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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-0828**

In the Matter of the Welfare of the Children of: A.M. and R.C., Parents.

**Filed December 16, 2013  
Affirmed  
Stoneburner, Judge**

Rice County District Court  
File No. 66JV123275

Matthew D. Rich, Grundhoefer & Ludescher, P.A., Northfield, Minnesota (for appellant A.M.)

G. Paul Beaumaster, Rice County Attorney, Jennifer Nelson, Assistant County Attorney, Faribault, Minnesota (for respondent Rice County)

Heather Feikema, Hastings, Minnesota (guardian ad litem)

James R. Martin, Martin Law Office, Faribault, Minnesota (for father, R.C.)

Considered and decided by Hudson, Presiding Judge; Stoneburner, Judge; and Hooten, Judge.

**UNPUBLISHED OPINION**

**STONEBURNER**, Judge

Appellant mother challenges termination of parental rights to three children, arguing that the district court abused its discretion by determining that (1) respondent county proved a statutory ground for termination of parental rights by clear and convincing evidence and (2) that termination of parental rights is in the best interests of

the children. Because the record supports the district court's conclusion that the county proved by clear and convincing evidence that (1) reasonable efforts have failed to correct the conditions leading to the children's placement; (2) mother will not, in the reasonably foreseeable future, be able to meet the children's needs; and (3) it is in the children's best interests to be in a stable home that can meet their needs, we affirm.

## D E C I S I O N

Appellant A.M. (mother) has six biological children. This termination of parental rights (TPR) action involves her three youngest children, T.C., born on November 23, 2008, A.C., born on November 19, 2010, and J.C., born on April 21, 2012. T.C.'s out-of-home placement began in April 2010. As of February 11, 2013, the first day of the four-day TPR trial, T.C. had been in foster care for 569 days; A.C. had been in foster care for 300 days; and J.C. had been in foster care for 296 days. None of the children has special needs.

We review a TPR order to determine whether the district court's findings are supported by sufficient evidence and are not clearly erroneous, and we affirm the termination "when at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the best interests of the child." *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). A district court's determination that termination is in the child's best interest is reviewed for an abuse of discretion. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

## **I. Statutory basis for TPR**

The TPR order contains 126 findings of fact based on evidence presented at the TPR trial. Mother does not challenge any of these findings as clearly erroneous, but she argues that the district court erred by concluding that these facts constitute clear and convincing evidence to prove that (1) mother is palpably unfit to be a party to the parent-child relationship under Minn. Stat. § 260C.301, subd. 1(b)(4) (2012); (2) reasonable efforts have failed to correct the conditions leading to the children's placement under Minn. Stat. § 260C.301, subd. 1(b)(5) (2012); or (3) the children are neglected and in foster care under Minn. Stat. §260C.301, subd.1(b)(8) (2012). We conclude that the record supports the district court's findings, and the findings support the conclusion that reasonable efforts failed to correct the conditions leading to placement. Because only one statutory basis is required to support TPR, we decline to address the other challenged statutory bases for TPR. *See In re Children of T.A.A.*, 702 N.W.2d 703, 708 & n.3 (Minn. 2005) (providing that if a single statutory basis for terminating parental rights is affirmable, an appellate court need not address any other statutory bases the district court may have found to exist).

Reasonable efforts are made when the responsible social-services agency exercises due diligence "to use culturally appropriate and available services to meet the needs of the child and the child's family." Minn. Stat. § 260.012(f) (2012). Reasonable efforts are presumed to have failed if (1) a child under eight years of age has resided outside of the parental home, under court order, for six months; (2) the court approved the out-of-home placement plan; (3) the conditions that led to placement out of the home have not been

corrected, which is presumed when the parent has not substantially complied with a reasonable case plan and the court's orders; and (4) the social-services agency made reasonable efforts to rehabilitate the parent and reunite the family. Minn. Stat. § 260C.301, subd. 1(b)(5).

Mother argues that the county did not use reasonable efforts to reunite her with the children because the case plan required too much from her and “was designed for Mother to fail.” We disagree.

The initial causes of emergency out-of-home placement of T.C. in April 2010 were mother's incarceration for a probation violation and her chemical dependency. The case plan approved by the district court after mother admitted that the child was in need of protection or services of the court (CHIPS) required mother to:

- a. Participate in individual therapy at the frequency and rate determined by the therapist;
- b. Successfully complete inpatient chemical dependency treatment and follow all recommendations;
- c. Receive visitation with the children at the frequency, duration, and level of supervision approved by [the county];
- d. Continue to take medications as prescribed and attend all scheduled psychiatric appointments;
- e. Obtain and maintain stable housing that is appropriate for the children;
- f. Participate fully in the [county] Parent Aide program, or similar parents education program if residing outside of [the county];
- g. Comply with all orders of probation; and
- h. Complete a psychological assessment and follow all recommendations.

