NOT DESIGNATED FOR PUBLICATION

No. 125,654

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Interests of A.T., J.D., H.D., J.H., and A.E.T.,
Minor Children.

MEMORANDUM OPINION

Appeal from Shawnee District Court; RACHEL L. PICKERING, judge. Opinion filed May 26, 2023. Affirmed.

John Paul D. Washburn, of Washburn Law Office, of Topeka, for appellant.

Morgan L. Hall, deputy district attorney, for appellee.

Before CLINE, P.J., MALONE and ATCHESON, JJ.

PER CURIAM: In these consolidated cases, the Shawnee County District Court terminated the right of K.K.-B. to parent five of her eight children. On appeal, Mother challenges each statutory component of that decision—she was an unfit parent, the unfitness was unlikely to change in the foreseeable future, and the best interests of the children favored termination. See K.S.A. 38-2269. The evidence amassed at the termination hearing established a constellation of circumstances sufficiently supporting the district court's conclusions on each of those requirements, so we affirm the termination order.

FACTUAL AND PROCEDURAL BACKGROUND

In January 2018, the State filed petitions to have four of Mother's children declared in need of care: J.D.-W., a 10-year-old boy; A.T., an 8-year-old boy; H.D.-W., a 6-year-old girl; and J.H., a 4-year-old boy. At least some of the children were then in what has been described as "informal" foster care, where they were living apart from Mother with relatives or other responsible adults. Mother's eldest child D.H., then a 14-year-old boy, had been removed from the home through the juvenile court system because of miscreant behavior. Mother gave birth to A.E.T., a girl, in February 2018. J.D.-W. and H.D.-W. are full siblings. Otherwise, the children, including D.H., are half-siblings. The State filed a petition to have A.E.T. declared in need of care in late July 2018, and she was so adjudicated about a month later. The four other children were adjudicated in need of care in September 2018.

The five cases essentially proceeded jointly in the district court from then on, and we have consolidated them for appeal. In 2018, a social service agency prepared a plan for family reunification. As we discuss, Mother also received assistance from other organizations to address various of her needs. Some of those efforts were coordinated with the social service agency, others not. The district court eventually determined reuniting Mother with the children no longer looked like a viable option. The State filed motions to terminate the parental rights of Mother and the children's fathers. During the five-day termination hearing in January 2022, the State and Mother called 27 witnesses and presented extensive documentary evidence to the district court. About six months later, the district court filed a lengthy decision and order terminating Mother's parental rights to the five children. The district court has also terminated the parental rights of the fathers; they are not parties to this appeal.

The evidence presented at the termination hearing may be loosely broken into two chapters. The first, covering the period through the filing of the petitions, depicts

Mother's gross neglect and indifference to the needs of the children. During that time, Mother abused drugs, including methamphetamine, and was regularly ensnarled in the criminal justice process. The children were often separated and sent to various friends or relatives when Mother was incarcerated. The district court credited evidence that Mother was sexually trafficked—essentially held against her will in the home as a prostitute—while the children were present. In her own testimony, Mother did not discuss that circumstance. Illustrative of the children's unwholesome living conditions, the district court found:

• Two of the children heard H.D.-W. cry out while D.H. was in a bedroom with her. One of them entered and saw H.D.-W. and D.H. in the bed. Mother denied learning of the apparent sexual abuse until a year or so later. Investigators concluded the sexual abuse to be substantiated. By then, D.H. had already been removed from the home because of repeated misconduct as a juvenile, including assaulting Mother. During the termination hearing, Mother acknowledged D.H. likely had abused his half-sister.

• J.H. spontaneously told his temporary caregiver that Mother and her boyfriend placed J.D.-W. in a bulletproof vest. One of them then discharged a firearm into the vest to see if it would stop the bullet. The record indicates that the boyfriend may have been R.T., who is the father of A.E.T. According to the caregiver, J.H. is "very, very scared" of R.T.

• J.H. similarly reported to the caregiver that one of his older half-siblings and a friend put H.D.-W. in the washing machine and started it. The incident left J.H. deeply shaken and fearful. Based on J.H.'s account, the caregiver inferred D.H. was responsible. J.H. has said he doesn't want to be around D.H.

• H.D.-W. was sexually trafficked at the same time Mother was. H.D.-W. told staff at the preschool program she attended that her bedroom had a disco style light in it and

when the light was on, men would come in and "do things to her," as a social worker with the program testified during the termination hearing.

