STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0280

In the Matter of the Welfare of the Children of:
M. M. G. and L. T. S., Parents.

Filed August 7, 2023
Affirmed
Smith, John, Judge[*]

Cottonwood County District Court
File Nos. 17-JV-22-60, 17-JV-20-49

Jennifer L. Thompson, JLT Law & Mediation, Litchfield, Minnesota (for appellant mother M.M.G.)

Nicholas Anderson, Cottonwood County Attorney, Windom, Minnesota (for respondent Des Moines Valley Health and Human Services)

Carma Nordahl, Sheldon, Iowa (guardian ad litem)

Considered and decided by Johnson, Presiding Judge; Worke, Judge; and Smith, John, Judge.

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We affirm the district court's order terminating parental rights (TPR) because the district court did not: (1) abuse its discretion in ruling that a statutory basis existed to terminate appellant's parental rights, (2) violate appellant's due-process rights by holding

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

a TPR hearing in appellant's absence when appellant failed to appear for the scheduled hearing.

FACTS

In late September 2020, the Des Moines Valley Department of Health and Human Services (the agency) filed a petition with the district court alleging that the nine-year-old child (child) of M.M.G. (appellant-mother) and L.T.S. (father) was a child in need of protective services (CHIPS) because the child was habitually truant.[1] *See* Minn. Stat. § 260C.007, subd. 6(14) (2022). In early November 2020, the district court adjudicated the child in need of protective services.

On January 26, 2022, child was placed into the agency's emergency protective custody pursuant to a court order. Testimony in subsequent proceedings and subsequent case plans indicate that child was removed because there were concerns for child's safety and appellant's chemical dependency issues. At the time of removal, the assigned social worker asked appellant to come to the agency's office to meet with him and provide a urinalysis sample (UA). Appellant came to the office several hours later that day, but only to drop off a few items for child. She refused to meet with the social worker and claimed she was unable to provide a UA on such short notice. The social worker proposed an appointment for the following day when appellant could provide a UA. Appellant agreed, but failed to show the next day.

[1] Father's rights to child were also terminated. Because father does not challenge the termination of his parental rights, the facts and analysis omit his involvement except where relevant.

The district court held an emergency protective care (EPC) hearing on January 28 and February 2, 2022, which resulted in an order that child remain in the agency's protective custody. Appellant appeared at the January EPC hearing but failed to appear at the February hearing, despite appellant requesting the latter hearing and being served notice of it. Following these hearings, the district court found that the evidence and the CHIPS petition presented a prima facie case that: (1) child's health, safety and welfare would be endangered by being released back to appellant; (2) child was in surroundings or conditions that endangered child's health, safety, and welfare, requiring the agency to take custody of and assume responsibility for child's care; (3) there were no other reasonable efforts the agency could take to safely return child home; (4) appellant's continued custody would be contrary to child's best interests; (5) out-of-home placement was in child's best interests; and (6) there was no less restrictive alternative. The district court found that supervised visitation with child was in child's best interests, and ordered that visitation occur at the reasonable discretion of the agency in consultation with the guardian ad litem (GAL). The district court ordered appellant to complete a chemical use assessment (CUA) and parenting capacity assessment (PCA), and to follow all recommendations therefrom. The district court also ordered the agency to file with the court and serve upon the parties an out-of-home placement plan (case plan) outlining "appropriate and available services to be offered to [appellant] and the child" and specifying conditions appellant must "mitigate and the behavioral change(s) necessary for the child to be returned to the day-to-day care of [appellant]."

After multiple unsuccessful attempts to contact appellant by phone or at her residence,[2] the social worker made a case plan in consultation with his supervisor and GAL and filed it with the district court on March 10, 2022.[3] The social worker was able to discuss some terms with appellant about the case plan over the phone after it was filed, but struggled to get appellant to meet in person to "go through it individually." During these discussions, appellant objected to the agency's requirement that she provide UAs to meet with child in person.[4] The case plan also required appellant, in relevant part, to undergo a CUA and PCA.

In describing appellant's pattern of behavior during this time, the social worker testified[5] that appellant would

> typically respond or reach out to me when she wanted something and ask to meet or to have a visit with [child], and then she would go—I guess I would just call it—she went cold. You wouldn't hear from her. She wouldn't respond to texts. It was very difficult to have communication when she wouldn't reply on a regular basis.

