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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-2262, A07-2263**

In the Matter of the Welfare of the Children of:  
M. E., J. B. and T. V., Parents.

**Filed July 1, 2008  
Affirmed  
Toussaint, Chief Judge**

Yellow Medicine County District Court  
File Nos. 87-JV-07-59, 87-JV-07-60, 87-JV-07-62

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Considered and decided by Peterson, Presiding Judge; Toussaint, Chief Judge; and Kalitowski, Judge.

## UNPUBLISHED OPINION

TOUSSAINT, Chief Judge

In this consolidated appeal, M.E. (mother) and J.B. (father) challenge the order terminating her parental rights to K.E., nine, I.B., seven, and Ja.B., four, and his parental rights to I.B. and Ja.B.<sup>1</sup> Because the district court's order is supported by clear and convincing evidence, we affirm.

### DECISION

On appeal in a termination-of-parental-rights decision, we must determine “whether the district court addressed the applicable statutory criteria, whether the court's findings were supported by substantial evidence, and whether the court's conclusions were clearly erroneous.” *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996). Considerable deference is given to the district court's decision “because a district court is in a superior position to assess the credibility of witnesses.” *Id.* The decision “will be affirmed as long as at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the child's best interests.” *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004).

#### 1. Termination of J.B.'s Parental Rights

J. B. challenges (1) the district court's finding that the Yellow Medicine County Family Service Center (YMCFSC) staff made reasonable efforts to correct the conditions leading to the children's out-of-home placement and that those efforts failed; (2) the

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<sup>1</sup>The order also terminated the parental rights of K.E.'s father, T.V., who does not challenge the termination.

finding that he has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed on him by the parent-child relationship; and (3) the conclusion that he is palpably unfit to parent his children.<sup>2</sup>

J.B. argues that the district court erred in concluding that YMCFSC made reasonable efforts to correct the conditions leading to the placement of the children and that those efforts failed. *See* Minn. Stat. § 260C.301, subd. 1(b)(5) (2006). J.B. argues that YMCFSC did not make reasonable efforts because, after an incident in which I.B. had a bloody lip that YMCFSC determined was a “non-accidental physical injury,” YMCFSC did not provide numerous additional services that could have assisted J.B. in his parenting. But YMCFSC continued to provide supervised visitation and in-home counseling and tried repeatedly to make contact with J.B. While the family liaison testified about other services that would have been helpful to J.B., she also testified that the services that had been provided were sufficient for him to parent the children. A county is required to make reasonable efforts, not extraordinary or exhaustive efforts. *See In re Welfare of S.Z.*, 547 N.W.2d 886, 892 (Minn. 1996) (requiring “reasonable efforts” depending on problem presented, but not services unlikely to “bring about lasting parental adjustment enabling the placement of [the child] with [the parent] within a reasonable period of time”). Further, J.B. does not assert that YMCFSC’s efforts actually *corrected* the conditions that led to the out-of-home placement. The district court’s

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<sup>2</sup> J.B. does not challenge the district court’s determination that the children were neglected and in foster care, which alone would support a termination of his parental rights. *See* Minn. Stat. § 260C.301, subd. 1(b)(8) (2006); *In re Children of T.A.A.*, 702 N.W.2d 703, 708 n.3 (Minn. 2005) (declining to address other statutory basis for terminating parental rights after affirming one statutory basis). In the interests of justice, we address J.B.’s challenges. *See* Minn. R. Civ. App. P. 103.04.

conclusion that YMCFSC made reasonable efforts to rehabilitate J.B. and that those efforts failed is supported by the record.

J.B. challenges the finding that he has substantially, continuously, and repeatedly refused or neglected to comply with the duties imposed on him by the parent-child relationship as defined in Minn. Stat. § 260C.301, subd. 1(b)(2) (2006). J.B. argues that he did not neglect his parental duties because he worked on his (1) chemical dependency, (2) parenting issues, and (3) mental health. But evidence supports the district court's conclusion that J.B.'s efforts were unsuccessful.

In July 2006, J.B. entered outpatient treatment, but he was discharged for repeated absences, for minimizing his chemical use, and for failing to take responsibility for his own behavior. In December 2006, he reentered outpatient treatment, which he successfully completed. But in May 2007, J.B. refused a drug test. In July 2007, J.B. was seen with a 12-pack of beer from which he was drinking. (Although J.B. denied this, the district court specifically found the witnesses who testified to it to be more credible than J.B.) Finally, on the last day of trial, J.B. admitted drinking alcohol the previous night; an Intoxilyzer test that morning indicated a .02 alcohol concentration.

J.B. also asserts that he worked on his parenting skills. But the district court concluded that J.B. failed to show significant progress in accepting and applying the information provided to him to improve his parenting skills because he did not bond with the children, did not provide a stable, safe home for them, and did not discipline them appropriately. J.B. does not specifically challenge any of the findings that support the district court's conclusion that he failed to parent adequately.

J.B. points to the testimony that he did fairly well with the children and that some supervised visits were positive. But that “the record might support findings other than those made by the district court does not show that the court’s findings are defective.” *Vangsness v. Vangsness*, 607 N.W.2d 468, 474 (Minn. App. 2000).

The district court found that J.B.’s anti-social personality disorder has caused instability in J.B.’s life resulting in frequent employment and residence changes that have damaged his children’s stability; that J.B.’s counseling attendance was erratic; that J.B. would not take his prescribed anti-depressant medication; and that J.B. has completed only a portion of dialectical behavioral therapy. J.B. does not challenge these findings. While J.B. asserts he met with several mental health professionals, this does not render the district court’s findings defective. *Id.*

The district court’s conclusion that J.B. neglected to comply with his parental duties is supported by the record.

