

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

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

Court of Appeals of New Mexico
Filed 5/31/2024 10:50 AM


Ramon J. Maestas
Chief Clerk

Petitioner-Appellee,

v.

No. A-1-CA-41651

DEBRAROSE C.,

Respondent-Appellant,

and

**IN THE MATTER OF ELENAROSE C.,
ADALINE C., and WILLOW C.,**

Children.

**APPEAL FROM THE DISTRICT COURT OF CIBOLA COUNTY
Amanda Sanchez Villalobos, District Court Judge**

Children, Youth & Families Department
Mary E. McQueeney, Chief Children's Court Attorney
Santa Fe, NM
Kelly P. O'Neill, Children's Court Attorney
Albuquerque, NM

for Appellee

Susan C. Baker
El Prado, NM

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} Mother appeals from the district court’s order terminating her parental rights.
8 We issued a notice proposing to summarily affirm. Mother has responded with a
9 memorandum in opposition, which we have duly considered. We remain
10 unpersuaded that Mother has demonstrated error and affirm.

11 {2} On appeal, Mother challenges the sufficiency of the evidence to support the
12 termination of her parental rights based on her alleged neglect and presumptive
13 abandonment of Children. Regarding the district court’s findings and conclusions on
14 neglect, Mother does not dispute the facts or law upon which our notice relied, but
15 directs us to circumstances that occurred during the pendency of the proceedings that
16 she contends impacted her ability to comply with and progress in her treatment plan.
17 Mother also asserts that CYFD should have included grief counseling in her
18 treatment plan and allowed her more time after the death of the Children’s father to
19 engage in services before moving to terminate her parental rights. [MIO 12]

20 {3} On appeal, we review CYFD’s efforts by considering the totality of the
21 circumstances, including CYFD’s statutory obligation, the parent’s efforts, and

1 Children’s health and safety. *See State ex rel. Child., Youth & Fams. Dep’t v. Keon*
2 *H.*, 2018-NMSC-033, ¶¶ 40-41, 48, 421 P.3d 814. Applying that framework here,
3 the district court’s decision is supported by the substantial efforts CYFD employed,
4 which were detailed in our notice [CN 6], Mother’s lack of progress in addressing
5 her substance abuse issues, mental health concerns, and unsafe and unstable home
6 conditions that brought Children into CYFD custody [2 RP 454], and Children’s
7 demonstrated health and well-being with their respective substitute families. [2 RP
8 456-57]

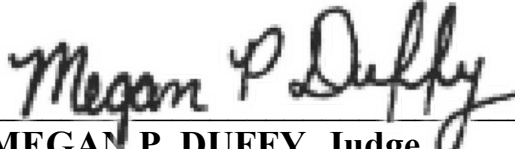
9 {4} Regarding Mother’s argument that the death of Children’s father impacted her
10 progress and required additional efforts by CYFD, we noted in our notice that
11 Children’s father died on February 5, 2022 [1 RP 222], which was fifteen months
12 after Children were taken into CYFD custody [1 RP 9-22], over a year before CYFD
13 moved to terminate Mother’s parental rights [2 RP 342-48], and twenty-one months
14 before the district court entered the order terminating Mother’s parental rights. [2
15 RP 451-59] We are not persuaded that these more than three-year-long proceedings
16 failed to give Mother sufficient time to make progress or were rushed following the
17 death of Children’s father. *See State ex rel. Child., Youth & Fams. Dep’t v. Maria*
18 *C.*, 2004-NMCA-083, ¶ 21, 136 N.M. 53, 94 P.3d 796 (explaining that “[s]tate law
19 allows a reunification plan to be maintained for a maximum of fifteen months”). In
20 addition, “CYFD is only required to make reasonable efforts, not efforts subject to

1 conditions unilaterally imposed by the parent.” *State ex rel. Child., Youth & Fams.*
2 *Dep’t v. Patricia H.*, 2002-NMCA-061, ¶ 27, 132 N.M. 299, 47 P.3d 859; *see id.*
3 ¶ 28 (“[O]ur job is not to determine whether CYFD did everything possible; our task
4 is . . . to [determine] whether CYFD complied with the minimum required under
5 law.”). Under the totality of the circumstances presented in this case, we are not
6 persuaded that Mother has established error in the termination of her parental rights.
7 *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003
8 (stating that “[a] party responding to a summary calendar notice must come forward
9 and specifically point out errors of law and fact,” and the repetition of earlier
10 arguments does not fulfill this requirement), *superseded by statute on other grounds*
11 *as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374.

12 {5} Mother also raises an argument about the district court’s ruling that Mother
13 presumptively abandoned Children. [MIO 15] “Abuse or neglect and abandonment
14 are separate and independent grounds for the termination of parental rights, and they
15 have a distinct set of statutorily created requirements.” *State ex rel. Child., Youth &*
16 *Fams. Dep’t v. Christopher B.*, 2014-NMCA-016, ¶ 9, 316 P.3d 918. Because we
17 affirm the district court’s ruling on the basis of neglect, it is not necessary for us to
18 reach this argument.

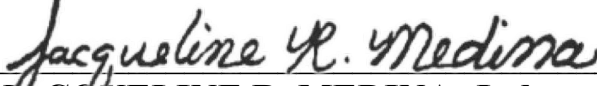
19 {6} For these reasons and those set forth in our notice, we affirm the district
20 court’s order terminating Mother’s parental rights.

1 {7} IT IS SO ORDERED.

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3 _____
MEGAN P. DUFFY, Judge

4 WE CONCUR:

5 
6 _____
KRISTINA BOGARDUS, Judge

7 
8 _____
JACQUELINE R. MEDINA, Judge