NOT DESIGNATED FOR PUBLICATION

No. 126,011

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Interest of A.R.,
A Minor Child.

MEMORANDUM OPINION

Appeal from Leavenworth District Court; JOAN M. LOWDON, judge. Opinion filed July 28, 2023. Affirmed.

Chadler E. Colgan, of Colgan Law Firm, LLC, of Kansas City, for appellant natural father.

Jose V. Guerra, assistant county attorney, and *Todd Thompson*, county attorney, for appellee.

Before BRUNS, P.J., GREEN and SCHROEDER, JJ.

PER CURIAM: The natural father (Father) of A.R. appeals from the district court's finding of unfitness and termination of his parental rights. Upon a careful review of the record, we find the district court's determination Father was unfit is properly supported by clear and convincing evidence. We further find the district court correctly determined the conduct or condition causing Father's unfitness was unlikely to change in the foreseeable future; thus, the district court soundly concluded termination of his parental rights was in A.R.'s best interests. Accordingly, we affirm.

FACTS

A.R. was born in September 2019. When she was three months old, the State filed a petition asking the district court to find A.R. was a child in need of care (CINC). At the

time, A.R. was living with her natural mother (Mother) and three other siblings. The petition was filed based on concerns Mother was physically abusive toward A.R.'s older siblings. The Department for Children and Families (DCF) was already working with the family at that time. Mother entered a no-contest statement to the allegations, and the district court adjudicated A.R. and her siblings as children in need of care. At that time, the identity of A.R.'s father was unknown. The children remained in Mother's care until Mother was found dead in her home in August 2020. Thereafter, A.R. was placed in the custody of an adult relative, A.G. The identity of A.R.'s father was still unknown, and the State petitioned the district court to terminate the parental rights as to A.R.'s then-unknown father.

In February 2021, Father appeared for a hearing via Zoom and acknowledged he was A.R.'s father. The district court found he was A.R.'s legal father. Father entered a no-contest statement to the allegations in the State's CINC petition. At a disposition hearing in March 2021, the district court adopted a proposed reintegration plan for Father prepared by DCF, which Father signed. In July 2021, the district court held a permanency hearing. Father did not appear but was represented by counsel. The district court found reasonable efforts had been made by the appropriate agencies to assist the family, but reintegration was no longer viable. The district court determined adoption or permanent custodianship would be the new permanency plan goals.

In October 2021, another hearing was held at which Father failed to appear. The district court found A.G. was no longer able to support A.R. and her siblings and placed A.R. in DCF custody.

In March 2022, the State filed a motion alleging Father was unfit based on the following statutory factors:

- K.S.A. 38-2269(b)(4) ("physical, mental or emotional abuse or neglect or sexual abuse of a child");
- K.S.A. 38-2269(b)(7) ("failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family");
- K.S.A. 38-2269(b)(8) ("lack of effort on the part of the parent to adjust the parent's circumstances, conduct or conditions to meet the needs of the child");
- K.S.A. 38-2269(c)(2) ("failure to maintain regular visitation, contact or communication with the child or with the custodian of the child");
- K.S.A. 38-2269(c)(3) ("failure to carry out a reasonable plan approved by the court directed toward the integration of the child into a parental home"); and
- K.S.A. 38-2269(c)(4) ("failure to pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay").

The district court held the termination of parental rights hearing on June 30, 2022. Father testified he was currently incarcerated based on a probation violation for an underlying 2018 drug conviction and had been in custody since May 10, 2022. Father believed he had to serve approximately 22 more days for the probation violation. Father admitted he had been incarcerated "probably like three times" in the previous two years. In total, Father spent less than six months in custody over that two-year period due to probation violations from his 2018 drug conviction.