[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 either of 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.

Minn. Stat. § 260C.301, subd. 1(b)(4) (2006). Based on its findings, the district court concluded that, for the reasonably foreseeable future, J.B. is unlikely to resolve his serious substance-abuse problem or abstain from alcohol; J.B.’s anti-social personality disorder will adversely affect his ability to control his actions toward the children and to parent or discipline them appropriately; J.B. is unlikely to cooperate with counseling and

therapy aimed at addressing his anti-social personality disorder; and J.B. will be unable to acquire and apply the parenting skills necessary to treat the serious and long-lasting diagnosed needs of the children.

Evidence supports the district court's conclusion that J.B. is palpably unfit to be a parent.

## 2. Termination of M.E.'s Parental Rights

M.E. challenges the district court's conclusions that YMCFSC made reasonable efforts, that her chemical use is likely to resume, and that her mental disability prevents her from adequately parenting her children for the reasonably foreseeable future.

The district court found that multiple services were provided by YMCFSC to M.E. throughout her case to correct the conditions that led to the out-of-home placement. M.E. does not dispute that these services were provided to her, but instead argues that, after her third chemical-dependency treatment failure, the county "wrote her off" and did not attempt to reunite M.E. with her children. But the evidence shows that she attended individual counseling with a licensed psychologist and attended family therapy at the request of YMCFSC after her third treatment. The district court's conclusion that YMCFSC made reasonable efforts to correct the conditions that led to out-of-home placement is supported by the record.

M.E. challenges the district court's conclusion that she is likely to resume chemical use.<sup>3</sup> But the conclusion that M.E. is likely to relapse is supported by the

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<sup>3</sup> M.E. makes this argument in regard to the district court's determinations that (1) she failed to comply with duties imposed on her by the parent-child relationship, (2) she is palpably unfit to be a parent, (3) she failed to correct the conditions leading to the

record, and the district court's focus on the future as well as the present was appropriate. *See S.Z.*, 547 N.W.2d at 893 (rather than relying primarily on past history in terminating parental rights, district court relies "to a great extent upon the projected permanency of the parent's inability to care for his or her child").

Testimony showed that M.E. has a history of serious substance abuse, including use of alcohol, marijuana, Percocet, morphine, and methamphetamine. M.E. testified that prior to the children's placement she was using marijuana on a daily basis. At the time of trial, M.E. had not successfully completed a chemical-dependency treatment program despite three attempts. She testified that she no longer has a sponsor and attends A.A. only when she can. A counselor at the treatment facility from which M.E. was discharged for not complying with the rules testified that a "person that doesn't follow the rules and expectations doesn't have a high success rate when they leave treatment because . . . following the aftercare, the meetings, the sponsor, the 12 step program is really hard." The record supports the conclusion that M.E. is likely to resume using chemicals.

When a mental disability precludes a parent from providing proper parental care, the statutory requirement for termination has been met. *In re Welfare of J.J.B.*, 390 N.W.2d 274, 281 (Minn. 1986). M.E. has been diagnosed with borderline personality disorder. The district court found that M.E. "has only in the last few months regularly engaged in [individual counseling and dialectical behavioral therapy], which require

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children's out-of-home placement, and (4) the children are neglected and in foster care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (4), (5), (8). M.E. does not challenge the district court's other bases for these determinations.

much longer than a foreseeable period to begin to change her ingrained personality defects.” M.E. does not challenge the district court’s finding that treatment of her disorder would require much longer than a foreseeable period.

The district court’s conclusion that M.E.’s borderline personality disorder will affect her ability to parent was supported by testimony from a doctor who evaluated her parental capacity:

[M.E.], more than likely, will not be able to deal with her distorted thinking in the foreseeable future to a significant degree. Therefore, parenting classes and gaining empathy for her children in order to make better decisions on their behalf will more than likely not be highly effective for a few years into the future, even if she is willing to engage in the intensive treatment required to help her change her distorted thinking.

Other testimony indicated that there is no medication to cure the symptoms of borderline personality disorder. The district court’s conclusion that M.E.’s mental disability prevents her from providing parental care is supported by the record.

### 3. Best Interests of the Children

In any termination proceeding, “the best interests of the child must be the paramount consideration.” Minn. Stat. § 260C.301, subd. 7 (2006). Evaluating a child’s best interests requires the district court to balance the child’s interest in preserving the parent-child relationship, the parent’s interest in preserving that relationship, and any competing interests of the child, including the child’s health needs, preferences, and need for a stable environment. *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). “Where the interests of parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7.

Both J.B. and M.E. contend that their children will be better off with them because they love their children. The district court recognized that J.B. and M.E. have demonstrated affection for the children but determined that J.B.'s chemical abuse, personality disorder, and lack of parenting skills are detrimental to the children's best interests, as are M.E.'s unwillingness to place the children's safety before her needs, lack of parenting skills, borderline personality disorder, and history of chemical abuse. The record supports these determinations.

Further, K.E. was diagnosed with adjustment disorder with anxiety and depression; I.B. was diagnosed with post-traumatic stress disorder and adjustment disorder with anxiety and depressed mood; and Ja.B. was diagnosed with reactive attachment disorder. The district court found that, due to the children's special needs, they require "a dedicated adult care-giver who is consistent and predictable" and that M.E. and J.B. "are unable or unwilling to provide their necessary care." This finding is supported by the evidence.

The district court's conclusion that termination of M.E.'s and J.B.'s parental rights is in the best interests of the children is supported by clear and convincing evidence.<sup>4</sup>

**Affirmed.**

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<sup>4</sup> Because we are affirming the termination of parental rights, we need not reach J.B.'s argument that the district court erred in denying custody of K.E. to J.B.