• After A.E.T. was born, Mother continued living with R.T., despite repeated instances of domestic abuse. The ongoing emotional tensions and physical confrontations between Mother and R.T. figured prominently in the State's intervention and removal of A.E.T. from the home. In a separate incident while Mother was incarcerated, R.T. refused to cooperate with law enforcement officers who had to force their way into the residence to check on A.E.T.'s welfare.

The district court found those circumstances both typified and themselves evinced a disturbing pattern of Mother's chronic neglect of and indifference to the wellbeing of the children.

The second chapter in the evidence focuses on the period between the filing of the petitions and the termination hearing about four years later. During that period—an unusually long time for in need of care proceedings—Mother made only limited progress toward family reunification. For much of the time, Mother had unstable housing, irregular employment, diminishing visits with the children because she failed to appear for scheduled drug tests, and other difficulties. During the termination hearing in January 2022, Mother acknowledged she was not yet ready to resume caring for the children.

Mother then had custody of A'N.T. and Am.T., her two youngest children who were then respectively about 3 years old and 10 months old. R.T. is the father of Am.T. and may be the father of A'N.T., although Mother is uncertain about the child's paternity. Mother's parent rights as to A'N.T. and Am.T. were not at issue in the district court. Nor are they in this appeal.

The hearing evidence showed Mother had worked as a certified nursing assistant but her certification had lapsed. Mother agreed her employment had been spotty over the preceding several years. She testified she was concerned about contracting COVID-19 and infecting A'N.T. or Am.T., so she remained out of the workforce. Mother thought she could readily get recertified as a nursing assistant and obtain employment. Mother lived in various places, including shelters until about a year before the termination hearing. She occupied a three-bedroom house she acknowledged probably would not be large enough if she were reunited with the five children. Mother testified that she believed she could easily get another larger, federally subsidized house if she were given additional time to pursue family reunification.

J.H., in particular, reacted negatively to the possibility of returning to his Mother's care and responded poorly to visits with her. The social service agency set a reintegration objective that Mother participate in family therapy. The initial therapeutic step called for Mother to meet with a counselor. But she managed only two visits over the course of the proceedings and did not participate in joint counseling with any of the children. Likewise, the social service agency required Mother to test regularly for controlled substances given her history of drug abuse. Mother failed to report for scheduled urine tests, and her visits with the children were suspended as a result. In 2022, Mother tested negative on several drug tests. The social service agency, however, did not restore visits with the children. At the termination hearing, Mother testified she had no in-person visits with the children in the preceding two years.

Mother largely attributed those failures to logistical problems associated with COVID restrictions and continually being assigned new caseworkers. But, for example, the social service agency offered to send someone to Mother's home for drug testing after she said she had difficulty arranging for childcare and getting to the testing location. In her testimony at the termination hearing, Mother only briefly alluded to being sexually trafficked and did not offer that as a circumstance adversely affecting her ability to carry

out the tasks in the family reintegration plan. Mother described generally some of the supportive services she was receiving from other organizations that appeared to include help with the emotional aftermath of the sexual trafficking and of the persistent domestic violence directed at her.

In that respect, the caseworkers were concerned that Mother continued to communicate with R.T. and have personal interactions with him, despite her representations to the contrary. Moreover, the caseworkers advised Mother that D.H.'s presence in the home posed a nearly insurmountable obstacle to reintegrating the other children because of his past behaviors and continuing concerns about his violent temperament. The district court credited evidence that D.H. had kicked one of his youngest half-siblings at the home in the presence of Mother and a visiting caseworker. The caseworker reported Mother neither admonished D.H. nor attempted to comfort the crying child. At the termination hearing, Mother denied the incident.

Likewise, the district court credited circumstantial evidence that D.H. directed violent outbursts at Mother. In her testimony, Mother acknowledged D.H. could be violent and was given to especially angry outbursts. And she testified he tried to physically assault her. D.H. had been living with Mother for about a year, despite the social service agency's strong recommendation otherwise. Mother testified that D.H. was an adult and needed to move out on his own, especially if she regained custody of her children.

The undisputed hearing evidence indicated the children were doing reasonably well in their placements through the Department for Children and Families.

