STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0708

In the Matter of the Welfare of the Child of:
J. A. W. and C. M. M., Parents.

Filed October 30, 2023
Affirmed
Frisch, Judge

Steele County District Court
File No. 74-JV-23-144

James R. Martin, Faribault, Minnesota (for appellant mother J.A.W.)

Julia A. Forbes, Steele County Attorney, Campbell R. Housh, Assistant County Attorney, Owatonna, Minnesota (for respondent Minnesota Prairie County Alliance)

Benjamin M. Cass, Owatonna, Minnesota (for respondent father C.M.M.)

Julie A. Nelson, Owatonna, Minnesota (guardian ad litem)

Considered and decided by Gaïtas, Presiding Judge; Slieter, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

On appeal from the termination of appellant mother's parental rights, mother argues that the district court abused its discretion by determining that a statutory basis supports the termination of her parental rights and that termination was in the child's best interests.

Because the district court did not abuse its discretion in terminating mother's parental rights, we affirm.

FACTS

Appellant J.A.W. is the mother of a child born in August 2019. The child's father, C.M.M., is also a party to this matter and agreed to voluntarily terminate his parental rights if mother's parental rights were terminated. Both parents have a history of methamphetamine use. Mother stopped using chemicals when she was pregnant with the child but resumed using methamphetamine when the child was approximately seven months old. In November 2020, respondent Minnesota Prairie County Alliance (MNPrairie) opened a child-protection assessment because of concerns for the child's safety caused by the parents' chemical health and a lack of safe and stable housing. During this assessment, both parents were evasive and refused drug testing. MNPrairie filed a child-in-need-of-protection-or-services (CHIPS) petition, and the child was adjudicated CHIPS.

In January 2021, law enforcement conducted a traffic stop of parents. The child was in the vehicle. Law enforcement discovered a pipe with methamphetamine residue and a marijuana pipe in the vehicle. The child was removed from the home the next day. The child was dirty, had blisters under their fingernails, and had numerous scabs. The child was placed in foster care and several days later had a positive hair-follicle test for methamphetamine. The parents were granted supervised visits on the condition of negative methamphetamine tests. MNPrairie providers stressed the importance of sobriety with both parents, encouraged specific strategies for the parents, and assisted mother in

scheduling chemical-health treatment. From January to May 2021, mother had 13 confirmed positive methamphetamine tests. Mother was admitted to inpatient chemical-health treatment on May 18 and was discharged on June 28. Upon discharge, she received referrals for outpatient treatment, an after-care support group, and individual therapy. Mother began outpatient treatment in July.

From July 2021 until February 2022, both parents engaged in outpatient treatment, case planning, and drug testing. During this time, mother was involved in therapy services and saw a psychiatric provider. On February 9, the district court returned care, custody, and control of the child to mother. After the child returned to mother's care, she began to miss appointments with mental-health providers as soon as February 18. By late March, a provider at MNPrairie grew concerned that the parents were disengaging with services and relayed this concern to them.

In April, MNPrairie was unable to reach the parents despite numerous attempts. During this time, a family member called MNPrairie expressing concerns about the child and mother. Due to concerns for the safety of the child, MNPrairie moved to extend the district court's jurisdiction which otherwise would have terminated on May 10. On May 4, the district court granted the motion to extend jurisdiction and ordered that MNPrairie place the child on an emergency hold if the parents did not provide a negative drug test. The same day, MNPrairie located the child and parents, and the child was removed. Mother had a confirmed positive drug test for methamphetamine the following day and admitted additional use in April. Mother reengaged with chemical-health and therapeutic services after the child was removed.

On June 22, the child began a trial home visit with mother and father. On September 7, the district court ordered the child be placed in the care, custody, and control of mother under protective supervision. After the child returned to mother's custody, she resumed a pattern of missing mental- and chemical-health appointments. MNPrairie conveyed concerns to both parents that they were consistently missing mental-health appointments. On October 26, MNPrairie requested the district court continue protective supervision and mother requested the district court close the case. The district court issued an order that, upon proof that mother attended her mental-health appointment later that day, the matter would be closed. Mother attended the appointment and urged the provider to tell the court she "showed to the appointment today." The district court closed the CHIPS case on November 3. Mother declined voluntary services with MNPrairie before and after the case was closed. On November 8, the parents removed the child from daycare because mother wanted to spend more time with the child to work on their relationship.

Mother reported relapsing and using methamphetamine again in December 2022. Between November and January, mother did not engage in any chemical-health services, attend narcotics anonymous, or reach out to a sober support network. During this period, the parents would drop the child off at a relative's house and then use methamphetamine. This happened at least three times between December and January. On January 21, 2023, the child was at the relative's home when the relative was arrested for domestic assault. The relative admitted to being intoxicated but did not acknowledge the intoxication was unsafe for the child.