Father testified he was not in a relationship with Mother at the time A.R. was born. Still, Father claimed he visited A.R. frequently for the first six months after she was born. However, Father conceded he had essentially no contact with A.R. in the two and a half years prior to the termination hearing. Father learned through a third party that Mother had died approximately two years before the hearing. Father explained he tried contacting A.R.'s family members but was unsuccessful for two to three weeks after Mother died. It was not until several months later Father was able to get hold of the person he believed

was A.R.'s guardian. Father acknowledged he was aware A.R. was in DCF custody approximately 18 months before the hearing.

Father admitted he spoke with at least one person from Cornerstones of Care (Cornerstones), the contracting agency for DCF, and was told to come to Cornerstones' office, but he never did so. Father claimed he called and left messages on several occasions but never went in person. Father testified he "kind of like gave up" on making efforts to contact Cornerstones. Although Father did not have a vehicle or driver's license, he admitted he had transportation available but did not go. He never asked the Cornerstones caseworkers what he needed to do to set up a visitation plan with A.R. Father thought he would get A.R. back without any further effort. He admitted he did not follow the necessary procedures but claimed it was because he had never been through such a situation before.

Father acknowledged he received a reintegration plan but had difficulty complying with it because he would forget. Father said he had memory problems due to a 2020 car accident, which caused him to forget things and also miss court appearances. Father admitted he never completed a urinalysis (UA) test for Cornerstones. Father asked the district court to give him another chance to complete his reintegration plan tasks, although he admitted he did not know what those tasks were. Father believed he could do so because he had several other children between the ages of 10 and 23. Father later clarified only one of his children was under 18 and that child never lived with him at any point.

Father testified he was not employed. He relied on his mother and girlfriend to support him financially. Father stopped attending school after the eleventh grade and did not complete his GED. Father believed he should have been on disability due to a reading problem when he was younger as well as injuries sustained in the car accident. He was not currently on disability but stated he was seeking it. He also did not believe he had

insurance. Father claimed he had spent about $1,000 on A.R.; had given between $400-$500 to A.R.'s sister, C.C.; and had given an additional $100 to someone he referred to as A.R.'s "auntie."

Brittney Hernandez testified she was a foster care manager assigned to A.R.'s case in March 2022. A.R. had been in out-of-home placements since the fall of 2020. She was placed with two different individuals. The first placement was with A.R.'s adult sister. She was later placed with the grandparents of her half-siblings. A.R. had been with the grandparents for about 10 months prior to the hearing. A.R. had a strong bond with her half-siblings, and Hernandez believed A.R. was doing very well in her placement.

Hernandez explained A.R. would be unlikely to recognize Father given the amount of time she had been in out-of-home placement. Hernandez expressed some apprehension about A.R. having contact with Father because it would be "so new to the child." Hernandez believed adoption would be the best option for A.R. because "that is where her comfort is. That's all she knows."

Hernandez testified she gave Father's attorney her contact information in March 2022. On April 4, 2022, Father left a voicemail message for Hernandez. She returned his call the following day; Father did not answer, so she left a voicemail explaining who she was and her role in helping with the case. However, Hernandez was never able to speak with Father. On April 14, 2022, Hernandez tried calling Father again, but he did not answer, and she was unable to leave a voicemail due to a "Google authenticator." On April 30, 2022, Hernandez spoke with Father's attorney, explaining she did not have a way to contact Father. Father's attorney explained he also had not had contact with Father and was unaware of his whereabouts. Hernandez only had Father's phone number. She was not able to ascertain a mailing address from her discussions with Father's attorney. She did not attempt to call Father again after April 14, 2022.

Hernandez testified Father's reintegration plan tasks were to: complete UAs as requested; obtain stable employment and housing; maintain contact with Cornerstones; provide Cornerstones with proof of utility bills; maintain consistent visits with A.R.; and avoid further legal trouble. Hernandez' case file showed nothing reflecting Father completed any of these case plan tasks. In fact, the file contained no documentation regarding Father's address or other contact information.

