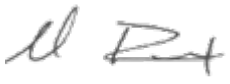


IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 8/10/2026 11:03 AM

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


Mark Reynolds

Petitioner-Appellee,

v.

No. A-1-CA-43306

CARLOS B.,

Respondent-Appellant,

and

MARICELA P.,

Respondent,

IN THE MATTER OF ELISEO P., a Child.

APPEAL FROM THE DISTRICT COURT OF CHAVES COUNTY

Jared G. Kallunki, District Court Judge

Children, Youth & Families Department
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Guardian Ad Litem

MEMORANDUM OPINION

MEDINA, Chief Judge.

{1} Respondent Carlos B. (Father) appeals from the district court's order terminating his parental rights as to Child. We issued a notice proposing to summarily affirm. Father has responded with a memorandum in opposition to our proposed analysis. We remain unpersuaded by Father's appeal for the reasons stated below and affirm.

{2} Father challenges the sufficiency of the evidence to support the termination of his parental rights, specifically contending that the Children, Youth and Families Department (CYFD) did not make reasonable efforts to assist him in remedying the causes and conditions of Child's neglect, as it was required to do pursuant to NMSA 1978, Section 32A-4-28(B)(2) (2022). On review, this Court will affirm a district court's finding that CYFD made reasonable efforts to assist a parent if that finding is supported by substantial evidence in the record. *See State ex rel. Child., Youth & Fams. Dep't v. Keon H.*, 2018-NMSC-033, ¶ 36, 421 P.3d 814. "Substantial evidence is relevant evidence that a reasonable mind would accept as adequate to support a conclusion." *Id.* (internal quotation marks and citation omitted). When

1 reviewing a termination of parental rights decision, we are not permitted to either
2 reweigh the evidence or assess the credibility of the witnesses; we must defer to the
3 conclusions of the trier of fact and view the evidence in a light most favorable to
4 affirmance. *State ex rel. Child., Youth & Fams. Dep't v. Vanessa C.*, 2000-NMCA-
5 025, ¶¶ 24, 28, 128 N.M. 701, 997 P.2d 833. “Our standard of review is therefore
6 whether, viewing the evidence in the light most favorable to [CYFD], the
7 fact[-]finder could properly determine that the clear and convincing evidence
8 standard was met.” *In re Termination of Parental Rts. of Eventyr J.*, 1995-NMCA-
9 087, ¶ 3, 120 N.M. 463, 902 P.2d 1066.

10 {3} Our proposed disposition explained that when considering whether CYFD
11 made reasonable efforts, “our job is not to determine whether CYFD did everything
12 possible; our task is limited by our statutory scope of review to CYFD complied with
13 the minimum required under law.” [CN 2-3] *State ex rel. Child., Youth & Fams.*
14 *Dep't v. Patricia H.*, 2002-NMCA-061, ¶ 28, 132 N.M. 299, 47 P.3d 859. Section
15 32A-4-28(B)(2) of the Abuse and Neglect Act does not list specific methods of
16 assistance that are sufficient to constitute reasonable efforts. Instead, what efforts
17 are reasonable varies depending on “a number of factors, such as the level of
18 cooperation demonstrated by the parent and the recalcitrance of the problems that
19 render the parent unable to provide adequate parenting.” [CN 3] *Patricia H.*, 2002-
20 NMCA-061, ¶ 23.

1 {4} As discussed in our proposed disposition, CYFD was unable to locate contact
2 information for Father, and as a result was only able to contact Father once after his
3 incarceration, despite CYFD's multiple attempts to do so. [CN 4; 12/12/2025 Hrg.
4 1:31:11] On September 26, 2025, Father's first permanency coordinator was able to
5 reach Father during a call routed through mother. [CN 4; MIO 6; 12/12/2025 Hrg.
6 2:03:19] During that call, CYFD scheduled a meeting with Father on October 8,
7 2025, to discuss the treatment plan. [CN 4; RP 211] Father did not attend that
8 meeting. [RP 250] The district court heard testimony that CYFD was prepared to
9 give Father referrals and facilitate visitations. [CN 4; 12/12/2025 Hrg. 1:31:46]
10 There was also testimony that CYFD's calls to Father's phone number went to
11 voicemail, Father did not want to talk to CYFD on the phone, and Father declined
12 CYFD's requests for contact information. [CN 4; MIO 6-7; 12/12/2025 Hrg.
13 1:28:19, 1:31:00, 2:23:10] Throughout the case, CYFD workers asked mother to put
14 Father on the phone or provide CYFD with Father's phone number, address, or work
15 address, but she refused. [12/12/2025 Hrg. 2:27:15; DS 7] In addition, CYFD found
16 Father on Facebook, but it is unclear whether that was used as a method of
17 communicating with Father. [4/4/2025 Hrg. 9:38:28]

18 {5} Father's memorandum in opposition asserts that CYFD failed to provide
19 evidence that it made reasonable efforts to assist Father during the time between
20 October 2024, when the district court ordered a treatment plan and February 2025,

1 when the first permanency counselor began working the case. [MIO 10] In
2 particular, the memorandum in opposition points out that CYFD did not contact
3 Father during his incarceration, did not review Father’s criminal case for contact
4 information, and did not contact law enforcement for information on Father’s
5 whereabouts. [MIO 8, 10] Father focuses not on whether CYFD was successful in
6 its attempts to contact him, but instead draws this Court’s attention to CYFD’s
7 failure to assist Father in working the treatment plan by scheduling and monitoring
8 visits between Father and Child, referring Father for parenting classes, or facilitating
9 a drug and alcohol assessment for the first four months of Father’s treatment plan.

