

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 9/10/2026 10:48 AM



Mark Reynolds

Petitioner-Appellee,

v.

No. A-1-CA-43149

GENEVA C.,

Respondent-Appellant,

and

JENNIFER C.,

Intervenor,

**IN THE MATTER OF ARTHUR F. and
ISRAEL F., Children.**

**APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY
William Parnall, District Court Judge**

Children, Youth & Families Department
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Albuquerque, NM

for Appellee

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El Prado, NM

for Appellant

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5 **MEMORANDUM OPINION**

6 **YOHALEM, Judge.**

7 {1} Respondent Geneva C. (Mother), a qualified individual with an intellectual
8 disability as defined by the Americans with Disabilities Act (ADA), 42 U.S.C.
9 §§ 12101-12213, appeals the termination of her parental rights to her two children
10 (Children). Mother’s parental rights were previously terminated by the district court
11 in January 2021, pursuant to NMSA 1978, Section 32A-4-28(B)(2) (2005, amended
12 2022) of the New Mexico Abuse and Neglect Act, NMSA 1978, §§ 32A-4-1 to -35
13 (1993, as amended through 2025). Mother appealed the 2021 judgment terminating
14 her parental rights to this Court, contending that the Children, Youth and Families
15 Department (CYFD), had failed to provide the reasonable accommodations for her
16 disability required by both the ADA and the state statute. *See State ex rel. Child.,*
17 *Youth & Fams. Dep’t v. Geneva C.*, 2023-NMCA-003, 521 P.3d 1244. This Court
18 determined that CYFD had failed to follow the district court’s orders for reasonable
19 accommodation of Mother’s disability and that this violation of the court’s orders
20 and its impact on Mother’s progress had not been considered at the termination of
21 parental rights hearing. *Id.* ¶¶ 26-27. This Court remanded to allow the district court
22 to consider this violation of court order in determining whether CYFD had made

1 reasonable efforts, including accommodating Mother’s disability under the ADA.
2 *See id.* ¶¶ 2, 31. Following remand to the district court, Mother was given additional
3 time to work her treatment plan and after significant delay, CYFD completed the
4 supplemental evaluation that had been court ordered. Following a second
5 termination of parental rights hearing, the district court again terminated Mother’s
6 parental rights, finding that CYFD reasonably accommodated Mother’s disability
7 and made reasonable efforts to reunify her with Children and that those efforts were
8 unlikely to be successful in the foreseeable future. We affirm the district court’s
9 order terminating Mother’s parental rights.

10 **DISCUSSION**

11 {2} Before parental rights may be terminated, New Mexico law requires that
12 CYFD demonstrate, by clear and convincing evidence, *see* § 32A-4-29(I), that a
13 child has been neglected or abused as defined by Section 32A-4-2. *See* § 32A-4-
14 28(B)(2) (providing for termination of parental rights when a child has been
15 neglected or abused). CYFD must also establish that the “causes of the neglect and
16 abuse are unlikely to change in the foreseeable future despite reasonable efforts by
17 [CYFD] to assist the parent in adjusting the conditions that render the parent unable
18 to properly care for the child.” *See* § 32A-4-28(B)(2). This Court has construed this
19 section to require that CYFD establish that it has made reasonable efforts to “assist
20 the parent in adjusting the conditions that render the parent unable to properly care

1 for the child” before it can claim that these efforts have failed and terminate a
2 parent’s rights.¹ See *State ex rel. Child., Youth & Fams. Dep’t v. Patricia H.*, 2002-
3 NMCA-061, ¶ 21, 132 N.M. 299, 47 P.3d 859 (internal quotation marks and citation
4 omitted).

5 {3} When the parent establishes that they are “a qualified individual with a
6 disability” as defined in the ADA and seeks reasonable accommodation, as Mother
7 did in this case, the federal regulations implementing the ADA require that the
8 services provided, both directly and through contract, be “as effective in affording
9 equal opportunity to obtain the same result, to gain the same benefit, or to reach the
10 same level of achievement as that provided to others.” See 28 C.F.R.
11 § 35.130(b)(1)(iii) (2025).

12 {4} Mother contends on appeal that the record is not sufficient to support the
13 district court’s finding that CYFD made reasonable efforts to accommodate her
14 disability. Mother also relies on her claim that CYFD did not make reasonable efforts
15 to argue that the district court erred in finding by clear and convincing evidence that
16 further efforts would be unlikely to enable her to parent Children in the foreseeable

¹Although a futility finding or a finding that the parent has subjected the child to aggravated circumstances under Section 32A-4-25(H)(5) provides a limited exception to the provision of reasonable efforts by CYFD, Mother’s parental rights were not terminated under this provision and we, therefore, do not address its applicability to this case.