On January 23, law enforcement noticed the parents and the child in a parking lot. Officers followed the vehicle because they had suspected that father was attempting to steal catalytic converters. Officers detained and eventually arrested father. Officers observed a panicked and distraught child in the backseat of the vehicle next to power tools and a saw. Mother and father both admitted they had used methamphetamine that day, and mother also testified that she had methamphetamine in her system while driving with the child. After father's arrest, MNPrairie received a child-protection report and attempted to locate mother and child.

On January 25, MNPrairie providers met with mother and explained their concerns for the child. They told mother that she needed to provide a negative drug test to prevent a law-enforcement emergency hold. Mother was aggressive, emotional, and unable to have a calm or rational conversation with service providers. She refused to provide a drug test. Eventually, police officers issued an emergency hold, and the child was removed. The next day, mother met with MNPrairie providers and had a confirmed positive drug test for methamphetamine. The meeting ended because mother was "unable or unwilling to participate in any meaningful reciprocal conversation." A provider noted that mother "asked what she should do to start checking boxes."

On January 30, MNPrairie filed a termination-of-parental-rights petition and requested the district court find that further reasonable efforts toward reunification by MNPrairie were futile and unreasonable. After a hearing, the district court determined that further reasonable efforts would be futile and unreasonable based on the past efforts, the child's out-of-home placement days, and the circumstances leading to the petition. The

district court ordered that both parents provide random drug tests as a condition for visitation with the child during the termination proceeding. Both parents consistently attended scheduled supervised visits and phone calls with the child, but on February 13, the parents abruptly cancelled a visit. This cancellation concerned the assigned MNPrairie provider because the parents historically missed visits while they were using chemicals. The provider opted to conduct a random drug test at the parents' apartment. When the provider arrived, the parents were evasive and resisted testing. Ultimately, mother provided a drug test, which was positive for methamphetamine.

The district court held a trial over five days and heard testimony from mother, MNPrairie, mother's mental- and chemical-health providers, the child's foster parent, the guardian ad litem (GAL), two family members, and mother's property manager. On April 26, 2023, the district court involuntary terminated mother's parental rights.

Mother now appeals.

DECISION

Parental rights may only be terminated for "grave and weighty reasons." *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). A district court may involuntarily terminate parental rights if: (1) at least one of the statutory bases for terminating parental rights exists under Minnesota Statutes section 260C.301, subdivision 1(b) (2022); (2) reasonable efforts toward reunification were either made or were not required; and (3) the proposed termination is in the children's best interests. Minn. Stat. §§ 260C.301, subds. 1(b), 7, 8, .317, subd. 1 (2022); *see also In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008).

Mother argues that the district court abused its discretion by determining that a statutory basis exists to support the termination of her parental rights and that termination was in the child's best interests. We address each argument in turn.

I. The district court did not abuse its discretion by determining that a statutory basis supports the termination of mother's parental rights.

Mother challenges the district court's determination that four statutory grounds exist to terminate her parental rights: a failure to comply with duties of the parent and child relationship, palpable unfitness, a failure to correct the conditions leading to removal, and that the child was neglected and in foster care. "But we need only one properly supported statutory ground in order to affirm a termination order." *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012). We affirm the termination of parental rights on two statutory grounds found by the district court: failure to comply with the duties of the parent and child relationship and failure to correct the conditions leading to the child's placement.[1]

On appeal, we "review the district court's findings of the underlying or basic facts for clear error, but we review its determination of whether a particular statutory basis for involuntarily terminating parental rights is present for an abuse of discretion." *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against

[1] Because we affirm the termination of parental rights on these grounds, we do not reach the other bases for termination set forth in the district court's order.

logic and the facts on record." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

"A finding is clearly erroneous if it is either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Welfare of the Child. of T.R.*, 750 N.W.2d 656, 660-61 (quotation omitted). "In applying the clear-error standard, we view the evidence in a light favorable to the findings. We will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation and citation omitted). We must "fully and fairly consider the evidence, but so far only as is necessary to determine beyond question that [the evidence] reasonably tends to support the findings of the factfinder." *Id.* at 223 (quotation omitted). Thus, "[w]hen 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.* (quotation omitted).

Duties of the Parent and Child Relationship

Mother argues that the district court abused its discretion by determining that there was clear and convincing evidence supporting the findings that she failed to comply with the duties of the parent and child relationship. Mother specifically challenges the district court's determination that MNPrairie made reasonable efforts required by statute.