The district court took the matter under advisement. It explained its decision at a subsequent hearing. The district court explained its concerns about Father's absence and lack of contact with A.R. in the previous two and a half years. The district court found some of Father's testimony lacked credibility; specifically, Father's claim he gave cash to C.C. The district court did, however, find Father's admission he had not seen A.R. in two and a half years was credible. The district court noted Father first appeared in court in January 2021 and was, thus, aware of the case for roughly 18 months prior to the hearing. However, the district court found Father made very little progress toward reintegration in that time. Father appeared for a dispositional hearing in February 2021 but otherwise had sporadic appearances. Sometimes this was because Father was in custody for other legal issues. But Father was also absent from hearings when not in custody.

The district court expressly found Hernandez' testimony credible. The district court noted the various attempts Hernandez made to contact Father and the lack of additional contact information available to Hernandez from Father or his attorney. The district court further noted the records from the agencies reflected Father had not completed any of his case plan tasks.

Ultimately, the district court found Father unfit under K.S.A. 38-2269(b)(4); K.S.A. 38-2269(b)(8); K.S.A. 38-2269(c)(2); and K.S.A. 38-2269(c)(3).

The district court explained one of the best ways to predict Father's future behavior was to look at his past conduct. The district court found that due to Father's lack of progress since January 2021, the conduct or condition causing Father's unfitness was unlikely to change for the foreseeable future. Accordingly, the district court found termination of Father's parental rights was in A.R.'s best interests. In reaching this conclusion, the district court noted A.R. was three months old when the case began. A.R. was very young when Mother died. A.R. had been in out-of-home placements the majority of her life and was in a very stable placement at the time of the hearing. In particular, the district court noted the bond A.R. had with her half-siblings. A.R. also had a bond with the grandparents, and they were willing to adopt her.

The record reflects issues over how Father processed this appeal, but we need not delve into that issue because the State agrees we obtained jurisdiction when another panel of this court allowed the docketing statement to be filed out of time.

ANALYSIS

Father Is Unfit

A parent has a constitutionally recognized fundamental right to a parental relationship with his or her child. See *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982); *In re B.D.-Y.*, 286 Kan. 686, 697-98, 187 P.3d 594 (2008). Accordingly, parental rights for a child may be terminated only upon clear and convincing proof of parental unfitness. K.S.A. 38-2269(a); *Santosky*, 455 U.S. at 769-70; *In re R.S.*, 50 Kan. App. 2d 1105, 1113, 336 P.3d 903 (2014).

In reviewing a district court's termination of parental rights, we view all evidence in the light most favorable to the prevailing party to determine whether a rational fact-finder could have found it highly probable by clear and convincing evidence that parental

rights should be terminated. *In re K.W.*, 45 Kan. App. 2d 353, 354, 246 P.3d 1021 (2011). Clear and convincing evidence is evidence sufficient to establish that the truth of the facts asserted is highly probable. This is an intermediate standard of proof between a preponderance of the evidence and proof beyond a reasonable doubt. *In re Adoption of C.L.*, 308 Kan. 1268, 1278, 427 P.3d 951 (2018). In making this determination, we do not "weigh conflicting evidence, pass on credibility of witnesses, or redetermine questions of fact." *In re B.D.-Y.*, 286 Kan. at 705.

K.S.A. 38-2269(b)-(e) lists nonexclusive factors the district court may rely on to determine a parent is unfit. Any one of those factors alone may be grounds to terminate parental rights. K.S.A. 38-2269(f). Here, the district court found Father unfit under K.S.A. 38-2269(b)(4), (b)(8), (c)(2), and (c)(3). Contrary to Father's arguments, we find the district court's conclusion under each of these factors is properly supported by clear and convincing evidence.

Neglect

The district court found Father neglected A.R. and, thus, was unfit under K.S.A. 38-2269(b)(4). In reaching this conclusion, the district court relied on the statutory definition of neglect in K.S.A. 38-2202(t), which provides:

> "(t) 'Neglect' means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:
>
> (1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation that requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall, not for that reason, be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 38-2217(a)(2), and amendments thereto."