Although appellant was offered up to two supervised face-to-face visits with child weekly, appellant refused to ever provide UAs (a total of 23 refusals), with the result that she has never seen child in-person since his removal.

Between removal and the TPR hearing, the social worker traveled to appellant's residence at least 20 times to contact appellant, who never answered the door. No one from

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[2] Appellant also missed several scheduled visits with child during this time.
[3] A materially identical case plan was filed around September 13, 2022.
[4] Appellant's first request to see child was not made until February 14, 2022. The first meeting was over video call because appellant refused to provide a UA
[5] The quoted testimony comes from the subsequent TPR trial.

the agency ever succeeded in reaching appellant at her residence. On one occasion, the social worker made an appointment to meet with appellant at her residence. She canceled the appointment by text message while the social worker was on his way to meet her, claiming that she needed to "go to the DMV." The social worker investigated and discovered that appellant never went to the DMV. On another occasion, appellant and GAL scheduled a meeting. The social worker and GAL traveled to appellant's residence at the scheduled time and appellant was not there. While standing at appellant's door, they observed appellant driving toward her residence, but she accelerated and sped away when she saw them. Appellant did not respond to their calls or texts. One week later, the social worker traveled to appellant's residence to meet with her. Appellant was not there, but on the social worker's way out of town, he found himself driving behind appellant and followed her to a gas station. He asked her to provide a random UA, which she refused, explaining it would test positive for marijuana. Appellant also admitted at this time that marijuana was not the only drug in her system, but did not disclose which other drugs were. The social worker wrote appellant a handwritten note at this time detailing next steps she could take to comply with her case plan. The first requirement was to call the social worker the next day, which appellant did not do.

On April 1, 2022, after the pattern of appellant's failure to show up to scheduled appointments at the agency became clear, the district court ordered appellant to appear in person every Wednesday afternoon at the agency to meet with the social worker. This requirement was announced during a review hearing and written into an order so that appellant would not be confused about when and where the visits were to occur. This order

also required appellant to use the social worker and assigned GAL as "collateral contacts" such that the information resulting from any CUA or PCA appellant completed would be released to the social worker and GAL. Appellant never appeared in person on a court-ordered Wednesday at the agency.

The agency initially arranged for child to be available for in-person visits on Wednesdays at the agency. The agency picked child up from school and prepared to bring him to the agency, but if appellant didn't show, the agency drove child to his foster home instead. Because child normally took the bus to his foster home on Wednesdays, it took child only two or three weeks to infer that on days the agency picked him up from school and dropped him off at the foster home, appellant had missed a scheduled visit. Child's foster parents told the social worker that on several Wednesdays when appellant failed to show, they heard child crying in his room with the door shut and one time praying for appellant to visit him. To avoid child's disappointment after missed visits, the agency changed the visitation plan to phone and video visits, up to two times a week, and appellant was required to schedule these visits during the week beforehand. Subsequent to this change, appellant had around six to eight phone or videocalls with child.

Appellant told the social worker that she was depressed, cried daily, had irregular sleep patterns, struggled to get out of bed, and wanted to see a therapist. The social worker provided referrals for therapists in the area, but appellant failed to follow up. The social worker repeatedly instructed appellant to stay in contact with him, told her several times that she needed to comply with the case plan, and told her that if she didn't take compliance "seriously" that "she could lose her [parental] rights."

Appellant completed a CUA telephonically. The social worker and GAL never saw the contents of this assessment because appellant did not give the assessor permission to release the assessment information to the social worker or GAL. The agency, which was responsible for ordering a PCA, never ordered one because according to the social worker, such assessments require an assessor to observe, in-person, a parent interacting with their child in-person, and ideally, a parent who regularly interacts with their child in-person. In other words, the social worker thought scheduling a PCA amidst appellant's chronic failure to see child in-person would be "setting [her] up to fail [the assessment]."