A district court may terminate parental rights if it determines that a 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 providing "food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able." *Id.* Finally, to terminate parental rights, the court must find "either" reasonable efforts by the social services agency to reunite the family have failed to correct the conditions that formed the basis of the petition or "reasonable efforts would be futile and therefore unreasonable." *Id.*

Mother predominantly argues that the district court abused its discretion because MNPrairie did not engage in reasonable efforts.[2] Mother's argument is unavailing because the record supports the district court's earlier findings that further reasonable efforts by the county would be futile and unreasonable.[3]

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[2] Mother also argues that she met the physical needs of the child in 2023. We note that the record supports the district court's determination that mother had "substantially, continuously or repeatedly failed to comply with duties imposed upon her by the parent/child relationship" because mother "repeatedly failed to provide [the child] with a safe and stable environment, to provide proper parental care, and repeatedly failed to address her chemical health and mental health."

[3] We note that mother did not explicitly contest the district court's futility determination at trial or in her proposed conclusions of law following trial. And mother did not request the transcript from the relevant evidentiary hearing, which limits our review of this issue. *See Fischer v. Simon*, 980 N.W.2d 142, 144 (Minn. 2022) ("It is elementary that a party seeking review has a duty to see that the appellate court is presented with a record which is sufficient to show the alleged errors and all matters necessary to consider the questions presented." (quotation omitted)); *Custom Farm Servs., Inc. v. Collins*, 238 N.W.2d 608, 609 (Minn. 1976) ("An appellant has the burden of providing an adequate record for appeal."). In the absence of a fulsome record, "we are limited to determining whether the trial court's findings of fact support its conclusions of law." *Am. Family Life Ins. Co. v. Noruk,* 528 N.W.2d 921, 925 (Minn. App. 1995), *rev. denied* (Minn. Apr. 27, 1995). Thus, we review the district court's determination that further reasonable efforts by MNPrairie would be futile and unreasonable under Minn. Stat. § 260.012(a)(7) (2022) to determine if the district court's findings of fact support its conclusions of law.

Reasonable efforts are not required "upon a determination by the [district court] that a petition has been filed stating a prima facie case that . . . the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances." Minn. Stat. § 260.012(a)(7); *see also id.* (h) (2022). The agency must request a prima facie determination of futility based on the allegations made in its termination petition. *In re Welfare of Child. of A.D.B.*, 970 N.W.2d 725, 726, 730, 733 (Minn. App. 2022). MNPrairie made such a request at the emergency protective-care hearing held on January 25, 2023.

The district court determined that further reasonable efforts were not required because MNPrairie presented a prima facie case that its further efforts would be futile and unreasonable pursuant to Minn. Stat. § 260.012(a)(7). The district court supported this determination with findings of fact regarding both the family's history in the prior CHIPS case and the circumstances that led to the emergency hold. The district court found that the circumstances of the petition were "due to similar concerns" as the two past removals in the prior case. The district court found that the parents had been doing well at the close of that case approximately three months before the petition, but the present circumstances indicated a "major regression that is concerning for the child." The district court noted that MNPrairie provided the parents two years of chemical- and mental-health services during the prior case. Finally, the district court observed that mother refused to cooperate with MNPrairie providers. The district court found that mother's behavior was "chaotic, erratic, obstinate, and threatening" and that she made drug testing difficult.

These findings of fact support the district court's determination that further reasonable efforts would be futile and unreasonable. Mother's attitude and resistance to MNPrairie human-services workers, resistance to chemical testing, and relapse within three months of the close of the prior case reasonably indicated that further similar services from MNPrairie would be futile. *See In re Welfare of D.D.K.*, 376 N.W.2d 717, 721 (Minn. App. 1985) (stating that a reunification plan was sufficient and that a more detailed plan would be futile because mother resisted rehabilitative efforts and denied her parental inadequacies); *In re Welfare of J.J.B.*, 390 N.W.2d 274, 281 (Minn. 1986) (stating that mental illness or mental or emotional disability that precludes a parent from providing proper parental care can render a county's reasonable efforts futile). Thus, the district court did not abuse its discretion in determining that further efforts would be futile and unreasonable.

The district court did not abuse its discretion in determining that mother "substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship" because the record demonstrates a pattern of unsafe circumstances for the child not remedied by mother and MNPrairie was relieved of further reasonable efforts. Minn. Stat. § 260C.301, subd. 1(b)(2).

Failure to Correct Conditions Leading to the Child's Removal

Mother argues that the district court abused its discretion by determining that there was clear and convincing evidence that reasonable efforts failed to correct a condition that led to out-of-home placement. Mother specifically argues that the district court

erroneously relied on her past chemical abuse rather than her current progress in treatment and again argues that MNPrairie did not make reasonable efforts.

