

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO X

GINA G.,
Appellant,

vs.

WASHOE COUNTY HUMAN
SERVICES AGENCY; AND X,
Respondents.

FV22-00481

D11

No. 87084

FILED

OCT 17 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: [Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order terminating appellant's parental rights as to a minor child. Second Judicial District Court, Family Division, Washoe County; Paige Dollinger, Judge.

Respondent Washoe County Human Services Agency (WCHSA) removed respondent X from appellant Gina G.'s custody in December 2020 due to concerns about Gina's mental health and X's safety. WCHSA adopted a case plan requiring Gina to demonstrate the ability to meet basic needs and to complete a psychosocial evaluation to determine Gina's mental health needs. Gina was unwilling to cooperate with WCHSA and made no progress toward achieving any of the case plan goals. In June 2023, the district court granted WCHSA's petition to terminate Gina's parental rights, finding multiple grounds of parental fault and that termination was in X's best interest. Gina now appeals.

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 child'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).

Gina first argues that substantial evidence does not support the district court's findings of parental fault. We disagree. Substantial evidence supports the district court's parental fault findings of neglect, unfitness, failure of parental adjustment, and token efforts to care for ~~X~~¹ Gina has been diagnosed with serious mental health disorders and has been repeatedly hospitalized at in-patient psychiatric facilities but refuses to engage in treatment. The record demonstrates that Gina's untreated mental health issues have prevented her from providing proper care to ~~X~~. See NRS 128.014(1) (explaining that a child is neglected when the child lacks "proper parental care by reason of the fault or habits of his or her parent"); NRS 128.018 (defining an "unfit parent" as a parent "who, by reason of the parent's fault or habit or conduct . . . fails to provide [their] child with proper care, guidance and support"); NRS 128.106(a) (requiring the court to consider the "[e]motional illness, mental illness or mental deficiency of the parent which renders the parent unable to care for the . . .

¹Because 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 finding of parental fault.

needs of the child” when determining neglect or unfitness). Further, Gina refused to engage with any aspect of her case plan during the two and a half years the matter was pending. 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”); 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). Finally, because X resided outside of Gina’s care for more than 14 of 20 consecutive months, the district court properly applied the statutory presumption that Gina had only engaged in token efforts to care for X. See NRS 128.105(1)(b)(6); NRS 128.109(1)(a) (providing that it is presumed that a parent has only made token efforts when the child has resided outside the parent’s care for more than 14 of 20 consecutive months). And substantial evidence demonstrates that Gina did not rebut that presumption, given that Gina provided no support for X while X was out of her care, maintained inconsistent contact with X and WCHSA, and made no effort to engage in services to address her mental health issues. See *Matter of R.T.*, 133 Nev. 271, 275-76, 396 P.3d 802, 806 (2017) (finding that a parent’s failure to follow through with mental health referrals supported a district court’s token efforts finding).

We also conclude that substantial evidence supports the district court’s finding that termination was in X’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.”). Based on the length of time X was outside of Gina’s care, the district court properly applied the statutory presumption that termination was in

X's best interest. 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 the parent's home for 14 of any consecutive 20 months). Despite the services offered to Gina, Gina has refused to engage with them, and additional services would not likely lead to reunification within a predictable period. 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). Further, X has stated that she wishes to be adopted by her foster family. NRS 128.107(2). As the district court recognized, X is fully integrated into her foster family, is thriving in their care, and the foster parents are committed to adopting X. 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 Gina's parental rights was in X's best interests.

Gina also raises several additional arguments, all of which lack merit. First, to the extent Gina challenges the district court's admission of the psychological intake evaluation Gina took as part of a prior criminal case, we conclude that the evaluation was relevant and was not confidential. See NRS 48.015 (defining relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence"); NRS 49.207 (defining a confidential communication between a psychologist and patient); 45 C.F.R. § 164.512(e)(1) (permitting the disclosure of protected health information without the patient's authorization in response to a court order). Second, to the extent Gina challenges the district court's decision to strike certain documents Gina

filed pro se because they lacked a required affirmation page, the record demonstrates that the lack of an affirmation page was not the only reason the documents were stricken and that Gina was informed she could refile the documents with the noted corrections. Finally, to the extent Gina challenges the consent to adoption and open adoption agreement signed by [redacted]'s biological father, Gina lacks standing to seek reversal on this ground. *See Beazer Homes Holding Corp. v. Eighth Jud. Dist. Ct.*, 128 Nev. 723, 731, 291 P.3d 128, 133 (2012) (providing that "a party generally has standing to assert only its own rights"). Based upon the foregoing, we

ORDER the judgment of the district court AFFIRMED.

Stiglich J.
Stiglich

Pickering J.
Pickering

Parraguirre J.
Parraguirre

cc: Hon. Paige Dollinger, District Judge, Family Division
Karla K. Butko
Erin A. Ching
James P. Newcomb
Washoe County District Attorney
Washoe District Court Clerk