1 future and in terminating her parental rights on this basis. *See Patricia H.*, 2002-
2 NMCA-061, ¶ 21 (“The statutory prerequisite of reasonable efforts to assist the
3 parent must be satisfied before parental rights may be terminated.”). We do not agree
4 with either of Mother’s arguments, and affirm the district court’s order terminating
5 parental rights. Before addressing each of Mother’s arguments in turn, we briefly set
6 out the applicable standard of review.

7 **I. Standard of Review**

8 {5} “Substantial evidence is relevant evidence that a reasonable mind would
9 accept as adequate to support a conclusion.” *State ex rel. Child., Youth & Fams.*
10 *Dep’t v. Keon H.*, 2018-NMSC-033, ¶ 36, 421 P.3d 814 (internal quotation marks
11 and citation omitted). “Our role is to determine whether the fact[-]finder could
12 properly conclude that the proof requirement below was met.” *Patricia H.*, 2002-
13 NMCA-061, ¶ 22. We review “the evidence in the light most favorable to the
14 judgment,” evaluating “whether the [district] court could have found by clear and
15 convincing evidence the necessary statutory conditions [for] termination” of parental
16 rights. *Id.*

17 **II. The District Court’s Finding That CYFD Made Reasonable Efforts to** 18 **Assist Mother Is Supported by Substantial Evidence**

19 {6} Mother challenges the district court’s finding that CYFD made reasonable
20 efforts to assist Mother, including providing reasonable accommodation for
21 Mother’s disability, as required by the ADA. Mother argues that there are three fatal

1 deficiencies in the evidence: (1) CYFD failed to prepare a new treatment plan for
2 Mother upon remand by this Court; (2) CYFD failed to provide hands-on parenting
3 training, with direct supervision by a parenting expert of Mother's interaction with
4 Children upon remand by this Court; and (3) CYFD failed to provide a home where
5 Mother could live with Children, with constant supervision of her parenting by a
6 qualified provider, and correction of any unwise parenting decisions.

7 {7} In determining whether CYFD made reasonable efforts, our role is "not to
8 determine whether the [d]epartment did everything possible; our task is to determine
9 whether the [d]epartment complied with the minimum required under law." *Keon*
10 *H.*, 2018-NMSC-033, ¶ 43 (alterations, omission, internal quotation marks, and
11 citation omitted). Reasonable efforts are aimed at assisting a parent to remedy the
12 conditions and causes of neglect and abuse so that the family can be reunited
13 consistent with the children's health and safety. *See id.* ¶ 39 ("[T]he child's health
14 and safety is the paramount concern in determining the reasonable efforts to be made
15 and in making those efforts."). What constitutes reasonable efforts to assist a parent
16 in achieving this goal varies depending on a number of factors. *Id.* ¶ 41. Factors that
17 must be considered include the recalcitrance of the problems preventing
18 reunification, the special needs of the children, the cooperation of the parent with
19 CYFD and with the service providers, and the parent's abilities and health. *See*
20 *Patricia H.*, 2002-NMCA-061, ¶¶ 23, 33. Our Supreme Court in *Keon H.*

1 emphasized that the reasonable efforts requirement applies to both CYFD and to the
2 parent, and that both “are responsible for making efforts toward reunification of the
3 family.” 2018-NMSC-033, ¶ 48. Section 32A-4-22(C) provides, in relevant part,
4 “[T]he court shall . . . order the department to implement *and the child’s*
5 *parent . . . to cooperate with any case plan approved by the court.*” (Emphasis
6 added.)

7 {8} The ADA’s reasonable accommodation requirement does not remove or
8 replace the state law requirement for reasonable efforts by CYFD and by the parent.
9 The two requirements work together. Much like the state statutory reasonable efforts
10 requirement, the ADA requires an individualized inquiry “to determine whether a
11 specific modification for a particular person’s disability would be reasonable under
12 the circumstances as well as necessary for that person.” *PGA Tour, Inc. v. Martin*,
13 532 U.S. 661, 688 (2001). Although modifications that are reasonable under the
14 circumstances and necessary for the individual with a disability are required, an
15 agency is not required to fundamentally alter its services. *Id.*; accord 28 C.F.R.
16 § 35.130(b)(7)(i) (“A public entity shall make reasonable modifications in policies,
17 practices, or procedures when the modifications are necessary to avoid
18 discrimination on the basis of disability, *unless the public entity can demonstrate*
19 *that making the modifications would fundamentally alter the nature of the service,*
20 *program, or activity.*” (emphasis added)). Affording a parent with a disability an

1 equal opportunity to obtain the same result or the same level of achievement does
2 not mean that an individual with a disability must be guaranteed the identical result,
3 level of achievement, or outcome as a person without a disability—just that
4 reasonable access to effective services be offered. *See Geneva C.*, 2023-NMCA-003,
5 ¶ 19.