On October 4, 2022, the agency filed a petition to terminate appellant's and father's parental rights. Appellant was personally served with the petition on October 5, 2022. The alleged statutory bases for termination were: substantial, continuous, or repeated refusal or neglect of parental duties, Minn. Stat. § 260C.301, subd. 1(b)(2) (2022); palpable unfitness to be a parent due to a pattern of specific conduct before the child, Minn. Stat. § 260C.301, subd. 1(b)(4) (2022); failure of reasonable efforts to correct the conditions leading to the child's out-of-home placement, Minn. Stat. § 260C.301, subd. 1(b)(5) (2022); and that the child is neglected and in foster care, Minn. Stat. § 260C.301, subd. 1(b)(8) (2022). The summons with which appellant was served notified her that the district court could "conduct the hearing without [her]" if she failed to show, and that the hearing could result in her parental rights being "permanently sever[ed]" pursuant to the TPR petition.

The district court held a bench trial on the petition on January 6, 2023. At the beginning of the hearing, the district court noted appellant's absence and asked whether appellant's counsel had contact with her that day, stating "I know she sometimes attends,

sometimes does not." Appellant's counsel stated she had contact with appellant the day before trial, and it was counsel's "impression" that appellant was going to come, but that appellant "was concerned about the weather and the roads [which] were very bad coming from [appellant's residence]." Appellant's counsel elaborated that she told appellant "the trial was still on and to be there at 8:30." The district court responded, "for the record—there's no advisories out today, no weather-related closings, and no roads are closed as far as weather is concerned." The district court then stated, "So I suppose this is going to be somewhat of a default, but the agency is still prepared to proceed on the petition . . . ?" The agency responded in the affirmative.

The district court heard brief testimony from child and substantial testimony from the social worker. In addition to testifying to the foregoing facts, the social worker testified that:

> Since I've been working in child protection, I've never had a parent flat-out avoid me when their child is in custody for the amount of time that [appellant] has. You know, no personal visits with her child. Just for myself, this was kind of uncharted because I had never seen that before. I don't think—I think most of our social workers would agree that this isn't normal—the lengths she went to avoid a UA and not even[] putting in the effort to have a face-to-face visit with her son.

He testified that child was removed from appellant's care due to

> [a] combination of her pulling him from school, not getting him to school on a consistent basis; her lack of willingness to comply—or follow through with court order. We overall felt that the home environment was not safe and supportive for [child], along with the reports of him being in the care of others or left home alone.

He testified that the reason appellant's case plan included a CUA was because the agency had received reports of appellant falling asleep at the wheel while driving on at least two occasions. He testified that things regarding appellant remained "in the same position today as [they] were on the date of removal." He also testified that child was "thrilled" and thriving in his foster placement, that termination was in child's best interests, that child had begun to move on with his life, and that he "doesn't ask about Mom anymore." This testimony accords with GAL's best-interests report, dated December 30, 2022, which the district court received into evidence without objection.

Prior to appellant's counsel cross-examining the social worker, appellant's counsel informed the district court that:

> [D]uring lunch I did look at my emails, and I did get an email from my client . . . . I'll just read it to you:
>
> The roads are horrible. There is no way I would—would have made it this morning. My car was not starting, and then it got stuck in the snow. The roads are pure ice this way. Could you not have called me or let me—to log in momentarily? I've tried to the call the courts and your office was closed.
>
> So I'm just informing the Court why she's not here.

The district court responded that:

> [W]e are . . . four or five hours into the start time, and certainly that would have been enough time for her to get out and make her way over here. I would note that . . . a lot of people involved in this case have driven a half hour or more, and the excuse of bad roads is unpersuasive to this Court, so we are not going to do any sort of log in in addition.
>
> The times in which we have scheduled this hearing in our CHIPS case to be a remote hearing, [appellant] has been

> unable to effectively log in or participate. We have struggled with her connection virtually every time. And if I'm not mistaken, I think I have required her to appear in person as a result of her inability to connect through Zoom in the past. So we'll continue on. You may proceed with your examination of the witness then, [appellant's counsel].

The district court granted the agency's petition on January 27, 2023, ruling that the agency had proved all four alleged grounds for termination by clear and convincing evidence. The district court found that:

> The conditions which led to the child's placement have not been ameliorated or corrected. . . . [Appellant] has not completed any part of her case plan. She has done nothing and changed nothing in any effort to have custody of her son returned to her. She has been avoiding all contact with the [a]gency. She has not attended most court hearings and was not present for the TPR trial. [Her] actions demonstrate she is not interested in being a parent to [child].