The district court found Father's actions amounted to neglect under this statutory definition because (1) Father did not provide A.R. with adequate food, clothing, or shelter, and (2) Father failed to adequately supervise A.R. Father argues the district court's findings are unsupported by the record. Specifically, he cites his own self-serving testimony he frequently visited A.R. for the first six months after she was born. He further claims his testimony establishes he provided financial support for A.R. and had difficulty contacting A.R.'s relatives.

Father is essentially asking us to reweigh the evidence, which we cannot do. *In re B.D.-Y.*, 286 Kan. at 705. The district court expressly found Father's testimony about the money (support) he provided for A.R. was not credible. Again, this is a point we cannot redetermine. 286 Kan. at 705. The district court was able to weigh Father's testimony about his involvement for the first six months of A.R.'s life against his admission he had not seen A.R. for approximately two and a half years prior to the hearing. The district court did not find Father's testimony on this point fully credible, noting the case was filed when A.R. was approximately three months old. The district court believed Father had contact with A.R. after she was born, but this was for less than six months. The district court further noted, although Father was incarcerated for part of the time the case was

pending, this amounted to less than six months in the two years prior to the termination hearing.

Even though Father claimed he had difficulty contacting A.R.'s family members, he was aware of the case since at least January 2021, and Hernandez testified she contacted Father to explain what he needed to do to work with Cornerstones on completing his case plan tasks. The district court expressly found Hernandez' testimony credible. Father admitted he never went to Cornerstones, did not know what his reintegration plan tasks were, and essentially gave up on completing anything.

The district court, as fact-finder, was in the best position to weigh the evidence and determine whether Father's testimony about money he spent on A.R. was credible and whether the amount was sufficient to provide for A.R.'s needs. Even if the district court had accepted Father's testimony, a reasonable fact-finder could easily conclude the amount Father claimed to have spent—between $1,500 and $1,600—was insufficient to provide for A.R. over the course of approximately three years. The record is also clear Father never had custody of A.R. and never had any visitation during the pendency of the case. Accordingly, Father could not have provided *adequate* supervision for A.R. when he never provided *any* supervision during the case. The district court properly determined Father's conduct amounted to neglect under K.S.A. 38-2202(t)(1) and (t)(2); thus, the district court properly concluded Father was unfit under K.S.A. 38-2269(b)(4).

Lack of Effort by Father

The district court found Father demonstrated a lack of effort to adjust his circumstances, conduct, or condition to meet the needs of A.R. See K.S.A. 38-2269(b)(8). Specifically, the district court noted Father was aware of the case in January 2021 but had never submitted a UA; never visited A.R.; and never provided his caseworkers with proof of housing, utilities, and other documentation. The district court further noted Father had

been in custody three times for probation violations stemming from a 2018 drug conviction.

Father argues the district court erred because there was little evidence of any efforts made by Cornerstones from January 2021 to March 2022. He further asserts Hernandez' attempts to contact him were minimal. He points to his injuries and memory problems as a result of his 2020 car accident and argues the district court should have considered whether Cornerstones did enough to help him in light of these challenges. We are unpersuaded by his arguments.

Father is again asking us to reweigh evidence, which we cannot do. *In re B.D.-Y.*, 286 Kan. at 705. Further, his arguments essentially conflate lack of effort by the parent under K.S.A. 38-2269(b)(8) with a failure of reasonable efforts by appropriate agencies to rehabilitate the family under K.S.A. 38-2269(b)(7)—a factor upon which the district court did not rely in finding him unfit. In fact, the district court expressly declined to make a finding whether there were reasonable efforts by the agency, noting it was unclear what had been done before Hernandez was assigned to the case. Even so, "'[t]he purpose of the reasonable efforts requirement is to provide a parent the opportunity to succeed, but to do so the parent must exert some effort.'" *In re M.S.*, 56 Kan. App. 2d 1247, 1257, 447 P.3d 994 (2019). Here, Father exerted little to no effort.

