STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0798

In the Matter of the Welfare of the Child of: A.M.L., Parent.

Filed September 3, 2013
Affirmed
Halbrooks, Judge

Chisago County District Court
File No. 13-JV-12-400

Jesse A. Johnson, Lindstrom, Minnesota (for appellant A.M.L.)

Janet Reiter, Chisago County Attorney, Kristine Nelson Fuge, Assistant County Attorney, Center City, Minnesota (for respondent Chisago County)

Considered and decided by Stauber, Presiding Judge; Halbrooks, Judge; and Hooten, Judge.

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

HALBROOKS, Judge

Appellant challenges the district court's termination of her parental rights. Because the district court's conclusions are supported by clear and convincing evidence, we affirm.

FACTS

A.M.L. is the biological mother of six children: J.D.L., I.A.L., J.P., M.E.P., M.L., and S.R.L. Between 2004 and 2012, Ramsey County Community Human Services

Department filed child-in-need-of-protection-or-services (CHIPS) petitions concerning each of A.M.L.'s first five children. Each petition was based on similar grounds: (1) A.M.L.'s failure to address her chemical-dependency issues, including continuing to associate with methamphetamine abusers and missing court-ordered drug and alcohol testing; (2) her untreated mental-health issues; (3) her failure to maintain stable housing; and (4) her failure to benefit from services.

A.M.L. admitted the allegations of those petitions. In March 2006, she executed a consent of parent for termination of parental rights for J.D.L. and I.A.L. In September 2007, she executed a consent to adopt for J.P. And in February 2012, the district court involuntarily terminated her rights as to M.E.P. and M.L. after she failed to appear at a termination hearing.

In September 2012, A.M.L. entered inpatient chemical-dependency treatment. In November 2012, she entered residential treatment at Journey Home in St. Cloud. S.R.L., the subject of this appeal, was born on December 11, 2012. On December 21, 2012, Chisago County Health and Human Services filed a termination-of-parental-rights petition, alleging that A.M.L. was palpably unfit to be a party to the parent-child relationship. Because of A.M.L.'s prior involuntary termination of parental rights with respect to M.E.P. and M.L., the county was not required to exercise reasonable efforts for rehabilitation and reunification. *See* Minn. Stat. § 260.012 (f)(4) (2012).

Based on the submissions of the parties, the district court issued an order terminating A.M.L.'s parental rights, concluding that A.M.L. is presumed palpably unfit to be a party to the parent-child relationship because of her prior involuntary

terminations. The district court further concluded that A.M.L. failed to rebut this presumption and that S.R.L.'s "immediate need for permanency in conjunction with a stable, nurturing, drug-free caretaker outweighs any competing interest of [A.M.L.'s] in preserving the parent-child relationship." This appeal follows.

D E C I S I O N

We review a termination of parental rights to determine whether the district court's findings address the statutory criteria and whether the 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). "We give considerable deference to the district court's decision to terminate parental rights." *Id.* But we will "closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing." *Id.* We will affirm the district court's order if "at least one statutory ground for termination is supported by clear and convincing evidence." *Id.* The paramount consideration is whether termination is in the child's best interests. Minn. Stat. § 260C.301, subd. 7 (2012).

One of the grounds for the termination of parental rights is palpable unfitness by the parent to be a party to the parent-child relationship. *Id.*, subd. 1(b)(4) (2012). A parent is presumed to be palpably unfit if the parent has had her parental rights to a different child involuntarily terminated. *Id.* It is the parent's burden to rebut this presumption by "affirmatively and actively demonstrat[ing] her or his ability to successfully parent a child." *In re Welfare of D.L.R.D.*, 656 N.W.2d 247, 251 (Minn. App. 2003).

A.M.L. contends that the district court erred when it concluded that she failed to rebut the presumption of palpable unfitness. She argues that since learning of her pregnancy with S.R.L., she has made every possible effort to establish her fitness as a parent. She asserts that she has maintained sobriety since shortly after her rights to M.E.P. and M.L. were terminated in February 2012, that she "created a case plan more intensive than could be imagined or designed by a team of social workers," and that she "did not fail any classes, drop out of any programming or fail a drug test since February 2012." In support of her argument, A.M.L. submitted letters written by staff at Journey Home, a sober friend outside of the facility, and multiple other individuals.

The district court recognized that A.M.L. has made admirable progress, but concluded that she failed to provide evidence that the changes she has made will be permanent. The district court made multiple findings, including that A.M.L. has (1) been admitted to and completed numerous treatment programs, but has relapsed every time, including a relapse during her pregnancy with the child who is the subject of the current petition; (2) repeatedly failed to set up and participate in mental-health services, or remain in contact with her children's service providers; (3) consistently failed to obtain stable housing; and (4) consistently experienced difficulty residing within a sober community on her own once released from residential treatment programs. The district court concluded that, based on its evaluation of A.M.L.'s progress over the 12 months preceding trial, she did not demonstrate that any change was likely to be lasting.

A.M.L. does not dispute these findings, but argues that she made sufficient progress in the year preceding trial to overcome the presumption of palpable unfitness.

She asserts that there is nothing else that she could have done to rebut that presumption. But the record contains clear and convincing evidence that supports the district court's conclusions. While the record reflects A.M.L.'s contention that she has made changes in her life since entering treatment in September 2012, it also reflects that she has not demonstrated an ability to maintain her sobriety outside of a structured facility, as evidenced by her frequent relapses and inability to follow court-ordered drug-and-alcohol-testing schedules. A.M.L. has consistently failed to benefit from services, and has been unable to maintain stable housing and employment.

Our paramount concern is whether termination is in the child's best interests. *See* Minn. Stat. § 260C.301, subd. 7. A.M.L.'s recent efforts to address her chemical-dependency and mental-health issues are commendable. But the record contains clear and convincing evidence to support the district court's conclusion that she has not demonstrated that she can maintain those changes or that she has the capacity to provide the emotional or financial stability that S.R.L. needs. Based on this record, we cannot conclude that the district court's determination that A.M.L. failed to overcome the presumption of palpable unfitness is in error.

Affirmed.