The district court found termination was in the child's best interests and adopted GAL's best-interests report in its entirety. GAL's report noted that appellant failed to "show[] [her] ability to be consistent . . . in visits with [child] or attempt[] consistency in participation with services." GAL's report also indicated, "The amount of cancelled and missed appointments with the[a]gency and/or [child], along with the lack of scheduled appointments for services . . . is not an indicator of responsible, consistent or predictable parenting."

Appellant appeals from the district court's decision to terminate her parental rights to child.

DECISION

I. The district court did not abuse its discretion in terminating appellant's parental rights.

Appellant argues the district court abused its discretion because the evidence did not support its factual findings and the factual findings did not constitute clear and convincing evidence of the four alleged statutory grounds for termination. We disagree.

"A natural parent is presumed to be suitable to be entrusted with the care of his child and it is in the best interest of a child to be in the custody of his natural parent." *In re Welfare of the Child of R.D.L.*, 853 N.W.2d 127, 136 (Minn. 2014) (quotation omitted). A district court can involuntarily terminate a parent's rights only when it finds clear and convincing evidence of at least one of nine statutory bases listed in Minnesota Statutes section 260C.301, subdivision 1(b) (2022). *Id.* at 132. When a statutory basis to terminate parental rights exists, the "paramount consideration" is "the best interests of the child." Minn. Stat. § 260C.301, subd. 7 (2022); *see also In re Welfare of Child. of J.D.T.*, 946 N.W.2d 321, 327 (Minn. 2020). We affirm a TPR if a single statutory basis for it is affirmable. *In re Welfare of Child. of A.D.B.*, 970 N.W.2d 725, 732 (Minn. App. 2022). If a single statutory basis is affirmable, we need not reach any other statutory bases the district court found existed. *In re Child. of T.A.A.*, 702 N.W.2d 703, 708 n.3 (Minn. 2005).

Determining whether any particular statutory basis for involuntarily terminating parental rights exists requires the district court to make findings on multiple statutory

factors,[6] and to decide whether its findings on those factors show the statutory basis for termination to be present. *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 899 (Minn. App. 2011) (citing *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008)), *rev. denied* (Minn. Jan. 6, 2012). We review a TPR decision for whether the district court's findings address the relevant statutory criteria and are not clearly erroneous. *Id.* The scope of clear-error review is narrow. This standard "does not contemplate a reweighing of the evidence, inherent or otherwise; it is a review of the record to confirm that evidence exists to support the decision." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 222 (Minn. 2021); *see In re Welfare of Child of J.H.*, 968 N.W.2d 593, 601 n.6 (Minn. App. 2021) (applying *Kenney* on appeal from a juvenile-protection order), *rev. denied* (Minn. Dec. 6, 2021). "When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id.* at 223 (quotation omitted). In applying the clear error standard of review, the appellate court (1) views the evidence in the light most favorable to the findings, (2) does not reweigh the evidence, (3) does not find facts, and (4) does not reconcile conflicting evidence. *Id.* at 221-22. We give considerable deference to the district court's decision to terminate parental rights and we review whether the district court

[6] Except for a child being abandoned under Minn. Stat. § 260C.301, subd. 1(b)(1), and being neglected and in foster care under Minn. Stat. § 260C.301, subd. 1(b)(8), each statutory basis for involuntarily terminating parental rights explicitly requires the district court to consider multiple factors. *See* Minn. Stat. § 260C.301, subd. 1(b). Multiple statutory considerations for determining whether a child is abandoned are recited in Minn. Stat. § 260C.301, subd. 2 (2022), and multiple considerations for determining whether a child is neglected and in foster care are recited in Minn. Stat. §§ 260C.007, subd. 24, .163, subd. 9 (2022).

abused its discretion in finding clear and convincing evidence supported termination. *J.R.B.*, 805 N.W.2d at 900-01.

As a threshold matter, appellant's arguments that the evidence did not support the district court's factual findings fail. The agency submitted GAL's best-interests report and elicited ample testimony from the social worker assigned to appellant's case. As the agency stated at oral argument, there simply were no other reports to submit or witnesses to call because appellant had otherwise failed to comply with her case plan. The social worker and GAL both offered robust testimony and recommendations based on their interactions with child and appellant. We identify ample record evidence that supported the district court's factual findings. Therefore, we conclude the district court's findings contain no clear error. *Kenney*, 963 N.W.2d at 222.