Father was told at the February 2021 status hearing that a reintegration plan would be prepared by DCF and he would need to get into contact with the caseworkers once he was released from custody. Father admitted he was aware A.R. was in DCF custody approximately a year and a half before the termination hearing. Nothing in Father's testimony reflects any effort on his part to contact DCF between February 2021 and March 2022. Father admitted he was contacted in April 2022 by Hernandez and another Cornerstones caseworker whose name he could not recall. Father was told to come to Cornerstones in person, but he never went even when he had transportation. Father

testified he "kind of like gave up" on making efforts to contact Cornerstones. Father never submitted a UA or worked on any of his reintegration tasks; he did not even know what those tasks were.

Regardless of whether more could have been done to help Father, he consistently showed a lack of effort to adjust his circumstances. He continued to violate his probation, which resulted in Father being incarcerated three times during the pendency of the case. He "gave up" on trying to work with Cornerstones and never went in person even though he was told to do so. This resulted in Father having no visitation with A.R. during the case. Father was aware there was a reintegration plan but asserted his memory issues affected his ability to remember what he needed to do. Father claimed he may need a guardian due to his memory problems. Father testified he saw a mental health professional at some point but had not seen her in eight months. And Father was not taking the medication that had been recommended.

Father's testimony generally reflects he felt he did not need to make much of an effort to reintegrate with A.R. Rather, he thought she "was going [to] be handed to" him and he would "be able to get her just like that." The district court's finding that Father failed to make an effort to adjust his conduct, condition, or circumstances to meet A.R.'s needs is properly supported by clear and convincing evidence; therefore, the district court soundly concluded Father was unfit under K.S.A. 38-2269(b)(8).

Failure to Maintain Regular Visitation, Contact, or Communication

The district court also found Father unfit under K.S.A. 38-2269(c)(2) for failing to maintain regular visitation, contact, or communication with A.R. or her custodian, noting Father had not seen A.R. in two and a half years and had not maintained contact with Cornerstones. Father argues the district court's decision is unsupported by the record. He points to his testimony he had daily contact with A.R. for six months after she was born

and his difficulty contacting A.R.'s relatives after Mother died. He further complains there was no evidence of any effort by the caseworkers to contact him between January 2021 and March 2022. Father asserts these issues were compounded by his injuries and memory problems following his car accident. He claims this "all but ensured visitation did not occur." Again, Father is essentially asking us to reweigh evidence, which we cannot do. *In re B.D.-Y.*, 286 Kan. at 705.

As previously discussed, irrespective of what more others could have done, Father demonstrated a lack of effort to work on his reintegration plan tasks—something he was aware of since February 2021. Hernandez specifically informed Father he needed to meet with Cornerstones to establish a visitation schedule. But Father never went to Cornerstones even when he had transportation. Instead, he "gave up."

We are unpersuaded by Father's arguments. There is no dispute Father did not have any contact or visitation with A.R. during the pendency of the case. The district court accepted part of Father's testimony about his contact with A.R. after she was born but found it could not have been for as long as Father claimed, given A.R. was three months old when the case was filed. The district court, as fact-finder, was able to weigh the circumstances Father points to and determine who was at fault for the lack of visitation. And the district court explicitly acknowledged there was uncertainty whether and to what extent DCF and/or Cornerstones attempted to work with Father prior to March 2022. We do not reweigh evidence or determine credibility. *In re B.D.-Y.*, 286 Kan. at 705. Even if visitation efforts may have been frustrated prior to March 2022 due to a lack of communication from A.R.'s relatives and DCF, there is still clear and convincing evidence Father knew, based on Hernandez' communication, he needed to maintain contact with Cornerstones in order to establish a visitation schedule with A.R. but did not do so. The district court's finding of unfitness under K.S.A. 38-2269(c)(2) is supported by clear and convincing evidence.

