IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: M.A.B. AND M.B., MINORS

UNIQUE B.,
Appellant,
vs.
THE STATE OF NEVADA; M.A.B.; AND M.B., MINORS,
Respondents.

No. 88628

FILED

JAN 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order terminating appellant's parental rights as to the minor children. Eighth Judicial District Court, Family Division, Clark County; Margaret E. Pickard, Judge.

To terminate parental rights, the district court must find clear and convincing evidence that (1) at least one ground of parental fault exists, and (2) termination is in the children's best interest. NRS 128.105(1); *In re Termination of Parental Rts. as to N.J.*, 116 Nev. 790, 800-01, 8 P.3d 126, 132-33 (2000). On appeal, we review questions of law de novo and the district court's factual findings for substantial evidence. *In re Parental Rts. as to A.L.*, 130 Nev. 914, 918, 337 P.3d 758, 761 (2014). Substantial evidence is that which "a reasonable person may accept as adequate" to support a conclusion. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007). Further, we will "not reweigh the evidence on appeal or substitute our judgment for the district court's." *Matter of T.M.R.*, 137 Nev. 262, 267, 487 P.3d 783, 789 (2021).

Appellant Unique B. first argues that the district court erred in terminating her parental rights because substantial evidence does not

support the district court's findings of parental fault and that termination would be in the children's best interest. We disagree.

We conclude that substantial evidence supports the district court's finding of parental fault based on Unique's failure to adjust the circumstances that led to the children's removal. *See* NRS 128.105(1)(b)(4); NRS 128.0126 (providing that failure of parental adjustment "occurs when a parent or parents are unable or unwilling within a reasonable time to correct substantially the circumstances, conduct or conditions which led to the placement of their child outside of their home"). Unique substantially failed to complete the case plan in the 18 months the matter was pending. *See* NRS 128.109(1)(b) (providing that a parent's failure to complete a case plan within six months may be evidence of a failure to adjust). The record demonstrates that Unique has neither made, nor acknowledged the behavioral changes necessary to provide proper care for the children. *See In re Parental Rts. as to K.D.L.*, 118 Nev. 737, 747-48, 58 P.3d 181, 187-88 (2002) (noting that appellant's failure to make behavioral changes necessary to the case plan was evidence of failure of parental adjustment); *Matter of S.L.*, 134 Nev. 490, 497, 422 P.3d 1253, 1259 (2018) ("Without acknowledging that circumstances in the home needed to change, appellants could not demonstrate that the circumstances would, in fact, change."). For example, part of Unique's case plan involved addressing her substance use, domestic violence, and mental health issues. However, Unique denied substance use, despite multiple positive drug tests, and refused to provide a urine sample necessary for her mental health assessment. Unique also diminished the domestic violence issues in her relationship with the children's father and did not complete the domestic violence classes required by the case plan. And while Unique did complete

the mental health assessment, the record shows that she failed to engage with the recommended therapy, as she was inconsistent in her attendance and was discharged multiple times for not scheduling services.

Additionally, we conclude that substantial evidence supports the district court's parental fault finding of token efforts.[1] *See* NRS 128.105(1)(b)(6) (providing that termination of parental rights may be warranted when a parent makes only token efforts "(I) [t]o support or communicate with the child; (II) [t]o prevent neglect of the child; (III) [t]o avoid being an unfit parent; or (IV) [t]o eliminate the risk of serious physical, mental or emotional injury to the child"). Because the children resided outside of Unique's care for 18 consecutive months, the district court properly applied the statutory presumption that Unique had only engaged in token efforts to care for the children. NRS 128.109(1)(a) (providing that it is presumed that a parent has only made token efforts when the child has resided outside of the parent's care for more than 14 of 20 consecutive months). And substantial evidence supports the conclusion that Unique did not rebut that presumption. As noted above, Unique failed to substantially engage with the case plan or address the issues underlying the children's removal, and the record demonstrates Unique failed to consistently visit the children, and even when she did attend her scheduled visitation, she did not engage with them. *See In re N.J.*, 125 Nev. 835, 846, 221 P.3d 1255, 1263 (2009) (agreeing with the district court's token efforts finding where the

[1]Because only one ground of parental fault is required to support the termination of parental rights, *see* NRS 128.105(1)(b) (requiring a finding of at least one ground of parental fault), we need not review the district court's other findings of parental fault.

parent failed to adequately address drug and domestic violence issues and was observed falling asleep during visits with the child).

We conclude substantial evidence also supports the district court's finding that termination was in the children's best interest. *See* NRS 128.105(1) ("The primary consideration in any [termination proceeding is] whether the best interests of the child will be served by the termination."). As the children were outside of Unique's care for 18 consecutive months, the district court properly applied the statutory presumption that termination was in the children's best interest, and substantial evidence supports the district court's finding that Unique did not rebut that presumption. *See* NRS 128.109(2) (providing that termination of parental rights is presumed to be in a child's best interest if that child has been placed outside of the parent's home for 14 of any consecutive 20 months). Despite the services provided to Unique to facilitate a reunion with the children, Unique has made minimal efforts to address her substance use, domestic violence, and mental health issues and has not maintained regular visitation with the children. *See* NRS 128.107 (providing considerations for the district court in determining whether to terminate parental rights when the parent does not have physical custody of the child). Additionally, it is unlikely that additional services would lead to reunification within a predictable period. NRS 128.107(4). The record also shows that the children, both of whom have special needs, are fully integrated into their foster family, are thriving in their care, and their foster parent is committed to adopting them. *See* NRS 128.108 (outlining considerations for the district court when the child has been placed in a foster home with the goal of adoption). Thus, substantial evidence supports the district court's findings that terminating Unique's parental rights was in the children's best interest.

Unique raises several additional arguments, all of which lack merit. Unique asserts that she was not provided the opportunity to present a defense; however, this argument is not supported by the record. Unique was present at the calendar call and concedes that she was aware of the date of the trial; however, Unique did not appear at the trial, despite the efforts the district court made to facilitate her appearance. Thus, Unique had an opportunity to present a defense, but did not avail herself of it. Unique also argues that the district court was biased, but Unique waived that argument by failing to move to disqualify the district court judge below. *See Brown v. Fed. Sav. & Loan Ins. Corp.*, 105 Nev. 409, 412, 777 P.2d 361, 363 (1989) (explaining that a party waives the issue of disqualification on appeal if the party does not request disqualification within the time limitations set by NRS 1.235).[2] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Herndon

_____, J.
Bell

_____, J.
Stiglich

[2]Insofar as Unique raises other arguments that are not specifically addressed herein, we have considered the same and conclude that they do not warrant a different result.

cc: Hon. Margaret E. Pickard, District Judge, Family Division
Unique B.
Attorney General/Carson City
Legal Aid Center of Southern Nevada, Inc.
Clark County District Attorney
Eighth District Court Clerk