

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO: D.J.P., MINOR.

No. 84842

DUSTIN P.,
Appellant,
vs.
CLARK COUNTY DEPARTMENT OF
FAMILY SERVICES; D.J.P., MINOR,
Respondent.

FILED

JUN 16 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order terminating appellant's parental rights. Eighth Judicial District Court, Clark County; Cynthia N. Giuliani, Judge.¹

Respondent Clark County Department of Family Services (DFS) removed the subject minor, D.J.P., from his home along with his three older siblings in March 2020 due to domestic violence and substance abuse.² DFS placed D.J.P. with his maternal grandparents and developed a case plan requiring his father, appellant Dustin P., to address his domestic violence and substance use issues. After nearly two years during which Dustin made minimal progress on his case plan, the district court conducted

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

²The parental rights as to D.J.P.'s siblings are not at issue in this appeal, and we note that D.J.P.'s mother voluntarily relinquished her parental rights to D.J.P. in the underlying proceedings.

a trial and granted DFS's motion to terminate Dustin's parental rights as to D.J.P.³

To terminate parental rights, the district court must find by 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).

Because D.J.P. was placed out of Dustin's care for 21 consecutive months at the time of the termination hearing, the district court properly applied the statutory presumptions that terminating Dustin's parental rights was in D.J.P.'s best interest, *see* NRS 128.109(2) (providing that, when the child has been outside of his home for 14 of any 20 consecutive months, it is presumed that termination is in the child's best interest), and that Dustin had only made token efforts to avoid being an unfit parent and to care for D.J.P., *see* NRS 128.109(1)(a) (creating a rebuttable presumption that the parent has "demonstrated only token

³We reject DFS's contention that Dustin's appeal should be dismissed as untimely. The notice of entry of the termination order was served on April 25, 2022, and the record reflects that the district court clerk received Dustin's notice of appeal on May 23, 2022, within NRAP 4(a)(1)'s time to appeal. *See also Kellogg v. Journal Commc'ns*, 108 Nev. 474, 477, 835 P.2d 12, 13 (1992) (providing that an appeal is deemed "filed" by an inmate when it is delivered to a prison official).

efforts to care for the child” where the child has been out of the family home for 14 of any 20 consecutive months). The court also properly applied the presumption that Dustin evinced a lack of parental adjustment by failing to substantially comply with the terms of his case plan within six months. See NRS 128.109(1)(b) (“If the parent . . . fail[s] to comply substantially with the terms and conditions of a plan to reunite the family within 6 months [after removal], that failure to comply is evidence of failure of parental adjustment.”). And, because Dustin did not present any evidence at the termination hearing, we agree with the district court that Dustin failed to overcome those presumptions. We also reject Dustin’s claim that the district court proceedings deprived him of his due process rights as he received notice of the allegations against him and of all the hearings, had an opportunity to be heard, and was represented by counsel throughout the proceedings. See *In re Parental Rights as to N.D.O.*, 121 Nev. 379, 382, 115 P.3d 223, 225 (2005) (listing the general requirements for due process in parental rights termination proceedings).

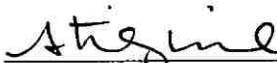
We also conclude that substantial evidence supports the district court’s finding that Dustin is an unfit parent.⁴ See NRS 128.018 (defining an “unfit parent” as one who “by reason of the parent’s fault or habit . . . fails to provide [their] child with proper care, guidance and support”). Dustin admitted to his continued drug use and failed to engage in treatment to address it despite multiple referrals from DFS. See NRS 128.106(1)(d) (listing factors the district court must consider when determining parental unfitness, including the “[e]xcessive use of

⁴Because only one ground of parental fault is needed to support the termination of parental rights, see NRS 128.105(1)(b), we need not address the additional parental fault grounds found by the district court.


intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child”); (h) (providing that DFS’s “inability . . . to reunite the family despite reasonable efforts” may be considered when determining parental unfitness).

Finally, we conclude that substantial evidence supports the district court’s finding that terminating Dustin’s parental rights is in D.J.P.’s best interest regardless of whether any statutory presumptions apply. *See In re N.J.*, 116 Nev. at 799, 8 P.3d at 132 (“[I]n all termination of parental rights proceedings, the best interests of the child must be the primary consideration.”). D.J.P. has been living with his grandparents for most of his life, is thriving in their care, is fully integrated into the family, and his grandparents are committed to adopting him. *See* NRS 128.108 (listing considerations for the court in termination proceedings where the child has been placed in a foster home who is willing to adopt the child). Based upon the foregoing, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

cc: Hon. Cynthia N. Giuliani, District Judge
The Grigsby Law Group
Clark County District Attorney/Civil Division
Legal Aid Center of Southern Nevada, Inc.
Eighth District Court Clerk