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 657 (Minn. App. 2018).

I. Statutory Grounds for Termination

A.M.K. first argues that the district court erred by concluding that the MPCA proved two statutory grounds for termination.

Before discussing A.M.K.'s arguments, we note that the MPCA alleged *three* statutory grounds for the termination of A.M.K.'s parental rights: (1) that she had "substantially, continuously, or repeatedly refused or neglected to comply with [her parental] duties," *see* Minn. Stat. § 260C.301, subd. 1(b)(2) (2020); (2) that she was "palpably unfit" to be a party to the parent-child relationship, *see id.*, subd. 1(b)(4); and (3) that "reasonable efforts . . . have failed to correct the conditions leading to the child's placement," *see id.*, subd. 1(b)(5). The district court concluded that the MPCA proved all three of the alleged grounds. On appeal, A.M.K. acknowledges all three statutory grounds but challenges the district court's findings and conclusions only with respect to the first two; she does *not* argue that the district court erred by determining that the MPCA proved the third alleged ground. 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 the third statutory ground is a sufficient basis for affirmance with respect to the statutory grounds for termination. *See id.* Nonetheless, we will analyze A.M.K.'s arguments.

A. Refusal or Neglect to Comply with Parental Duties

A district court may terminate parental rights to a child if it finds that the parent has "substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship." Minn. Stat. § 260C.301, subd. 1(b)(2). Parental duties include, among other things, "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." *Id.*

The district court found that A.M.K. had "failed to provide the necessary control for the Child's physical, mental, and emotional health and development." The district court also found that the child has "high needs" and requires greater-than-normal emotional support and stability. The district court further found that A.M.K. had "failed to maintain stability in her own mental health" and had "consistently demonstrated that she cannot parent the Child when [she] is having a mental health crisis." The district court noted that A.M.K.'s repeated and frequent use of respite care and daycare services indicated that A.M.K. "could not manage the care for the child."

The record supports the district court's findings, both as to the child's needs and A.M.K.'s inability to provide the care necessary to meet those needs. The evidence shows that the child was diagnosed with ADHD and disinhibited social engagement disorder and exhibited symptoms of other mental-health disorders. The child's diagnostic assessment

states that she "needs to have caregivers that are supportive, safe, and nurturing" who could "be available to meet her needs" and were "willing to learn and develop positive parenting strategies that will support her emotional and behavioral growth" as well as "a predictable environment to know what to expect from her caregivers." One of the social workers characterized the child's mental-health issues as "pretty severe" and opined that the child would require "almost 24/7 care" from "someone that has the ability to provide quite a bit of supervision." This opinion was shared by the foster parent, who testified that the child benefitted greatly from "structure and routine."

Several witnesses voiced concerns about A.M.K.'s inability to manage her mental health and meet the child's emotional and mental-health needs at the same time. The other social worker testified that A.M.K. had made little to no progress in improving her parenting skills, improving her own mental health, or ensuring that the child met routine childhood-development goals because she was fully preoccupied with "managing day to day crises." The parenting-capacity evaluator testified that A.M.K. has a "very limited ability to manage her emotions," which led to an inability to focus on parenting and day-to-day functioning. Furthermore, the record reflects that the child was first placed in respite care in December 2020, when A.M.K. was hospitalized, and that A.M.K. spent much of the next several months in mental-health treatment, during which time she was almost completely unable to fulfill her parental duties.

Thus, the district court did not err by concluding that A.M.K. "substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon [her] by the parent and child relationship." *See id*.

B. Palpable Unfitness

A district court may terminate parental rights to a child if "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." *Id.*, subd. 1(b)(4). To justify a finding of palpable unfitness, a parent's conduct must 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." *Id.*

The district court found that A.M.K. is palpably unfit because she "has not made any significant improvements in stabilizing her mental health since the 2018 CHIPS case" and her "continual unstable mental health over the past four years has shown that [she] has been unable to safely care for the child on a full-time basis." The district court also found that A.M.K. and the child "do not share a healthy bond with each other" and that A.M.K.'s unstable mental health was likely to continue "for the reasonably foreseeable future."

The record supports the district court's findings. The record reflects that A.M.K. repeatedly has struggled with her mental health for the entirety of the child's life. Although custody was returned to A.M.K. after the 2018 CHIPS proceeding, her mental-health issues resurfaced just over one year later, leading to a series of mental-health crises that required the child repeatedly to be placed in respite care and then foster care for a substantial period of time. The guardian *ad litem* noted at trial that the child had been out of A.M.K.'s home for more than 700 days as a direct result of A.M.K.'s mental-health issues. Numerous witnesses testified about A.M.K.'s unstable mental health, her inability to care for the

child's needs on a consistent basis, her lack of a healthy bond with the child, and the child's concerning behaviors and under-development. The experts opined that the child's misbehavior and under-development was attributable to A.M.K.'s inability to consistently parent the child due to her unstable mental health.

In addition, the record supports the district court's finding that these issues would continue "for the reasonably foreseeable future." *See id*. A.M.K. began receiving services shortly after the child's birth in 2017 and continued to receive them until March 2019. Services resumed in June 2020 and continued until trial in early 2022. The parenting-capacity evaluator testified that, despite receiving substantial services over an extended period of time, A.M.K.'s mental health was "pretty much the same" in 2021 as in 2018. The social workers testified that the services provided to A.M.K. "have not seemed to help her gain any skills in order to be a parent" and that she "lacked the progress" needed to permit reunification.

Thus, the district court did not err by concluding that A.M.K. is "palpably unfit to be a party to the parent and child relationship." *See id.*

II. Best Interests

A.M.K. also argues that the district court erred by finding that the termination of her parental rights is in the child's best interests.

In terminating parental rights, "the best interests of the child must be the paramount consideration." *Id.*, subd. 7 (2020). If a district court has determined that at least one statutory ground for termination exists, the court "shall make a specific finding that termination is in the best interests of the child." Minn. R. Juv. Prot. P. 58.04(c)(2)(ii); *see*

also In re Welfare of Child of J.R.R., 943 N.W.2d 661, 667 (Minn. App. 2020). The district court must analyze three factors: (1) "the child's interests in preserving the parent-child relationship," (2) "the parent's interest in preserving the parent-child relationship," and (3)"any competing interests of the child." Minn. R. Juv. Prot. P. 58.04(c)(2)(ii); *see also J.R.R.*, 943 N.W.2d at 667. "Because the best-interests analysis involves credibility determinations and is generally not susceptible to an appellate court's global review of a record, we give considerable deference to the district court's findings." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012) (quotation omitted). Accordingly, we apply an abuse-of-discretion standard of review to the district court's best-interests determination. *A.M.C.*, 920 N.W.2d at 657.

The district court concluded that termination is in the best interests of the child. The district court addressed the first factor by noting its agreement with the witnesses who testified that "it was in the child's best interests to terminate [A.M.K.'s] parental rights to make the Child available for adoption so the Child would have consistency and permanency in her life." The district court addressed the second factor by noting A.M.K.'s testimony that she wants custody of the child. The district court addressed the third factor by stating that A.M.K. "has demonstrated she cannot provide for the Child's emotional and developmental needs" and that "the Child will require a caretaker that can provide stability for the Child and a caretaker that is committed to continuing the services for the Child." Given the evidence presented at trial, the district court did not abuse its discretion in its consideration of the best-interests factors.

Thus, the district court did not err by concluding that termination of A.M.K.'s parental rights is in the child's best interests.

In sum, the district court did not err by granting the MPCA's petition and terminating A.M.K.'s parental rights.

Affirmed.