Failure to Carry Out a Reasonable Court-Approved Reintegration Plan

Last, the district court found Father unfit under K.S.A. 38-2269(c)(3) for failing to carry out a reasonable court-approved reintegration plan, noting the plan had been approved by the district court on March 9, 2021, and Father had not completed any of the tasks set forth therein. Father argues the district court's finding is unsupported by the record, repeating many of his earlier arguments regarding his memory issues and lack of communication from his caseworkers. Again, we are unpersuaded by Father's invitation to reweigh the evidence. See *In re B.D.-Y.*, 286 Kan. at 705.

The record reflects Father never completed any of his case plan tasks, failed to maintain communication with Cornerstones, continued to have other legal troubles related to his probation, and never had any visitation with A.R. Father admitted he never completed a UA and did not take any steps toward establishing visitation despite Hernandez' instructions. Father was aware a reintegration plan existed, although he did not remember what he needed to do because of his memory issues. Still, Father testified he had not seen a mental health professional for approximately eight months before the hearing and was not taking the recommended medication.

The record reflects clear and convincing evidence a reasonable court-approved reintegration plan existed and Father did not complete any of the tasks set forth therein. The district court properly concluded Father is unfit under K.S.A. 38-2269(c)(3).

Father's Unfitness Is Likely to Continue in the Foreseeable Future

The district court found Father's unfitness was likely to continue in the foreseeable future based on: Father's lack of engagement with Cornerstones; Father had not seen A.R. in two and a half years; and Father's failure to complete a single reintegration plan task. Father responds the district court's conclusion is unsupported by the record,

reiterating many of his previous arguments about a lack of contact from his caseworkers and his memory problems impeding his ability to work through the reintegration plan. Father also points to the fact he was going to be released from custody shortly after the termination hearing.

As provided in K.S.A. 38-2269(a), the district court must find "by clear and convincing evidence that the parent is unfit by reason of conduct or condition," making him or her "unable to care properly for a child" and the circumstances are "unlikely to change in the foreseeable future." As another panel of this court said:

> "When assessing the foreseeable future, this court uses 'child time' as the measure. The Revised Kansas Code for Care of Children—[K.S.A. 38-2201 et seq.]—recognizes that children experience the passage of time in a way that makes a month or a year seem considerably longer than it would for an adult, and that different perception typically points toward a prompt, permanent disposition." *In re M.S.*, 56 Kan. App. 2d at 1263.

See K.S.A. 38-2201(b)(4).

In making this determination, "[a] district court may look to a parent's past conduct as an indicator of future behavior." *In re K.L.B.*, 56 Kan. App. 2d 429, 447, 431 P.3d 883 (2018). In other words, "[p]arental unfitness can be judicially predicted from a parent's past history." *In re M.T.S.*, No. 112,776, 2015 WL 2343435, at *8 (Kan. App. 2015) (unpublished opinion).

Here, the district court soundly concluded Father's unfitness was unlikely to change in the foreseeable future. Father had not sufficiently provided for A.R. through the pendency of the case and was unemployed at the time of the termination hearing. Although Father's ability to complete the reintegration plan tasks may have been impeded by his memory issues, Father failed to take any steps to actively address that problem at the time of the hearing and wanted to just blame the caseworkers.

While Father's circumstances regarding his probation violations may have been about to change with his upcoming release, his behavior is nonetheless a relevant indicator to predict his future conduct. Father was incarcerated three times through the pendency of this case for probation violations. In other words, Father failed to comply with court-ordered conditions in another legal matter. Father's testimony seemed to indicate the probation violations resulted from missing court and failing to meet with his probation officer. Similarly, Father failed to comply with court-ordered conditions here, i.e., completing reintegration plan tasks. He also missed several court appearances and failed to meet with his caseworkers. The district court noted Father had been incarcerated for less than six months during the two years the case had been pending and he was out of custody more often than not but still failed to make any progress. Simply put, the fact Father's custodial status was about to change is not a meaningful change in circumstances; he did not complete any reintegration tasks when previously out of custody.