At a September 2010 hearing, mother was given the additional requirements to abstain from use of all mood-altering substances; submit to random testing; seek and

follow the recommendations of appropriate prenatal care; participate in a domestic-abuse-violence support group; and seek employment or continued education as soon as reasonably possible. In mid-October 2010, T.C. and three of his half-siblings were returned to mother's care on a trial home visit. A.C. was born in November 2010.

In January 2012, mother was ordered to obey a no-contact order issued in a criminal matter involving R.C., father of the children involved in this TPR matter.<sup>1</sup> The no-contact order prevented R.C. from having any contact with these children. Despite the no-contact order, mother allowed R.C. to have contact with the children on several occasions, and she lied to the county about that contact.

J.C. was born in April 2012, and he and A.C. were adjudicated CHIPS under Minn. Stat. § 260C.007, subs. 6(8) (without parental care) and 6(9) (dangerous environment) (2012). A guardian ad litem (GAL) for the children has been involved throughout the child-protection proceedings.

To help mother comply with the case plan, the county offered mother every service that it had available and exceeded the assistance typically provided to other families. The services included securing fully funded housing at Ruth's House of Hope, as well as housing-search assistance; financial assistance; referrals to mental-health services and mental-health professionals; in-home parenting-aide services; transportation services for visitation, job searches, appointments for mother and the children, and supervised visitations; child-care assistance to allow mother to seek employment and

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<sup>1</sup> R.C. is the adjudicated father of T.C. and the putative father of A.C. and J.C. His rights were terminated in the same proceeding that terminated mother's rights to these children, and he has not appealed.

attend GED classes; and other respite care. The services were culturally appropriate and targeted to help mother remedy the chronic conditions of lack of appropriate housing, dependency on chemicals and inappropriate relationships, and lack of funds that had resulted in the circumstances leading to the out-of-home placement of the children.

Mother's appeal focuses narrowly on evidence that she addressed her chemical-dependency issues through inpatient treatment and after-care and was not incarcerated at the time of the TPR trial to claim that she, in fact, addressed the issues that led to placement. But T.C., A.C., and J.C. were removed from mother's care in March 2012 because mother had been terminated from Ruth's House of Hope program, leaving her homeless, jobless, and unable to provide for the physical and parenting needs of any of the children.

In October 2012, after mother began living with B.B., the father of two of mother's older children, T.C., A.C., and J.C. were again returned to mother's care on a trial home visit. B.B., who had a methamphetamine addiction when he had previously lived with mother and who had recently been released from several years in prison for a kidnapping conviction in which mother was the victim, returned to his methamphetamine addiction shortly after mother and the children began living with him in 2012. Mother failed to report that fact to the county, and she allowed R.C. to visit her and the children in B.B.'s home.

In early November 2012, B.B. learned that R.C. was in his home, and he contacted the police. As a result of this incident, mother abruptly quit the part-time job she had

obtained in July 2012<sup>2</sup> and, without notice to the county or GAL, fled to Minneapolis with T.C., A.C., and J.C. Police, accompanied by the GAL, found mother and the children in the cramped apartment of a relative where T.C. and A.C. were sleeping, unbathed and clothed in their street clothes, on a bare mattress near the door. The children were once again removed from mother's care and have not been returned to her care.

In January 2013, the county filed TPR petitions to terminate mother's and father's rights to T.C., A.C., and J.C. The petitions were consolidated for trial. At the time of trial, mother was once again living with B.B. Their joint children, S.B. and N.B., were in foster care due to B.B.'s resumed methamphetamine use. B.B. testified that mother would have to move out of his residence in order for him to regain custody of S.B. and N.B. Mother testified that she had located an apartment that she could afford on income she was currently receiving from B.B. for child-support arrearages that total approximately \$50,000, being paid to mother through wage withholding of approximately \$1,000 per month.<sup>3</sup>

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<sup>2</sup> Mother argues that she cannot obtain employment because of her criminal history and all of the scheduled requirements imposed by the county, but she obtained work, despite those alleged barriers, and the record demonstrates that the county offered transportation and child-care assistance and was exceptionally tolerant of mother's missed appointments, cancellations, and rescheduling.

<sup>3</sup> The district court concluded that mother's living arrangement with B.B. is unsuitable for the children due to the burden placed on B.B. to care for R.C.'s children, the conflict between B.B. and R.C., and B.B.'s struggle to care for his own children. And the district court found that B.B.'s child-support arrearages are not a reliable source of income for mother.

Mother remained unemployed at the time of trial but stated that she plans to get a job and “maybe my life will finally be on track.” Mother testified about how difficult it is for her to keep R.C. out of her life because she “know[s] he’s got [] goodness and . . . love” in him and he is “real pushy” and “always finds [her].” Mother testified that she is “ready to move on and have no contact” with R.C., but conceded that these statements would be hard for the district court to credit because she has lied “a lot” about contact with him in the past.