In its order of termination, the district court found the State had proved by clear and convincing evidence that Mother was an unfit parent at the time of hearing based on multiple statutory grounds outlined in the Revised Kansas Code for Care of Children:

• Mother's conduct was physically, mentally, or emotionally neglectful of the children, as provided in K.S.A. 38-2269(b)(4).

• Reasonable efforts of the Department and the social service agency had failed to rehabilitate the family, as provided in K.S.A. 38-2269(b)(7).

• Mother made insufficient efforts to adjust her circumstances to meet the needs of the children, as provided in K.S.A. 38-2269(b)(8).

• The children had been in out-of-home placements for an extended time, and Mother failed to "assure care . . . in the parental home when able to do so," failed to regularly visit or otherwise communicate with the children, and failed to carry out a reasonable plan for family reunification, as provided in K.S.A. 38-2269(b)(9) and K.S.A. 38-2269(c)(1)-(3).

The district court also found Mother's unfitness was unlikely to change in the foreseeable future, a necessary condition for termination under K.S.A. 38-2269(a). The district court relied on the overall lack of substantive progress Mother had made in key components of the reunification plan, including regular employment, suitable housing, and providing a safe home environment for the children despite the extended duration of the cases. The district court similarly saw no concrete actions on Mother's part to accomplish those tasks promptly and pointed out the limited interactions Mother had with the children, especially in the preceding couple of years. Based on those considerations coupled with the pervasive parental neglect underlying the unfitness findings, the district court concluded the best interests of the children would be served by terminating Mother's rights. K.S.A. 38-2269(g)(1). Mother has appealed the termination decision as to each of the five children.

LEGAL ANALYSIS

In considering Mother's points on appeal, we first outline the legal principles governing termination of parental rights cases and then apply those principles to the district court's findings and ultimate determination in light of the record evidence.

Legal Principles

A person has a constitutionally recognized right to a parental relationship with his or her child. See *Santosky v. Kramer*, 455 U.S. 745, 753, 758-59, 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) (citing *Santosky*). The right is a constitutionally protected liberty interest. See *Troxel v. Granville*, 530 U.S. 57, 65, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000) (substantive liberty interest); *Pierce v. Society of the Sisters*, 268 U.S. 510, 534-35, 45 S. Ct. 571, 69 L. Ed. 1070 (1925) (recognizing "the liberty of parents and guardians to direct the upbringing and education of children under their control"). Accordingly, the State may extinguish the legal bond between a parent and child 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, Syl. ¶ 1, 336 P.3d 903 (2014). The Legislature has enacted the Revised Kansas Code for Care of Children, K.S.A. 38-2201 et seq., to codify processes for finding children in need of care, for fostering family reunification, and for terminating parental rights if those efforts fail.

After a child has been adjudicated in need of care, a district court may terminate parental rights "when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future." K.S.A. 38-2269(a). In considering a parent's unfitness, the district court may apply the factors outlined in K.S.A. 38-2269(b) and, when the child has been removed from the

home, the additional factors in K.S.A. 38-2269(c). In this case, the district court drew from both of those sources to find Mother unfit. A single factor may be sufficient to establish unfitness. See K.S.A. 38-2269(f).

In gauging the likelihood of change in the foreseeable future under K.S.A. 38-2269(a), the courts should use "child time" as the measure. As the Code recognizes, 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 difference in perception typically tilts toward a prompt, permanent disposition. K.S.A. 38-2201(b)(4); *In re M.B.*, 39 Kan. App. 2d 31, 45, 176 P.3d 977 (2008); *In re G.A.Y.*, No. 109,605, 2013 WL 5507639, at *1 (Kan. App. 2013) (unpublished opinion) ("'child time'" differs from "'adult time'" in termination of parental rights proceedings "in the sense that a year . . . reflects a much longer portion of a minor's life than an adult's").

When the sufficiency of the evidence supporting a decision to terminate parental rights is challenged, an appellate court will uphold the decision if, after reviewing the record evidence in a light most favorable to the State as the prevailing party, the district court's findings on unfitness and foreseeability of change are supported by clear and convincing evidence. Stated another way, the appellate court must be persuaded that a rational fact-finder could have found it highly probable that the circumstances warrant the termination of parental rights. *In re B.D.-Y.*, 286 Kan. at 705. In evaluating the record, the appellate court does not weigh conflicting evidence, assess the credibility of witnesses, or determine factual questions. *In re Adoption of B.B.M.*, 290 Kan. 236, 244, 224 P.3d 1168 (2010); *In re M.H.*, 50 Kan. App. 2d 1162, 1170, 337 P.3d 711 (2014).