Appellant globally challenges whether the findings supported termination. In the interest of completeness, we turn to each statutory ground for termination before reviewing the child's best-interests analysis. *But see Kenney*, 963 N.W.2d at 222 (noting that "an appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [district] court").

(A) Appellant has substantially, continuously, or repeatedly refused or neglected to comply with parental duties.

The district court found that appellant "failed completely to assume any duties of a parent-child relationship" and to "even spend any meaningful time with the child" despite the agency's "extraordinary efforts to try to contact and find [appellant], try to engage [appellant], and talk with her and meet her."

"Failure to satisfy requirements of a court-ordered case plan provides evidence of a parent's noncompliance with the duties and responsibilities under section 260C.301, subdivision 1(b)(2)." *In re Welfare of Child. of K.S.F.*, 823 N.W.2d 656, 666 (Minn. App. 2012). We have affirmed a TPR on this ground when the record demonstrated substantially more robust case-plan engagement than the instant case. In *K.S.F.*, appellant met with parenting assessors, underwent two psychological examinations, and received "education and instruction" from her social worker and doctors. *Id.* at 666-67. Notwithstanding K.S.F.'s argument that she complied with the case plan to the best of her abilities, we affirmed the TPR, stating that clear and convincing evidence of K.S.F.'s failure to comply with case-plan requirements supported termination under Minn. Stat. § 260C.301, subd. 1(b)(2). *Id.*

Here, appellant has failed to complete any case-plan requirements, such as completing a CUA from which the results could be released to the social worker and GAL, or providing UAs such that it would be appropriate for the agency to order a PCA. Therefore, the district court did not err in finding clear and convincing evidence supported termination on this basis.

(B) Appellant is palpably unfit to be a party to the parent-child relationship.

The district court found that appellant displayed a consistent pattern of "neglect and disinterest" in child during the year since child's removal, and that the "nature and duration of the lack of participation" rendered appellant incapable, for the reasonably foreseeable future, to care for child's physical, mental, and emotional needs.

Under Minnesota Statutes section 260C.301, subdivision 1(b)(4), a statutory basis to terminate parental rights exists when a parent is deemed

> palpably unfit to be a party to the parent and child relationship because of a consistent pattern . . . of specific conditions directly relating to the parent and child relationship . . . 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.

To terminate on this ground, there must be "a consistent pattern of specific conduct or specific conditions existing at the time of the hearing that appears will continue for a prolonged, indefinite period and that are permanently detrimental to the welfare of the child." *In re Welfare of Child. of T.R.*, 750 N.W.2d 656, 661 (Minn. 2008). In addition, the specific condition must directly affect the individual's ability to parent. *Id.* at 662.

We have affirmed a TPR on this ground where a parent demonstrated a superior track record of showing up to roughly 60 face-to-face visits. *See In re Welfare of J.D.L.*, 522 N.W.2d 364, 368 (Minn. App. 1994). While other considerations also supported termination (e.g., minimal affection between father and child; father's failure to bring snacks or supplies for visits; father's failure to recognize situations that endangered child), we concluded that father's frequent cancelations or cutting short of visits established a pattern of specific conduct demonstrating palpable unfitness to parent by clear and convincing evidence. *Id.* Here, appellant has never once seen child in-person since his removal due to her refusal to provide UAs. Therefore, the district court did not err in finding clear and convincing evidence supported termination on this basis.

(C) Following child's out-of-home placement, reasonable efforts have failed to correct the conditions leading to child's placement.

The district court found that the agency proved by clear and convincing evidence that the agency's efforts, "under the direction of the Court, have failed to correct any condition which led to the child's removal from [appellant]'s home."