10 [MIO 11]

11 {6} We are unpersuaded. Father does not explain how CYFD could assist Father
12 by facilitating, referring, and monitoring, without any means of contacting Father.
13 Father’s assertion of error—while correctly pointing out that his incarceration does
14 not relieve CYFD of its responsibility to make reasonable efforts—fails to recognize
15 that for the majority of the time between the enactment of the treatment plan and the
16 termination of parental rights, Father made essentially no effort toward reunification,
17 failed to cooperate with CYFD, and failed to maintain contact with his counsel and
18 CYFD. [CN 4; RP 166, 235] *See Keon H.*, 2018-NMSC-033, ¶ 48 (stating that
19 “[b]oth [CYFD] and [the parent] are responsible for making efforts toward
20 reunification of the family,” and that the parent must cooperate with any treatment

1 plan approved by the court and has an obligation to maintain contact with his counsel
2 and CYFD); *see also* NMSA 1978, § 32A-4-22(C) (2022). In fact, there is evidence
3 in the record that Father intentionally avoided CYFD due to active warrants.
4 [4/4/2025 Hrg. 9:38:28; 12/12/2025 Hrg. 1:28:30]

5 {7} While troubled by CYFD’s failure to demonstrate that it made any efforts to
6 assist Father during those first four months of the treatment plan and during Father’s
7 incarceration, we are also cognizant of Father’s unwillingness and failure to make
8 efforts toward reunification. *See Keon H.*, 2018-NMSC-033, ¶¶ 40, 48 (recognizing
9 that while CYFD cannot withdraw its efforts to assist parents without the district
10 court excusing such efforts, the parent is ultimately responsible for their refusal or
11 failure to take advantage of those efforts). That CYFD did nothing for four of the
12 approximately fourteen months during which Father had a treatment plan does not
13 warrant reversal of the district court’s finding that Father made “no effort” to engage
14 in his case plan, maintain contact with CYFD, engage or participate in services, or
15 visit and bond with Child. [RP 250 ¶ 18] *See id.* ¶ 41, 46 (stating that we consider
16 the totality of the circumstances when determining whether efforts made are
17 reasonable, and in so doing, look to the “efforts as a whole” during the entire period
18 CYFD worked with the parent). At no point in the proceedings did Father express
19 any interest or willingness to work the treatment plan or engage with CYFD; he

1 mentioned wanting to see Child once in September 2025—three months before
2 termination and after the permanency plan had changed to adoption. [MIO 7, 13]

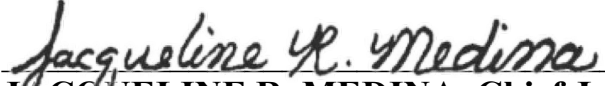
3 {8} As this Court has recognized in the past, perfection is not required of CYFD.
4 *See Patricia H.*, 2002-NMCA-01, ¶ 28. Given the totality of the circumstances, the
5 evidence at the termination of parental rights hearing was sufficient to support the
6 district court’s finding that CYFD made reasonable efforts to assist Father. *See Keon*
7 *H.*, 2018-NMSC-033, ¶ 50 (“The record indicates that [CYFD] made reasonable
8 efforts to assist [the f]ather, but [the f]ather did not take advantage of those efforts.”);
9 *Patricia H.*, 2002-NMCA-061, ¶ 23 (recognizing that what efforts are reasonable
10 varies depending on “a number of factors, such as the level of cooperation
11 demonstrated by the parent and the recalcitrance of the problems that render the
12 parent unable to provide adequate parenting”).

13 {9} In addition, we note that Father asserts that the initial judicial review hearing,
14 held six months after the disposition, was “significantly delayed.” [MIO 12] Father
15 also contends that no order was entered following the permanency hearing that took
16 place on June 23, 2025, which Father did not attend, and therefore “it cannot be
17 determined if Father received due process.” [MIO 13; RP 192] Father makes no
18 formal assertion of error as to the timing of the judicial review hearing or the
19 constitutionality of the permanency hearing. However, to the extent the
20 memorandum in opposition can be said to raise these as issues, we note not only that

1 they were not included in the docketing statement but also that Father has not
2 identified anywhere in the record proper where such arguments were raised or
3 preserved. *See State v. Moore*, 1989-NMCA-073, ¶¶ 36-51, 109 N.M. 119, 782 P.2d
4 91 (stating that the essential requirements to show good cause for allowing an
5 amendment to the docketing statement include that it was properly preserved below),
6 *superseded by rule on other grounds as recognized in State v. Salgado*, 1991-
7 NMCA-044, 112 N.M. 537, 817 P.2d 730; Rule 12-321 NMRA (stating the
8 requirements for preservation).

9 {10} For the reasons stated in our notice of proposed disposition and herein, we
10 affirm.

11 {11} **IT IS SO ORDERED.**

12 
13 **JACQUELINE R. MEDINA, Chief Judge**

14 **WE CONCUR:**

15 
16 **J. MILES HANISEE, Judge**

17 
18 **ZACHARY A. IVES, Judge**