The district court may terminate parental rights if "reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement" out of the home. Minn. Stat. § 260C.301, subd. 1(b)(5). A presumption exists 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," (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," and (4) "reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family." *Id.*, subd. 1(b)(5)(i)-(iv).

The parties do not contest the time the child has been in out-of-home placement or that the district court approved an out-of-home placement plan. And as set forth above, the district court did not abuse its discretion in determining that further efforts would be futile and unreasonable. Thus, we turn to mother's argument that the district court abused its discretion in making its determination that the conditions leading to out-of-home placement have not been corrected.

Mother argues that her situation had changed since the child was removed in January 2023. She argues that the district court ignored these changed circumstances when determining that the conditions leading to the child's out-of-home placement had not been corrected. We disagree. The district court expressly recognized that mother had made some changes since the child's initial removal. It found that mother was stable and sober at the time of the trial. The district court stated "[mother] is able to demonstrate longer

periods of sobriety when she has strict supervision, oversight, and accountability in place." But the district court nevertheless determined that, even with these changes, mother was unable to demonstrate "she is able to keep services in place and continue her sobriety without such oversight, and she has been unable to do so in two and a half years." The district court concluded that it had "no confidence [mother] will be able to make the needed demonstration . . . within the reasonable foreseeable future." These findings of fact are supported by record evidence of mother's history of methamphetamine use, relapse, and pattern of discontinuing services when supervision has waned. And we note that, notwithstanding mother's characterization of the effect of any changes she has made, the district court discredited much of her testimony and instead credited other record evidence as to mother's inability to demonstrate lasting stable changes. "On appeal this court must defer to the trial court's assessment of credibility of witnesses and the weight to be given to their testimony." *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992) (quotation omitted).

Therefore, the district court did not abuse its discretion in determining that conditions leading to the out-of-home placement have not been corrected because the record demonstrates that mother was unable to establish that she could maintain her sobriety without oversight.

II. The district court did not abuse its discretion by determining that termination of mother's parental rights was in the best interests of the child.

Mother argues that the district court abused its discretion in determining that termination was in the best interests of the child because the court failed to appropriately balance the child's interest, mother's interest, and competing interests. We disagree.

A district court may not terminate parental rights unless termination is in the child's best interests. *In re Welfare of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004). A best-interests analysis should include consideration and evaluation of "all relevant factors," 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 (2022). Three factors that must be considered in every analysis of a child's best interests: (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 interests of the child. Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). Where the interests of the parent and the child conflict, the interests of the child are paramount. Minn. Stat. § 260C.301, subd. 7. We review a district court's findings of fact for clear error and its determination of whether the facts it found show that termination is in a child's best interests for abuse of discretion. *In re Welfare of A.D.*, 535 N.W.2d 643, 648 (Minn. 1995); *J.R.B.*, 805 N.W.2d at 905.

The district court found that mother expressed an interest in the parent-child relationship but discredited her testimony because she "claims great love and affection for [the child] but does not show this alleged love and affection." The district court grounded this finding in mother's patterns of "irresponsibility, drug use, and not spending time with

[the child]." The district court found that those patterns resulted in mother's inability to provide safe and stable care to the child which undermines the parent-child relationship. These findings are supported by the record.

The district court also emphasized the child's interest in permanency, consistency, and stability, thoughtfully considering the child's interest in "having a lifelong stable environment, being healthy, limiting exposure to chemical substance abuse and criminal activity, having a safe and sober caregiver, and limiting any further risk of neglect." These considerations are grounded in Minnesota law. *See In re of Welfare of K.T.*, 327 N.W.2d 13, 18 (Minn. 1982) (holding that "stability [of the child] is a factor which must be given high priority"); *In re Welfare of M.G.*, 407 N.W.2d 118, 120-21 (Minn. App. 1987) (explaining that stability includes the amount of time a child has spent in out-of-home placement). In finding that mother was unable to provide stable care to the child, the district court specifically pointed to record evidence of the extensive time the child has spent in out-of-home placement and testimony from social workers, therapists, the child's foster parent, and the GAL about the negative effects this instability has had on the child. We see no clear error in these findings, and these findings support the district court's ultimate determination that termination is in the best interests of this child.

We specifically note that the district court's order is thoughtful, thorough, and detailed, setting forth specific factual findings and credibility determinations to support the conclusion that termination of mother's parental rights is in the best interests of the child. Because the district court properly found that the child's interests in stability, safety, and emotional health outweighed mother's interest in maintaining her relationship with the

child, and its findings are supported by the record, we see no abuse of discretion in its decision to terminate mother's parental rights.

Affirmed.