A district court may terminate a parent's rights to a child if, "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 district court presumes that reasonable efforts have failed if: (1) the "child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months"; (2) "the court has approved the out-of-home placement plan"; (3) the "conditions leading to the out-of-home placement have not been corrected" as shown by the parent "not substantially [complying] with the court's orders and a reasonable case plan"; and (4) "reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family." Minn. Stat. § 260C.301, subd. 1(b)(5)(i)-(iv). The ultimate purpose of making reasonable efforts is to "assist in alleviating the conditions that gave rise to the dependency adjudication." *In re Welfare of H.K.*, 455 N.W.2d 529, 532 (Minn. App. 1990), *rev. denied* (Minn. July 6, 1990). Absent an enumerated exception, the district court "shall make findings and conclusions as to the provision of reasonable efforts" in a TPR proceeding pursuant to Minn. Stat. § 260.012(h) (2022).

We have affirmed a TPR on this ground even when an appellant showed improvement during late stages of TPR proceedings. In *In re Welfare of J.A.*, we affirmed a termination decision where appellant, after two years of sporadic visitation and failure to otherwise comply with a case plan, finally entered outpatient chemical-dependency and parent-training programs during the final stage of the TPR's pendency before the district court. 377 N.W.2d 69, 73 (Minn. App. 1985), *rev. denied* (Minn. Jan. 23, 1986). We acknowledged that appellant's late entrance into treatment ran counter to the district court's termination decision, but noted that the district court had clearly considered the evidence of her entrance into treatment and nevertheless found appellant's chances of correcting the conditions that led to out-of-home placement were dim. *Id.*

Here, in addition to finding numerous instances in which the agency attempted to contact appellant and appellant either failed to respond or avoided the agency, the district court found the case plans' requirements were necessary because appellant's mental health was an issue and appellant was never forthcoming about her chemical-use history. The district court also found a PCA was never completed because an assessor would need to see appellant engage with child in-person and, since she refused to provide UAs, appellant had not. Unlike *J.A.*, there is no evidence of late-stage compliance with the case plan. Appellant has wholly failed to meet the case-plan requirements and there is nothing in the record to suggest she intended to begin compliance. Therefore, the district court did not err in finding clear and convincing evidence supported termination on this basis.

(D) The child is neglected and in foster care.

The district court found this basis for termination was proved by clear and convincing evidence.

A child is neglected and in foster care if the child is in foster care by court order, has parents whose "circumstances, condition, or conduct are such that the child cannot be returned to them" and "whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child." Minn. Stat. § 260C.007, subd. 24. "In determining whether a child is neglected and in foster care, the court shall consider, among other factors," seven statutory considerations, including the parent's efforts to adjust the circumstances leading to the child's removal from the home, the parent's visits in the three months prior to the filing of the TPR petition, and the county's efforts to reunite the family. Minn. Stat. § 260C.163, subd. 9.

We have affirmed a termination decision where a parent's visitation record was more robust than in the instant case. In *J.R.B.*, the district court noted appellant's visit-attendance record during an eight-month period. 805 N.W.2d at 903. There, while appellant had one month of perfect attendance, she missed "68 of the remaining 106 scheduled visits." *Id.* Here, appellant's refusal to provide UAs has resulted in her utter failure to see child in person since his removal, and the evidence in the record is that appellant has had a total of roughly 12 video or phone calls with child since his removal.

Therefore, the district court did not err in finding clear and convincing evidence supported termination on this basis.

(E) Termination was in child's best interests.

The district court found that although child testified, he "did [not] talk about [appellant], or express a desire to have a relationship with her." It found that the "competing interests of the child" was the most important factor for this case, and that it was in the best interests for child to have parents "who make him a priority[,]" place child's needs first, who may raise him "in a stable and forever home," and who are "nurturing, thoughtful, careful, and consistent." It concluded termination was therefore in child's best interests.

A district court may only terminate parental rights if, among other things, it is in the best interests of the child. *S.E.P.*, 744 N.W.2d at 385. In evaluating the best interests of a child in a proceeding to terminate parental rights, a district court must consider (1) "the child's interests in preserving the parent-child relationship," (2) "the parent's interests in preserving the parent-child relationship," and (3) "any competing interests of the child." Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). "Competing interests include health considerations, a stable environment, and the child's preference." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012).

"[D]etermination of a child's best interests is generally not susceptible to an appellate court's global review of a record, and . . . an appellate court's combing through the record to determine best interests is inappropriate because it involves credibility determinations." *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 546 (Minn. App.

