


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 1/6/2025 11:01 AM


Ramon J. Maestas
Chief Clerk

Petitioner-Appellee,

v.

No. A-1-CA-42140

ANGELICA P.,

Respondent-Appellant,

and

LUIS C. JR.,

Respondent,

IN THE MATTER OF LEVI C.

and LUCAS C., the Children.

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY

Grace B. Duran, District Court Judge

Children, Youth & Families Department
Amanda Romero, 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 Jennifer L. Munson
2 Las Cruces, NM
3 Guardian Ad Litem

4 **MEMORANDUM OPINION**

5 **HANISEE, Judge.**

6 {1} Respondent Angelica P. (Mother) appeals the termination of her parental
7 rights to two minor children (Children). This Court issued a notice of proposed
8 disposition, in which we proposed to affirm. Mother filed a memorandum in
9 opposition (MIO), raising issues that were not previously asserted in Mother’s
10 docketing statement and requesting that we construe the MIO as an amendment to
11 the docketing statement. We do so and grant such motion to amend. *See* Rule 12-
12 210(D)(2) NMRA (stating that “[t]he parties shall not argue issues that are not
13 contained in either the docketing statement or the statement of the issues,” but
14 permitting the appellant to move to amend the docketing statement upon good cause
15 shown, which can be combined with a memorandum in opposition). Having duly
16 considered the MIO and the motion to amend, we remain unpersuaded and affirm.

17 {2} In Mother’s MIO, she contends that Children, Youth, and Families
18 Department (CYFD) failed to prove by clear and convincing evidence that the
19 conditions and causes of neglect were unlikely to change in the foreseeable future
20 despite reasonable efforts by CYFD to assist Mother in adjusting such conditions
21 and causes. [MIO 8, 11] “Before a court may terminate parental rights based on

1 abuse or neglect, it must find by clear and convincing evidence: (1) that the child
2 was abused or neglected, (2) that the conditions and causes of the abuse and neglect
3 were unlikely to change in the foreseeable future, and (3) that . . . CYFD made
4 reasonable efforts to assist the parent in adjusting the conditions which rendered the
5 parent unable to properly care for the child.” *State ex rel. Child., Youth & Fams.*
6 *Dep’t v. Benjamin O.*, 2007-NMCA-070, ¶ 30, 141 N.M. 692, 160 P.3d 601
7 (alterations, internal quotation marks, and citation omitted). “We will uphold the
8 district court’s judgment if, viewing the evidence in the light most favorable to the
9 judgment, [the district court] could properly determine that the clear and convincing
10 standard was met.” *State ex rel. Child., Youth & Fams. Dep’t v. Hector C.*, 2008-
11 NMCA-079, ¶ 11, 144 N.M. 222, 185 P.3d 1072 (internal quotation marks and
12 citation omitted).

13 {3} Mother contends that although she had not fully complied with her treatment
14 plan, “she was on the road of improving every aspect of her life so that she could
15 raise Children in a safe and stable environment,” and that “in another few months,
16 [Mother] would be ready to take Children back into her custody and care.” [MIO 10-
17 11] Mother does not specifically assert that CYFD failed to make reasonable efforts
18 to assist her in adjusting the conditions that initially brought Children into CYFD
19 custody. Mother does, however, imply that she was not given adequate time to work

1 her treatment plan in order to demonstrate that such conditions would improve in the
2 foreseeable future. [MIO 10] We are not persuaded by Mother’s implied contention.

3 {4} Although CYFD is required to reasonably assist parents in adjusting the
4 relevant conditions through compliance with a treatment plan, “[p]arents do not have
5 an unlimited time to rehabilitate and reunite with their children.” *State ex rel. Child.,*
6 *Youth & Fams. Dep’t v. Maria C.*, 2004-NMCA-083, ¶ 21, 136 N.M. 53, 94 P.3d
7 796. “Because it is important for children to have permanency and stability in their
8 lives, termination proceedings should not continue indefinitely,” and “[w]hen
9 balancing the interests of parents and children, the court is not required to place the
10 children indefinitely in a legal holding pattern, when doing so would be detrimental
11 to the children’s interests.” *State ex rel. Child., Youth & Fams. Dep’t v. Mafin M.*,
12 2003-NMSC-015, ¶ 24, 133 N.M. 827, 70 P.3d 1266 (internal quotation marks and
13 citation omitted); *see also* NMSA 1978, § 32A-4-29(G) (2009, amended 2022)
14 (providing that CYFD is required to move for termination of parental rights after a
15 child has been in CYFD custody for fifteen of the last twenty-two months); § 32-A-
16 29(A) (“A motion to terminate parental rights may be filed at any stage of the abuse
17 or neglect proceeding by a party to the proceeding.”).