6 ¶ Applying these standards of law, we do not agree with Mother that CYFD was
7 required to provide the three services she identifies in her brief on appeal as essential
8 to support the district court’s reasonable efforts and reasonable accommodation
9 findings. Mother first alleges that CYFD failed to prepare a new treatment plan upon
10 remand by this Court. We do not agree that immediate creation of a new treatment
11 plan was required by this Court’s opinion. This Court’s determination that CYFD
12 had failed to provide reasonable ADA accommodations for Mother’s disability
13 focused on CYFD’s failure to comply with a district court order (1) to provide
14 Mother the guidance of a social worker knowledgeable about working with an
15 individual with intellectual disabilities, and (2) to complete a supplemental
16 evaluation by an expert that would provide CYFD with guidance on the services
17 needed to accommodate Mother’s disability and the likelihood of her being able to
18 parent Children in the foreseeable future if provided those services. *See Geneva C.*,
19 2023-NMCA-003, ¶¶ 24-31.

1 {10} Apart from these two additions to the treatment plan, which had been ordered
2 by the district court but not incorporated into Mother's original treatment plan by
3 CYFD, there was no evidence presented to the district court at either the first or the
4 second termination of parental rights hearing supporting Mother's claim on appeal
5 that the *immediate* revision of Mother's treatment plan was necessary upon remand
6 from this Court. Indeed, the evidence at the first termination of parental rights
7 hearing (which is part of the record on appeal) showed that Mother had only recently
8 begun to comply with her treatment plan and was making significant progress for
9 the first time, having separated from father, accepted the guidance of disability
10 experts at the Developmental Disabilities Medicaid Waiver Program (DD Waiver
11 Program), and moved to a supported living situation away from her mother. *See*
12 *Geneva C.*, 2023-NMCA-003, ¶¶ 14-15. The district court's prior orders, with which
13 CYFD was required to comply, required only that Mother be provided (or continue
14 to be provided) as reasonable accommodations for her disability a social worker's
15 assistance in accessing services, and a supplemental evaluation. When that
16 evaluation was completed, any recommendations it made for services to
17 accommodate Mother's disability were to be incorporated into Mother's treatment
18 plan. *Id.* ¶¶ 26-31. The evaluation, however, did not make any recommendations for
19 services. The evaluation concluded that there is "no medication or treatment

1 modality available” that will render Mother capable of parenting any child given her
2 functional inability to respond to any new situation.

3 {11} In its decision terminating Mother’s parental rights, the district court
4 summarized the status of the case at the time of the first termination hearing and the
5 progress made by Mother at that time. Mother does not challenge those findings on
6 appeal. We, therefore, accept this description of the status of the case upon remand
7 from this Court. *See* Rule 12-318(A)(4) NMRA (requiring the appellant’s argument
8 to “set forth a specific attack on any finding, or the finding shall be deemed
9 conclusive”). These findings and the substantial evidence supporting them do not
10 establish that a new treatment plan was required on remand *until* the supplemental
11 evaluation was completed.

12 {12} Mother next alleges that CYFD failed to provide the hands-on parenting
13 training, with direct supervision by a parenting expert of Mother’s interaction with
14 Children, which had previously been recommended to accommodate her disability.
15 Contrary to the district court’s finding, Mother claims that this failure rendered
16 CYFD’s efforts unreasonable. Mother’s argument ignores the legal requirement that
17 the reasonableness of CYFD’s efforts and of any accommodation for Mother’s
18 disability must be analyzed looking to the totality of the circumstances. *See Keon*
19 *H.*, 2018-NMSC-033, ¶ 41. Mother does not challenge the sufficiency of the
20 evidence supporting the district court’s finding of fact that Mother “consistently

