STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0173

In the Matter of the Welfare of the Child of: A. D. P. and J. G. P., Parents.

Filed July 1, 2013
Affirmed
Kalitowski, Judge

Sherburne County District Court
File Nos. 71-JV-12-335, 71-JV-11-717

Carol Weissenborn, Minneapolis, Minnesota (for appellant A.D.P.)

Cathleen Gabriel, Annandale, Minnesota (for respondent J.G.P.)

Kathleen Heaney, Sherburne County Attorney, Tracy J. Harris, Timothy A. Sime, Assistant County Attorneys, Elk River, Minnesota (for respondent Sherburne County)

Jennifer Keena, Monticello, Minnesota (guardian ad litem)

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

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

KALITOWSKI, Judge

Appellant A.D.P. challenges the district court's order terminating her parental rights to R.D.K. Appellant argues that the evidence does not support any statutory

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

ground for termination and that termination of her parental rights is not in R.D.K.'s best interests. We affirm.

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, 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). When at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the child's best interests, we affirm the district court's termination of parental rights. *Id.* We review the district court's determination that the statutory requirements for termination have been established by clear and convincing evidence for an abuse of discretion. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 900-01, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

I.

The district court may terminate all rights of a parent to a child when it finds the following:

> that 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) (2012). "Although mental illness, in and of itself, is not a statutory ground for the termination of parental rights, the effect of mental illness on the parent's conduct may indeed meet the statutory criteria." *In re Welfare of J.J.B.*, 390 N.W.2d 274, 281 (Minn. 1986). "If a parent's behavior is likely to be detrimental to the children's physical or mental health or morals, the parent can be found palpably unfit and have his parental rights terminated." *In re Children of Vasquez*, 658 N.W.2d 249, 255 (Minn. App. 2003).

Appellant argues that the district court abused its discretion by finding her palpably unfit to be a party to the parent and child relationship. We disagree.

Appellant's mental-health issues and substance abuse render her unable to provide for R.D.K. for the reasonably foreseeable future. Although mental illness alone is not a statutory ground for the termination of parental rights, appellant acknowledged at trial that her chemical dependency and mental health affected her parenting. And appellant was still experiencing mental-health issues at the time of trial: Dr. Brunetti testified that appellant displays symptoms of borderline personality disorder, which is evidenced by her "lack of stability" in managing her mood swings and anger. Dr. Brunetti also diagnosed appellant with posttraumatic stress disorder, major-depressive disorder, and poly-substance dependence. Moreover, a social worker testified that appellant's "mental-health concerns make it very difficult for her to meet the ongoing mental-health concerns of her daughter [R.D.K.]."

Appellant argues that the district court abused its discretion because its findings do not address the conditions that existed at the time of trial. But the district court

recognized appellant's recent ability to comply with her case plan and concluded that appellant's recent efforts had not demonstrated authentic change:

> Her recent compliance is a small fraction of the time she had afforded to her to work toward reunification. Minimal compliance is insufficient to overcome her lengthy track record of noncompliance and drug dependence. The mother has had a significant inability to meet her own health, financial, housing needs; the court acknowledges that the child is in need of a stable full-time caregiver [and] is unconvinced that the mother is able to fill this role.

Thus, the district court recognized appellant's recent improvements but concluded that they did not negate appellant's pattern as a palpably unfit parent. We conclude that this is not an abuse of discretion. *See In re Welfare of Child of T.D.*, 731 N.W.2d 548, 556 (Minn. App. 2007) (concluding that showing some improvement is insufficient to show parental fitness).

In addition, although appellant was in outpatient treatment at the time of trial, she was not participating in an inpatient-treatment program recommended by a Rule 25 assessment, as was required of her by the court-ordered case plan. Thus, the evidence supports the district court's conclusion that appellant is palpably unfit to be a party to the parent-child relationship.

The district court also found that three other statutory grounds for termination existed: (1) appellant substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon her by the parent and child relationship; (2) despite reasonable efforts, appellant failed to correct the conditions that lead to R.D.K.'s out-of-home placement; and (3) R.D.K. was neglected and in foster care. But because we

conclude that the district court did not err in finding appellant palpably unfit, and because only one statutory ground is required for termination, we need not address these alternative grounds.

II.

In proceedings to terminate parental rights, the best interests of the child are the paramount consideration. Minn. Stat. § 260C.301, subd. 7 (2012); *J.R.B.*, 805 N.W.2d at 902. We review the district court's ultimate determination that termination is in a child's best interests for an abuse of discretion. *J.R.B.*, 805 N.W.2d at 905.

"In analyzing the best interests of the child, the court must balance three factors: (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 interest of the child." *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). Competing interests of the child include "a stable environment, health considerations[,] and the child's preferences." *Id.* The interests of the parent and the child need not be given equal weight. *Id.* The law "leaves scant if any room for an appellate court to question the district court's balancing of best-interests considerations." *In re Child of Evenson*, 729 N.W.2d 632, 635 (Minn. App. 2007) (quotation omitted), *review denied* (Minn. June 19, 2007).

Appellant argues that the district court abused its discretion in determining that terminating appellant's parental rights was in R.D.K's best interests. We disagree.

In a well-reasoned order, the district court analyzed and weighed the best-interest factors:

> The child has a relationship with the mother and seems to enjoy their visits; however, the child's needs exceed the mother's abilities to care for her. The child requires a highly committed and insightful caregiver who can provide her with structure, consistency, and nurturing. The child's current attachment behaviors with strangers are concerning and put the child at risk for victimization. The mother's interest in preserving the parent-child relationship is unclear from her lack of motivation toward reunification until after the permanency deadline. The child's interests in having a stable caregiver who can devote the time and effort required to meet her substantial needs outweigh the mother's interests in preserving the relationship.
>
> The court is mindful of the mother's expressed desire to fulfill her responsibilities as the child's mother; however, the mother's recent attempts to develop the ability to assume these responsibilities, in view of the child's special needs and the prolonged length of time the mother will need to develop appropriate parenting skills and coping skills, the child's needs for an attentive caregiver, safety, stability, and permanency outweigh the interest of the mother. Therefore, the mother's interest in preserving the parent-child relationship is outweighed by the child's best interests to sever this relationship for the reasons stated herein.

Thus, the district court weighed appellant's and R.D.K's interests and concluded that R.D.K's competing interests of needing an attentive caregiver, safety, stability, and permanency outweighed any interest either appellant or R.D.K. had in maintaining the parent-child relationship. We conclude that the district court did not abuse its discretion in determining that it was in R.D.K.'s best interests to terminate appellant's parental rights.

Affirmed.