


1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **STATE OF NEW MEXICO ex rel.**
3 **CHILDREN, YOUTH & FAMILIES**
4 **DEPARTMENT,**

Court of Appeals of New Mexico
Filed 5/30/2024 9:54 AM



Ramon J. Maestas
Chief Clerk

5 Petitioner-Appellee,

6 v.

No. A-1-CA-41615

7 **VICTORIA E.,**

8 Respondent-Appellant,

9 and

10 **ANTHONY G.,**

11 Respondent.

12 **IN THE MATTER OF N.G., J.G., and Z.G.,**

13 Children.

14 **APPEAL FROM THE DISTRICT COURT OF VALENCIA COUNTY**

15 **Allen R. Smith, District Court Judge**

16 Children, Youth & Families Department

17 Mary E. McQueeny, Chief Children's Court Attorney

18 Santa Fe, NM

19 Kelly P. O'Neill, Children's Court Attorney

20 Albuquerque, NM

21 for Appellee

22 Susan C. Baker

23 El Prado, NM

24 for Appellant

1 Law Office of Shasta N. Inman, LLC
2 Shasta N. Inman
3 Albuquerque, NM

4 Guardian Ad Litem

5 **MEMORANDUM OPINION**

6 **DUFFY, Judge.**

7 {1} Appellant Victoria E. (Mother) appeals from the district court's termination
8 of her parental rights as to N.G., J.G., and Z.G. (Children). We issued a calendar
9 notice proposing to affirm. Mother has filed a memorandum in opposition, which
10 we have duly considered. Unpersuaded, we affirm.

11 {2} Our notice proposed to affirm based on our suggestion that there was
12 sufficient evidence to support the district court's termination of Mother's parental
13 rights, particularly as to whether the Children, Youth and Families Department
14 (CYFD) made reasonable efforts to assist Mother in adjusting the conditions that
15 rendered her unable to properly care for Children. [CN 5] In her memorandum in
16 opposition, Mother continues to assert that CYFD failed to establish by clear and
17 convincing evidence that termination of Mother's parental rights was warranted, but
18 now suggests the evidence does not support a conclusion that the conditions and
19 causes of neglect are unlikely to change in the foreseeable future.¹ [MIO 10-11]

¹We note that Mother has abandoned the ineffective assistance of counsel issue presented in the docketing statement. [MIO 10] *See Taylor v. Van Winkle's IGA Farmer's Mkt.*, 1996-NMCA-111, ¶ 5, 122 N.M. 486, 927 P.2d 41 (recognizing

1 {3} Termination of parental rights is appropriate when
2 the child has been a neglected or abused child as defined in the Abuse
3 and Neglect Act and the court finds that the conditions and causes of
4 the neglect and abuse are unlikely to change in the foreseeable future
5 despite reasonable efforts by the department or other appropriate
6 agency to assist the parent in adjusting the conditions that render the
7 parent unable to properly care for the child.

8 NMSA 1978, § 32A-4-28(B)(2) (2005, amended 2022). “This Court will uphold the
9 termination if, viewing the evidence in the light most favorable to the judgment, a
10 fact finder could properly determine that the clear and convincing standard was
11 met.” *State ex rel. Child., Youth & Fams. Dep’t v. Tammy S.*, 1999-NMCA-009,
12 ¶ 13, 126 N.M. 664, 974 P.2d 158 (“It is [CYFD’s] burden to prove the statutory
13 grounds for termination by clear and convincing evidence.”).

14 {4} The district court required that, as part of her case plan in this case, Mother
15 maintain a “safe and stable home that is drug free and hazard free,” in part, by
16 addressing her problems with substance abuse. [MIO 5; 1 RP 154] Mother struggled
17 with substance abuse issues throughout this case, with CYFD expressing concerns
18 regarding Mother’s sobriety as early as March 2021, and Mother relapsing on
19 methamphetamine shortly thereafter. [MIO 7-8] Approximately a year later in May
20 2022, the district court took note of Mother’s continued struggles with substance
21 abuse issues and in November 2022, stated that Mother’s struggles with substance

that issues raised in a docketing statement, but not contested in a memorandum in
opposition are abandoned).