The district court's best interests determination is governed by a less stringent standard. As directed by K.S.A. 38-2269(g)(1), the district court should give "primary consideration to the physical, mental[,] and emotional health of the child" in making a best interests finding. A district court decides best interests based on a preponderance of

the evidence. See *In re R.S.*, 50 Kan. App. 2d at 1115-16. The decision essentially rests in the district court's sound judicial discretion. 50 Kan. App. 2d at 1116. An appellate court reviews those sorts of conclusions for abuse of discretion. As we have said: "A district court exceeds that broad latitude if it rules in a way no reasonable judicial officer would under the circumstances, if it ignores controlling facts or relies on unproven factual representations, or if it acts outside the legal framework appropriate to the issue." *In re M.S.*, 56 Kan. App. 2d 1247, 1264, 447 P.3d 994 (2019); see also *Northern Natural Gas Co. v. ONEOK Field Services Co.*, 296 Kan. 906, 935, 296 P.3d 1106 (2013).

Principles Applied

In her brief, Mother first challenges the district court's best interests finding. The approach is analytically unusual, since neither we nor the district court would reach the issue if the evidence otherwise failed to support unfitness or a likelihood the unfitness would persist for the foreseeable future. And that evidence typically bears heavily on the best interests conclusion, as well. Mother offers two lines of attack on the best interests findings.

First, Mother says the district court failed to consider facts showing her performance of multiple components of the social service agency's family reunification plan. She characterizes the failure as an abuse of discretion. Mother relies on extensive verbatim excerpts from a report she reproduces in her brief. The report was admitted as an exhibit during the termination hearing but is not part of the record on appeal, so we cannot review the entire document. For that reason, we decline to consider the edited portions of the report and, therefore, turn aside Mother's argument. See *Romkes v. University of Kansas*, 49 Kan. App. 2d 871, 886, 317 P.3d 124 (2014) (appellate court cannot rely on documents accompanying brief not included in formal record on appeal); *Still Corp., Inc. v. Still*, No. 116,910, 2017 WL 5507708, at *3 (Kan. App. 2017) (unpublished opinion). The party appealing an adverse judgment is obligated to furnish a

sufficient record to establish error. *Kelly v. VinZant*, 287 Kan. 509, 526, 197 P.3d 803 (2008). We should not infer error from fragments of a full document admitted in the district court but withheld from us on appeal.

Second, Mother says the district court was obligated to make an individualized best interests determination for each of the five children and the failure to do so ignores the applicable legal framework, amounting to an abuse of discretion. Mother cites no authority supporting the proposition. It is not a correct statement of the law. Often when a district court weighs the best interests of several children in jointly considered cases, the relevant—and determinative—evidence will be common to all of them. See, e.g., *In re A.C.*, No. 124,934, 2022 WL 4004151, at *5-6 (Kan. App. 2022) (unpublished opinion); *In re K.D.B.*, No. 116,278, 2017 WL 3001033, at *5 (Kan. App. 2017) (unpublished opinion). The district court has no duty to literally repeat those circumstances for each child in an order applicable in all of the proceedings.

Neither of Mother's arguments has undercut the district court's best interests finding. We briefly return to this point more generally after addressing Mother's challenges to the district court's findings on unfitness and unlikelihood of change.

Mother broadly attacks the district court's determination of unfitness with conclusory statements to the effect the evidence insufficiently supported the statutory grounds. Mother suggests the district court disregarded some evidence, noting, for example, that she called numerous witnesses on her own behalf in addition to testifying herself. This sort of argument, however, essentially invites us to reweigh the evidence—something we cannot do.

In turn, Mother advances specious legal arguments challenging the unfitness finding. Thus, she concedes (as she really must given the record evidence) that "some of these children [were] abused or neglected[,]" but she submits their condition was "not

because of [her] unfitness." Mother's assertion transposes factual circumstance and legal result by suggesting her unfitness did not bring about the trauma inflicted on the children. That's backwards. The evidence essentially shows Mother failed to act to remove the children from a physically and emotionally abusive environment in which other people actively harmed them. Mother's failure constituted neglect that, in turn, rendered her legally unfit under K.S.A. 38-2269(b)(4).