18 {5} Children came into CYFD custody on June 30, 2022, and CYFD filed its
19 termination motion nearly a year later on June 12, 2023. [1 RP 17-18, 193] The
20 district court filed its judgment terminating Mother’s parental rights on August 12,

1 2024, finding that Mother neither fully engaged nor completed her treatment plan,
2 and that the causes and conditions of neglect were unlikely to change in the
3 foreseeable future despite the reasonable efforts of CYFD and other agencies. [2 RP
4 326] To the extent Mother’s MIO asserts that she would be capable of reunification,
5 these facts indicate that Children were in CYFD custody for more than two years,
6 during which time Mother was ordered to engage with and complete her treatment
7 plan. Mother acknowledges that despite such order, she did not participate in
8 substance abuse treatment or drug testing as required by her treatment plan. [MIO
9 4-7] Specifically, during a May 2023 permanency hearing, Mother stated that “she
10 was concerned about doing substance abuse treatment because it would make her
11 crave and relapse,” but that “she had already been drug-free for five months.” [MIO
12 6] Mother concedes, and the record reflects, however, that she tested positive for
13 methamphetamines during a July 2023 drug test, and that as of November 2023 she
14 had refused to complete any further drug testing. [MIO 7; RP 229-30]

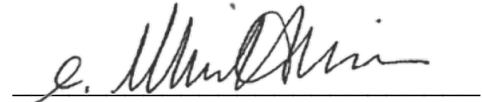
15 {6} Mother asserts that she complied with certain aspects of her treatment plan
16 [MIO 10-11], but Mother’s partial engagement with her treatment plan does not
17 indicate error in the district court’s ultimate judgment. The scope of our review on
18 appeal is limited to determining whether the termination of Mother’s parental rights,
19 “when viewed in the light most favorable to the decision below, was supported by
20 substantial evidence, not whether the [district] court could have reached a different

1 conclusion.” *State ex rel. Child, Youth & Fams. Dep’t v. Patricia H.*, 2002-NMCA-
2 061, ¶ 31, 132 N.M. 299, 47 P.3d 859. Moreover, we will not reweigh the evidence
3 or assess the credibility of witnesses, deferring instead to the findings and
4 conclusions of the district court as the trier of fact. *See State ex rel. Child., Youth &*
5 *Fams. Dep’t v. Vanessa C.*, 2000-NMCA-025, ¶ 24 128 N.M. 701, 997 P.2d 833.
6 Here, the evidence supports the district court’s findings that, as acknowledged in her
7 MIO, Mother had not maintained sobriety and had not sought services to assist her
8 in doing so. Given the lack of demonstrable effort by Mother to address her
9 substance use in the period between her no-contest plea to neglect and the
10 termination judgment, the district court could reasonably conclude that Mother was
11 unlikely to ameliorate the causes and conditions of Children’s neglect in the
12 foreseeable future. *See State ex rel. Child., Youth & Fams. Dep’t v. Keon H.*, 2018-
13 NMSC-033, ¶ 53, 421 P.3d 814 (concluding substantial evidence supported the
14 district court’s findings that the causes of neglect and abuse were unlikely to change
15 in the foreseeable future where the parent failed to perform the requirements of a
16 treatment plan for two years).

17 {7} Accordingly, we conclude that the evidence in this case was sufficient to
18 support the district court’s judgment and affirm.

1 {8} IT IS SO ORDERED.

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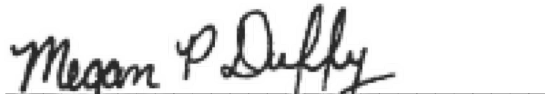

J. MILES HANISEE, Judge

4 WE CONCUR:

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KRISTINA BOGARDUS, Judge

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MEGAN P. DUFFY, Judge