2009) (quotation omitted). We review a district court's best-interests determination for an abuse of discretion. *In re Welfare of Child of J.R.R.*, 943 N.W.2d 661, 669 (Minn. App. 2020).

The district court adopted GAL's best-interests report in its entirety, which noted appellant's failure to demonstrate consistency with regard to visiting child or participation in services, and that this was "not an indicator of responsible, consistent or predictable parenting." The district court noted appellant had wholly failed to correct the conditions which led to child's placement and that her failure to comply with "any part" of her case plan demonstrated "she [wa]s not interested in being a parent to [child]." The social worker testified that child "d[id]n't ask about Mom anymore[,]" and the social worker and GAL agreed child was thriving in foster care. Both also agreed that termination was in child's best interests. Considering appellant's sporadic visitation attendance and otherwise complete failure to make efforts to comply with her case plan, the district court did not abuse its discretion in finding that termination was in child's best interests.

II. The district court did not violate appellant's due-process rights by holding the TPR hearing in her absence.

Appellant argues that the district court violated her due-process rights when it held the TPR hearing in her absence. Again, we disagree.

As a threshold matter, we conclude appellant forfeited this issue because she raises it for the first time on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts generally address only those questions previously presented to and considered by the district court); *In re Welfare of Child. of Coats*, 633 N.W.2d 505,

512 (Minn. 2001) (applying *Thiele* in the TPR context to hold appellant's due-process claim was forfeited). Neither appellant nor appellant's counsel requested a continuance. Appellant's email to counsel merely stated her alleged reason for failing to appear, which counsel shared with the district court to "just inform[] the Court why [her client]'s not [t]here." And while appellant asked her counsel whether counsel "[c]ould . . . have called [appellant] or let [appellant] . . . log in momentarily[,]" appellant and her counsel made no such request to the district court.

However, assuming without deciding that appellant made a "de facto"[7] continuance request when counsel read her email to the district court, appellant's claim fails. "[A] judgment will be held void for want of due process only where the circumstances surrounding the trial are such as to make it a sham and a pretense rather than a real judicial proceeding." *Coats*, 633 N.W.2d at 512 (quotation omitted). In *In re Welfare of L.W.*, the supreme court upheld a default judgment terminating parental rights where the district court conducted an evidentiary hearing and heard testimony, in relevant part, from appellant's social worker and the appointed GAL. 644 N.W.2d 796, 797 (Minn. 2002). The supreme court held that this default judgment did not violate appellant's due-process rights because the summons served on appellant notified her that the district court could conduct the hearing if she failed to appear and could order her parental rights terminated. *Id.* at 796-97. It also held that appellant's due-process rights were not violated where her parental rights were terminated for the substantive reasons addressed at the hearing—

[7] This is how appellant framed the contention at oral argument before this court.

appellant's failure to correct the conditions leading to her child's out-of-home placement and her neglect of child while child was in foster care—rather than because appellant failed to appear at trial. *Id.* at 797 (citing *Coats*, 633 N.W.2d at 512).

The circumstances in the instant case do not materially differ from those in *L.W.* The summons served on appellant notified her that the district court "may conduct the hearing without you; and . . . may . . . permanently sever[] the parent's rights pursuant to a [TPR] petition." As in *L.W.*, the district court heard substantial testimony from appellant's assigned social worker. *See id.* And the record demonstrates that the district court terminated appellant's parental rights for the substantive reasons addressed at the hearing, as reviewed at Part I, *supra*, and not her failure to appear at the hearing.

Moreover, the record contains no grant of permission for appellant to attend the hearing remotely. To the contrary, it appears all parties expected appellant to be present at the hearing.

Appellant also appears to argue her due-process rights were violated because it was clear error for the district court to find there were no travel advisories or road conditions on the day of the hearing to excuse appellant's absence. But we review factual findings for clear error and the scope of clear-error review is narrow. *Kenney*, 963 N.W.2d at 222 ("We will not conclude that a fact[-]finder clearly erred unless . . . we are left with a definite and firm conviction that a mistake has been made." (quotation omitted)). We discern no clear error in the district court's finding that there were no road advisories or travel conditions that excused appellant's failure to appear.

Therefore, to the extent appellant's email to the court constituted a "de facto" request for a continuance, the district court did not abuse its discretion in denying appellant's request.

Affirmed.