1 abuse were negatively affecting her ability to work her case plan and make progress
2 toward reunification. [MIO 9; 4 RP 865] Following the termination hearings in July
3 and September 2023, the district court determined that the conditions and causes of
4 the neglect for which Children came into CYFD custody were unlikely to change in
5 the foreseeable future. [5 RP 1059] During the approximately four years that
6 Children were in CYFD custody, Mother made “minimal progress, if any” with
7 regard to her substance abuse and “demonstrated a continued lack of sobriety, as
8 well as a lack of housing for [C]hildren.” [5 RP 1061; MIO 9] Moreover, although
9 Mother did complete a housing application just prior to the termination of her
10 parental rights, the waitlists for housing rendered the district court unable to
11 conclude that appropriate housing would be available any time in the near future. [5
12 RP 1044, 1061]

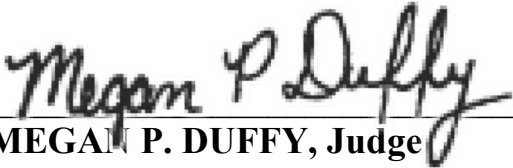
13 {5} Despite her inability to provide Children with a stable and drug-free home due
14 to her ongoing addiction to illicit substances, Mother asserts that, “given her long
15 history of substance abuse, occasional relapses should not be grounds for terminating
16 her parental rights,” and she asks for “another year to focus on healing her prior
17 addiction to illicit substances.” [MIO 11] Mother states that she believes she would
18 be successful in addressing substance abuse under the treatment plan if given the
19 opportunity to “continue working with inpatient programs, followed by intensive
20 outpatient services.” [MIO 12] We note, however, that “the [district] court is not

1 required to place [C]hildren indefinitely in a legal holding pattern, when doing so
2 would be detrimental to [C]hildren’s best interests,” and the district court determined
3 that it is in Children’s best interests to terminate Mother’s parental rights. [5 RP
4 1063-64] *See State ex rel. Human Servs. Dep’t v. Dennis S.*, 1989-NMCA-032, ¶ 7,
5 108 N.M. 486, 775 P.2d 252; *see also State ex rel. Child., Youth & Fams. Dep’t v.*
6 *Mafin M.*, 2003-NMSC-015, ¶ 24, 133 N.M. 827, 70 P.3d 1266 (“Because it is
7 important for children to have permanency and stability in their lives, termination
8 proceedings should not continue indefinitely.”). Furthermore, “[p]arents do not have
9 an unlimited time to rehabilitate and reunite with their children.” *State ex rel. Child.,*
10 *Youth & Fams. Dep’t v. Browind C.*, 2007-NMCA-023, ¶ 40, 141 N.M. 166, 152
11 P.3d 153 (internal quotation marks and citation omitted)).

12 {6} Accordingly, we conclude that the evidence in this case is sufficient to support
13 the district court’s conclusion that Mother continuously failed to address the
14 conditions and causes that brought Children into custody and that there was no
15 indication Mother would change her circumstances in the foreseeable future. [5 RP
16 1061] *See State ex rel. Child., Youth & Fams. Dep’t v. Keon H.*, 2018-NMSC-033,
17 ¶ 53, 421 P.3d 814 (concluding substantial evidence supported the district court’s
18 findings that the causes of neglect and abuse were unlikely to change in the
19 foreseeable future where the parent failed to perform the requirements of a treatment


1 plan for two years). For the reasons stated in our notice of proposed disposition and
2 herein, we affirm.

3 {7} **IT IS SO ORDERED.**

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5 _____
MEGAN P. DUFFY, Judge

6 **WE CONCUR:**

7 
8 _____
SHAMMARA H. HENDERSON, Judge

9 
10 _____
KATHERINE A. WRAY, Judge