IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF PARENTAL RIGHTS AS TO K.G., A MINOR CHILD

CRYSTAL T.,
Appellant,
vs.
WASHOE COUNTY DEPARTMENT OF SOCIAL SERVICES; AND K.G.,
Respondents.

No. 86707

FILED

FEB 22 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This appeal challenges a district court order terminating parental rights. Second Judicial District Court, Family Division, Washoe County; Paige Dollinger, Judge.[1]

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).

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

24-06408

We conclude that substantial evidence supports the district court's parental fault finding of failure of parental adjustment.[2] *See* NRS 128.105(1)(b)(4) (listing a failure of parental adjustment as an appropriate basis for terminating parental rights). The district court found, and appellant Crystal T.'s testimony at trial supports, that Crystal failed to comply substantially with the terms and conditions of the "plan to reunite the family within 6 months after the date on which [the child] was placed or the plan was commenced," which serves as evidence of a failure of parental adjustment. NRS 128.109(1)(b).

Crystal's own testimony supports the district court's finding that she failed to comply with her case plan. For example, Crystal admitted to not engaging in substance abuse or mental health services despite being diagnosed with multiple mental health conditions and to discontinuing medication against a doctor's recommendations. Further, while Crystal claimed at trial to be living in a new apartment, Crystal also testified to residing in numerous different locations including a car and motels since the child's removal. As to the new apartment, Crystal was unable to produce a lease or proof of payment and had yet to permit WCDSS to assess the residence. Thus, Crystal's own testimony reflects that Crystal failed to comply substantially with the case plan by failing to utilize "healthy coping skills to manage daily life stressors;" and meet K.G.'s basic and safety needs by obtaining "suitable, sustainable housing."

---

[2]We need not address the district court's other findings of parental fault because even one ground of parental fault is sufficient to support the termination of parental rights. *See* NRS 128.105(1)(b) (requiring a finding of at least one ground of parental fault).

Crystal argues that reversal is nevertheless warranted because the district court abused its discretion by admitting the case file notes maintained by WCDSS, which contained inadmissible hearsay within hearsay. Although some of those notes were admissible under the business records exception, *see* NRS 51.135 (providing that records of regularly conducted activity are admissible as an exception to the hearsay rule), not all of them fell within that exception, *see Miranda v. State*, 101 Nev. 562, 566, 707 P.2d 1121, 1124 (1985) (addressing the business records exception in the context of police reports and holding that a party cannot use the business exception rule "to introduce into evidence the actual contents of an out-of-court statement given to police by a witness to a crime concerning the events of the crime itself"), *overruled on other grounds as recognized in Bejarano v. State*, 122 Nev. 1066, 146 P.3d 265 (2006). We thus conclude that the district court abused its discretion by admitting the entire file and placing the burden on Crystal to determine which parts of the file were not admissible under the business-records exception and then object. *See M.C. Multi-Fam. Dev., L.L.C. v. Crestdale Assocs., Ltd.*, 124 Nev. 901, 913, 193 P.3d 536, 544 (2008) (reviewing a district court's decision to admit or exclude evidence for abuse of discretion). However, any error in admitting hearsay through those notes does not warrant reversal because Crystal's testimony, outside of those notes, supports the district court's findings. *See* NRCP 61 ("Unless justice requires otherwise, no error in admitting or excluding evidence . . . is ground for . . . disturbing a judgment or order. At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights.").

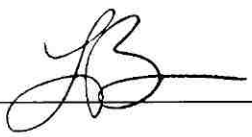
Crystal does not challenge the district court's finding that termination of parental rights was in K.G.'s best interest. Nevertheless, we

conclude that substantial evidence supports the district court's best interest findings. *See* NRS 128.105(1) (providing that the primary consideration for determining whether termination of parental rights is warranted is the best interests of the child). K.G. resided with foster parents for approximately twenty-nine of the last thirty-two consecutive months. *See* NRS 128.109(2) (providing that termination of parental rights is presumed in the child's best interest when they have been outside the parent's care for 14 of any 20 consecutive months). Moreover, the record supports the district court's finding that K.G. is thriving in foster care and prefers to stay with the foster parents. The foster parents are able to provide for all K.G.'s needs, including food, clothing, shelter, and her specialized medical, educational, and therapeutic needs. *See* NRS 128.005(2)(c) ("The continuing needs of a child for proper physical, mental and emotional growth and development are the decisive considerations in proceedings for termination of parental rights."). Substantial evidence therefore supports the district court's finding that Crystal failed to rebut the presumption that termination of parental rights is in K.G.'s best interest. We therefore

ORDER the judgment of the district court AFFIRMED.

_____, J.
Herndon

_____, J.
Lee



_____, J.
Bell

cc: Hon. Paige Dollinger, District Judge, Family Division
Washoe County Public Defender
Northern Nevada Legal Aid/Reno
Washoe County District Attorney
Washoe District Court Clerk