IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL RIGHTS AS TO D.E., III AND M.E., MINORS UNDER 18 YEARS OF AGE DAVID E., Appellant, vs. CLARK COUNTY DEPARTMENT OF FAMILY SERVICES; D.E., III; AND M.E., MINORS UNDER 18 YEARS OF AGE, Respondents.	No. 85350
IN THE MATTER OF THE PARENTAL RIGHTS AS TO D.E., III AND M.E., MINORS UNDER 18 YEARS OF AGE AHSLEIGH A., Appellant, vs. CLARK COUNTY DEPARTMENT OF FAMILY SERVICES; D.E., III; AND M.E., MINORS UNDER 18 YEARS OF AGE, Respondents.	No. 85430

FILED

APR 19 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from a district court order terminating appellants' parental rights as to one of their minor children, respondent M.E. Eighth Judicial District Court, Family Division, Clark County; Stephanie Charter, Judge.

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);

24-13801

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).

Appellants David and Ashleigh argue that substantial evidence does not support the district court's findings of parental fault. We disagree.

Substantial evidence supports the district court's finding of parental fault based on failure to adjust. NRS 128.105(1)(b)(4) (providing that failure of parental adjustment serves as a ground for parental fault). The district court properly applied the statutory presumption that David and Ashleigh failed to substantially comply with the terms of their case plans within six months and substantial evidence in the record supports the finding that David and Ashleigh did not rebut that presumption. NRS 128.109(1)(b) (creating a rebuttable presumption that "failure to comply is evidence of failure of parental adjustment"). The record demonstrates Ashleigh and David made minimal progress toward their case plans, specifically as to the goals of refraining from domestic violence and attending to M.E.'s personal needs, with both failing to move past supervised visitation. Thus, even outside of the presumption, substantial evidence supports the district court's finding that DFS proved this parental fault ground by clear and convincing evidence. *See* NRS 128.0126 (defining failure of parental adjustment as a parent's inability or unwillingness within a reasonable time to substantially correct the circumstances, conduct or conditions that led to the placement of the child outside of the home).

Because 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. Further, because we are not addressing the parental-fault ground concerning the waiver of reasonable efforts, we need not address David's and Ashleigh's arguments that are specific to that ground as those arguments would not warrant a different result here. With respect to the serious-risk-of-harm parental fault determination, however, we note that the district court erred in applying the presumption set forth in NRS 432B.555. In particular, by its plain language, that statute applies only to "proceeding[s] held pursuant to NRS 432B.410 to 432B.590," which does not include proceedings to terminate parental rights pursuant to NRS 432B.5901 to 432B.5908.[1]

Ashleigh also argues that the district court proceedings deprived her of her due process rights. We disagree, given that she received notice of the allegations against her and at all the hearings, she had an opportunity to be heard and was even represented by counsel. *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).

---

[1]Ashleigh contends the district court erred by finding that the parents needed to request evidentiary hearings to address a statutory presumption and in-home unsupervised visits with or placement of M.E. The district court's order states that the parents did not request these evidentiary hearings, but the district court did not base its parental-findings on those omissions. And substantial evidence otherwise supports the district court findings. We therefore conclude these arguments do not warrant relief.

Finally, David and Ashleigh argue that substantial evidence does not support the district court's finding that terminating their parental rights is in M.E.'s best interest. We disagree. *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."). The district court properly applied the statutory presumptions that terminating Ashleigh's and David's parental rights was in M.E.'s best interest because M.E. had been out of their care for 36 consecutive months at the time of the termination hearing. *See* NRS 128.109(2) (providing that, when the child has been outside of the parent's home for 14 of any 20 consecutive months, it is presumed that termination is in the child's best interest). Neither David nor Ashleigh rebutted this presumption. And the best interest factors weighed in favor of terminating their parental rights. In particular, the district court considered M.E.'s relationship with her sibling and the impact that terminating David's and Ashleigh's parental rights to M.E. could have on that relationship. Ultimately, the district court determined that a separate placement was in M.E.'s best interest and that the sibling relationship could be fostered in a therapeutic setting. The record supports that determination. And as the district court recognized, M.E. has been living with the foster mother for most of her life, is thriving in the foster mother's care, is fully integrated into the foster family, and the foster mother is committed to adopting M.E. *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.

_____, J.
Herndon

_____, J.
Lee

_____, J.
Bell

cc: Hon. Stephanie Charter, District Judge, Family Division
The Grigsby Law Group
Lewis Roca Rothgerber Christie LLP/Las Vegas
Clark County District Attorney/Juvenile Division
Legal Aid Center of Southern Nevada, Inc.
Eighth District Court Clerk
The Law Offices of Frank J. Toti, Esq.