

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO K.M.W., A MINOR.

No. 83038

JAYLEEN B.,

Appellant,

vs.

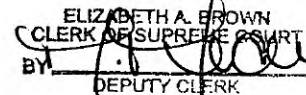
STATE OF NEVADA DEPARTMENT
OF FAMILY SERVICES; AND K.M.W.,

A MINOR,

Respondents.

FILED

MAR 09 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This appeal challenges a district court order terminating parental rights. Eighth Judicial District Court, Clark County; Cynthia N. Giuliani, Judge. Appellant Jayleen B. is the natural mother of respondent minor child K.M.W. Jayleen pleaded no contest to an amended abuse and neglect petition and the district court later granted respondent Department of Family Service's petition to terminate Jayleen's parental rights. Having considered Jayleen's arguments and the record on appeal, we affirm.

To terminate parental rights, the district court must find clear and convincing evidence that (1) at least one ground of parental fault exists, and (2) termination is in the child's best interest. NRS 128.105(1); *In re Termination of Parental Rights as to N.J.*, 116 Nev. 790, 800-01, 8 P.3d 126, 132-33 (2000). On appeal, this court reviews questions of law de novo and the district court's factual findings for substantial evidence. *In re Parental Rights as to A.L.*, 130 Nev. 914, 918, 337 P.3d 758, 761 (2014). Substantial evidence is that which "a reasonable person may accept as adequate" to support a conclusion. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007).

The district court found multiple grounds of parental fault: neglect, unfitness, and failure of parental adjustment, NRS 128.105(1)(b)(2)-(1)(b)(4) (listing grounds of parental fault), and token efforts to care for K.M.W. based on K.M.W. being out of Jayleen's care for 24 consecutive months, NRS 128.109(1)(a) (providing that if a child has been placed outside the parent's home for 14 of 20 consecutive months it is presumed the parent has only engaged in token efforts to care for the child); NRS 128.105(1)(b)(6) (listing token efforts as a parental fault ground). As to the neglect and unfitness findings, Jayleen argues that DFS failed to prove those grounds by clear and convincing evidence. She argues that the only basis for finding neglect and unfitness was her purported "[e]motional illness, mental illness or mental deficiency" rendering her unable to consistently care for K.M.W. NRS 128.106(1)(a) (providing considerations for district courts to determine parental neglect or unfitness). And she asserts that the record shows that she managed her mental health issues such that she could meet K.M.W.'s basic needs.

The record on appeal provides substantial evidence in support of the district court's neglect and unfitness findings.¹ K.M.W. was initially removed from Jayleen's care when K.M.W. was injured in a car accident caused by Jayleen falling asleep while driving. Testimony showed that while K.M.W. was placed outside Jayleen's care, Jayleen created considerable issues with and acted erratically toward K.M.W.'s placement. For example, Jayleen became upset during a visit with K.M.W. and grabbed K.M.W. in a manner that scared the child, who thereafter was unwilling to

¹Because only one parental-fault ground is required, we need not discuss the district court's other findings of parental fault or Jayleen's challenges to them. See NRS 128.105(1)(b).

engage with Jayleen in person. Although K.M.W. was willing to exchange letters with Jayleen, Jayleen declined to do so. Jayleen also inconsistently worked on her DFS case plan and failed to prove that she attended the recommended therapy to address the mental health issues underlying K.W.M.'s removal. This evidence shows that Jayleen's mental health issues resulted in neglect and unfitness as they "render[ed her] consistently unable to care for [K.M.W.'s] immediate and continuing physical or psychological needs . . . for extended periods of time." NRS 128.106(1)(a).

Substantial evidence also supports the district court's finding that terminating Jayleen's parental rights was in K.M.W.'s best interest. *See* NRS 128.105(1) ("The primary consideration in any [termination proceeding is] whether the best interests of the child will be served by the termination."). Testimony from K.M.W.'s therapist, DFS employees, and K.M.W.'s placement demonstrated that he had bonded with his placement, that his food insecurity and anxiety issues had improved while with the placement, and that he expressed a desire to remain with the placement. *See* NRS 128.107 (providing considerations for the district court in determining whether to terminate parental rights when the parent does not have physical custody of the child); NRS 128.108 (outlining considerations for the district court when the child has been with a placement that is seeking to adopt the child). Moreover, Jayleen failed to rebut the presumption that termination of her parental rights was in K.M.W.'s best interest when he had been out of her care for 24 consecutive months.² *See* NRS 128.109(2). Although K.M.W. refused to meet with Jayleen in person

²While she testified that she attempted to comply with DFS's case plan, she failed to provide evidence of regular therapy as required by that plan.