Father was told in February 2021 a reintegration plan was going to be put into place. The plan was approved by the district court in March 2021. However, as of the time of the termination hearing in June 2022, Father had not completed any reintegration plan tasks. A.R. was nearly three years old at the time of the hearing, and Father had made no meaningful progress toward reintegration for a year and a half—roughly half of A.R.'s life. Moreover, Father had not seen A.R. for two and a half years prior to the hearing. But, in Father's words, he "gave up" on working toward reintegration through Cornerstones.

Viewing the evidence through the appropriate lens—a child's perception of time—the district court soundly concluded Father's conduct, condition, or circumstances causing his unfitness were unlikely to change in the foreseeable future given his past conduct. See K.S.A. 38-2201(b)(4); *In re K.L.B.*, 56 Kan. App. 2d at 446-47; *In re M.S.*, 56 Kan. App. 2d at 1263.

Termination of Father's Parental Rights Was in A.R.'s Best Interests

Upon making a finding of unfitness of the parent, the district court "shall consider whether termination of parental rights . . . is in the best interests of the child. In making the determination, the court shall give primary consideration to the physical, mental and emotional health of the child." K.S.A. 38-2269(g)(1). The district court makes the best-interests determination based on a preponderance of the evidence, which is essentially entrusting the district court to act within its sound judicial discretion. *In re R.S.*, 50 Kan. App. 2d at 1115-16. We review a district court's best-interests determination for an abuse of discretion,

> "which occurs when no reasonable person would agree with the district court or the district court premises its decision on a factual or legal error. In determining whether the district court has made a factual error, we review any additional factual findings made in the best-interests determination to see that substantial evidence supports them. [Citation omitted.]" 50 Kan. App. 2d at 1116.

The party asserting the district court abused its discretion bears the burden of showing such abuse of discretion. *Northern Natural Gas Co. v. ONEOK Field Services Co.*, 296 Kan. 906, 935, 296 P.3d 1106 (2013).

In reviewing the district court's termination of parental rights, we view all the evidence in the light most favorable to the State to determine whether a rational fact-finder could have found it highly probable by clear and convincing evidence that parental rights should be terminated. *In re K.W.*, 45 Kan. App. 2d at 354. Again, we do not "weigh conflicting evidence, pass on credibility of witnesses, or redetermine questions of fact." *In re B.D.-Y.*, 286 Kan. at 705.

Here, the district court found termination of Father's parental rights was in A.R.'s best interests based on: A.R.'s young age when she was taken into State custody; the

length of time the case had been pending; Father's lack of progress toward reintegration; A.R.'s current placement with the grandparents and her half-siblings coupled with the length of time she had been in that placement; the stability the grandparents offered; and A.R. should not have to wait longer for permanency.

Father argues the district court erred in terminating his parental rights, again citing: His testimony he visited A.R. daily for the first six months after she was born; his difficulty contacting A.R.'s relatives after Mother died; his memory problems from the car accident; and lack of support from his caseworkers. Once more we must decline Father's request to reweigh the evidence. See *In re B.D.-Y.*, 286 Kan. at 705.

Here, the district court found Hernandez' testimony credible. According to Hernandez, A.R. was doing very well in her placement with the grandparents and her half-siblings, and A.R.'s needs would best be met through the stability offered by the grandparents adopting her. There is also no dispute Father failed to complete any of his reintegration plan tasks. Accordingly, there is no error of fact underlying the district court's decision. Based on these facts, the district court soundly applied the appropriate legal framework, "[giving] primary consideration to the physical, mental and emotional health of the child." K.S.A. 38-2269(g)(1). Thus, there is no error of law underlying the district court's decision. Moreover, we cannot conclude that no reasonable person would agree with the district court's decision; therefore, the district court did not abuse its discretion in terminating Father's parental rights in A.R.'s best interests, given "'the chronic nature of [Father's] parental shortcomings in spite of [the offered] state and private services.'" See *In re A.P.*, No. 121,913, 2020 WL 3022868, at *8 (Kan. App. 2020) (unpublished opinion).

Affirmed.