1 stated in her own words, and demonstrated in actions, that she is not interested in
2 any services or supports available to her.” The evidence supporting this finding
3 showed that Mother chose to withdraw from the DD Waiver Program, a program
4 with expertise in meeting the needs of individuals with disabilities, and chose to
5 participate instead in another program, which the court found made Mother
6 completely responsible for making her own decisions, and choosing the assistance
7 she wanted. Although the evidence showed that parenting training would have been
8 available through Mother’s new program, Mother did not request or engage in such
9 services. In an unchallenged finding, the district court found that Mother chose not
10 to spend \$77,000 allocated through federal programs for her support and services
11 each year. The district court also found that Mother had “refused referrals made to
12 her by [CYFD] since [this] Court[’s] ruling,” and had specifically refused to work
13 with a parenting coach, “rejected a community support worker to assist her with
14 daily tasks, and declined to engage in therapy services.” Mother does not contend
15 that these findings of fact lack support in the evidence. They are therefore binding
16 on appeal. *See* Rule 12-318(A)(4).

17 {13} As our Supreme Court held in *Keon H.*, when a parent refuses to cooperate
18 and does not take advantage of the services offered, CYFD satisfies its obligation to
19 make reasonable efforts to assist the parent by simply offering services. 2018-
20 NMSC-033, ¶¶ 48, 54. The district court’s findings show that CYFD offered

1 services, encouraged Mother to participate, and facilitated Mother’s communication
2 with the department, and yet Mother did not take advantage of the services offered.²
3 We see no error in the district court’s conclusion that under these circumstances,
4 CYFD made reasonable efforts and did so in a manner that reasonably
5 accommodated Mother’s disability.

6 {14} Finally, Mother argues that CYFD is required by the ADA to provide a home
7 where she can live with Children, with constant supervision of her parenting and
8 with a person who can correct any of her parenting decisions that are unwise. Mother
9 does not disagree with the conclusion of the supplemental neuropsychological
10 evaluation, a conclusion adopted by the district court, that Mother is not able and
11 will never gain the ability to independently parent Children, due to her “organic and
12 durable” intellectual disability. The expert concluded that there is “no medication or
13 treatment modality available” that will render Mother capable of parenting any child
14 given her functional inability to respond to any new situation. The evidence showed,
15 and the district court found, that “[Mother] would be unable to respond to daily crises

²The district court, again in an unchallenged finding, found that CYFD ensured throughout the case that Mother “always had an individual permanency worker assigned to her,” and that, at Mother’s request, the court “prohibited [CYFD] from removing the final permanency worker” assigned to Mother, thus facilitating Mother’s contact with CYFD as an accommodation for her disability.

presented by such high-needs [C]hildren.” The district court found that Mother’s inability to respond “would present a serious safety risk.”

{15} The services offered by CYFD to a parent facing possible termination of their parental rights are services designed to assist that parent in becoming a safe and effective parent for their children. *See Keon H.*, 2018-NMSC-033, ¶¶ 39-40. The district court found that CYFD searched diligently for a service that would directly supervise Mother’s parenting and was unable to find one in New Mexico, or for that matter, elsewhere in the country. CYFD thus made reasonable efforts to identify available services to assist Mother. To require CYFD to create and run such a program for Mother would fundamentally alter the nature of the services CYFD provides. We conclude that such a program comes squarely within the ADA term limiting reasonable accommodations to modifications that do not “fundamentally alter the nature of the service, program, or activity.” *See* 28 C.F.R. § 35.130(b)(7)(i).

III. The District Court’s Finding That Mother Was Unlikely to Be Able to Adequately Parent Children Within the Foreseeable Future Is Supported by Substantial Evidence

{16} Mother argues that CYFD’s failure to comply with both the ADA’s reasonable accommodations requirement and the state statutory reasonable efforts requirement precludes a finding that Mother cannot learn to adequately parent Children if given the required resources and time. Because we have determined that the district court’s finding that CYFD made reasonable efforts and reasonably accommodated Mother’s

1 disability under the totality of the circumstances, we do not consider this argument
2 further.

3 **CONCLUSION**

4 {17} For the reasons stated herein, we conclude that the district court's judgment
5 terminating Mother's parental rights is supported by substantial, clear and
6 convincing evidence in the record. We affirm the decision of the district court
7 terminating Mother's parental rights.

8 {18} **IT IS SO ORDERED.**

9
10 
JANE B. YOHALEM, Judge

11 **WE CONCUR:**

12 
13 **JENNIFER L. ATTREP, Judge**

14 
15 **KRISTOPHER N. HOUGHTON, Judge**