Mother’s psychological evaluation, completed only after several missed and cancelled appointments, resulted in a diagnosis of depression disorder and a personality disorder, which, the psychologist testified, makes it difficult for mother to establish boundaries and maintain social standards. The recommendations from the psychological evaluation include that mother abstain from chemical use, maintain stable housing, avoid intimate relationships, and participate in counseling and DBT classes (designed to address the personality disorder). But the psychologist opined that it will be difficult for mother to commit to change in the future.

All of the service providers and the children’s GAL testified that, despite the exceptional level of services provided, mother made little progress on her case plan; has been unable to implement safe and consistent parenting of the children; continues to subject the children to chaotic and unsafe conditions, as well as exposure to R.C., who poses a physical danger to them; and has been unable to provide appropriate housing and stable financing for herself or her children.

Had the county imposed a strict six-month timeline in this case, we would be more persuaded by mother's implicit argument that no reasonable person could have timely complied with all of the requirements of her case plan. But this case has dragged on for more than two and one-half years, with the children being returned to mother on three occasions, and the county offering a multitude of services to help mother meet the case-plan requirements. The district court's unchallenged findings provide clear and convincing evidence that, despite reasonable efforts by the county, mother has failed to correct the conditions that led to the children's repeated removal from her care.

## **II. Best interests of the children**

Even if a statutory basis exists for TPR, the district court must also consider whether TPR is in the child's best interests. *In re Children of R. W.*, 678 N.W.2d 49, 57-58 (Minn. 2004); Minn. Stat. § 260C.001, subd. 2 (2012). The best interests of the child are the paramount consideration in a TPR case. Minn. Stat. § 260C.301, subd. 7 (2012). A best-interests analysis requires the district court to balance (1) the child's interest in preserving the parent-child relationship; (2) parent's interest in preserving the parent-child relationship; and (3) any competing interest of the child, where competing interests include things like stable environment, health considerations, and child's preferences. *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992).

Mother argues that the district court did not properly weigh the best-interests factors and improperly focused on mother's past, rather than her circumstances at the time of the hearing. Although the district court's actual best-interests finding is sparsely

stated,<sup>4</sup> the record shows that the emphasis throughout the two and one-half years that the county worked with mother was to meet the children's need for stable, safe, and sanitary housing and consistent, safe, appropriate supervision and parenting. Although none of the children has special needs, providers who have had frequent contact with mother and the children consistently testified that mother is unable to focus on more than one child at a time, resulting in chaotic, unsafe conditions and compelling frequent provider intervention when mother has more than one child in her care. The district court determined that mother cannot provide either suitable housing or appropriate parenting and supervision to the children now or in the reasonably foreseeable future.

All witnesses attested to mother's demonstrated love for the children but several testified about the children's need for more than love. The in-home therapist testified that the children had been subject to enough moves, chaos, and difficulties in their lives and need stability and a stable environment in order to grow and thrive. The child-protection case worker recommended TPR, noting that mother has put the children in many dangerous situations by putting her own needs first and not thinking of the consequences for the children. As an example, she testified that she has found T.C. outside mother's home and A.C. inside mother's home, both without any supervision. The county has had to provide clothing, combs, toothbrushes, toothpaste, and other necessities for the children. The child-protection worker noted that T.C. is struggling behaviorally and is very confused by his circumstances, A.C. has been in foster care for

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<sup>4</sup> The district court found that "[i]t is in the children's best interests to be in a home that can meet their needs. Neither parent currently [has] the ability to meet the needs of the children, nor will they in the reasonably foreseeable future."

half of her life, and J.C. has not lived with mother for more than seven days. A case aide who started working with mother in June 2010 testified that visits between mother and the children were “chaotic” and “crazy,” with the children doing whatever they wanted and not listening to mother. The aide testified that mother often does not perceive danger from the children climbing furniture or running off and that the aide has intervened for the children’s safety because mother did not. The aide testified that mother’s behavior during visits with the children did not change over the years.

The district court’s best-interests findings, though minimal, plainly reflect what is overwhelmingly expressed in the record: mother is unable now or in the foreseeable future to meet the basic needs of her children, and it is in the best interest of each child to have those needs met. The district court’s findings recognize mother’s interest in preserving the parent-child relationship by acknowledging that mother loves and is attached to the children. But the district court found that this interest is outweighed by mother’s inability to “discharge[] [her] obligation to provide for the security and well-being of [her] children.” The interests of the child and the parent do not need to be given equal weight. *R.T.B.*, 492 N.W.2d at 4. We conclude that the district court did not abuse its discretion by finding that TPR is in the best interests of T.C., A.C., and J.C.

**Affirmed.**