Mother's failure persisted during the in need of care proceedings as shown by her unwillingness to take the steps necessary to reengage visits with the children, arguably extenuating their emotional neglect. Mother didn't continue with her individual therapy sessions that were a required precursor to family therapy and increased contacts with the children. Mother did not avail herself of options to drug test as required to resume in-persons visits, including offers from caseworkers to come to her home. Similarly, D.H.'s presence in Mother's home created an almost impenetrable barrier to family reunification, given his past antisocial behaviors, his continuing violent tendencies, and the fear at least several of his half-siblings had of him. Mother may have faced what she considered a difficult choice. But her decision amounted to emotional neglect of the children.

Those circumstances also support the district court's finding that Mother did not "adjust" her situation to meet the needs of the children over the four-year course of the proceedings leading up to the termination hearing. That constitutes another statutory ground of unfitness. K.S.A. 38-2269(b)(8). As we often point out, the statutory grounds of unfitness tend to overlap and the evidence supporting one often will support others. *In re B.C.*, No. 125,199, 2022 WL 18046481, at *4 (Kan. App. 2022) (unpublished opinion); *In re A.C.*, 2022 WL 4004151, at *4. So it is here.

Mother's failure to obtain employment and to secure suitable housing bolster the district court's finding under K.S.A. 38-2269(b)(8). Mother had not taken even minimal steps toward reemployment as a CNA, let alone securing a job in that field or otherwise.

During the termination hearing in January 2022, Mother acknowledged, "I need to get employment[,] and that's definitely been a struggle." At that time, Mother's residence may have been too small to reasonably accommodate her, the five children involved in these proceedings, and her two youngest children if the family were reunified. She also acknowledged that possibility during the hearing. Even if the house were large enough, however, D.H.'s on-going presence in the home rendered it unsafe and, therefore, unsuitable. See *In re C.H.*, No. 123,640, 2021 WL 4932044, at *6 (Kan. App. 2021) (unpublished opinion) (mother's decision to reside with registered sex offender rendered home unsuitable for family reintegration); *In re H.B.*, No. 107,553, 2012 WL 3966698, at *4 (Kan. App. 2012) (unpublished opinion).

In the same vein, if Mother's house were physically suitable, her decisions to allow D.H. to live there for a year and her refusal to evict him in advance of the termination hearing establish her unfitness under K.S.A. 38-2269(c)(1). She could have furnished a suitable residence but did not. The children, of course, had been out of the home far longer than the period required to trigger that statutory ground of unfitness. K.S.A. 38-2269(b)(9). The same evidence also sufficiently supports the district court's finding Mother was unfit under K.S.A. 38-2269(c)(3) for failing to carry out a reasonable reintegration plan. At the time of the hearing, Mother had not taken concrete steps to secure employment or to insure suitable housing and had no in-person contacts with the children for about two years. All of those were integral components of the reintegration plan that Mother could have actively pursued but did not.

In short, the evidence amply supports the district court's overarching finding of Mother's unfitness based on those statutory reasons. During the termination hearing, Mother agreed she was not then in a position to assume custody of the children, a concession approaching an admission of present unfitness. We need not prolong this opinion by discussing the remaining bases the district court relied on, since a single proved ground of unfitness may be sufficient. K.S.A. 38-2269(f).

On appeal, Mother launches a second legal argument to counter the finding of unfitness: The district court failed to mitigate Mother's actions or inactions because she had been a victim of sex trafficking. The undisputed, albeit limited, evidence in the record indicates for some period before the children were placed in state custody, Mother was effectively held as a sex slave for men paying to abuse her. Everyone agrees the situation was horrific. But Mother neither testified about the sex trafficking at the termination hearing nor offered it as a partial explanation for her limited efforts to accomplish family reunification during the preceding four years. Likewise, Mother cites no expert testimony presented during the termination hearing to the effect that the experience impeded those efforts. Accordingly, Mother's argument falters on the absence of a factual link between the sex trafficking and her rather extended inattention to the steps necessary for reunification.

In addition, however, we have repeatedly recognized that parental unfitness is not a legal determination requiring fault or blameworthiness. So parents who try their best and are, nonetheless, unfit within the meaning of the Code face termination of their rights. *In re B.C.*, 2022 WL 18046481, at *4 ("A parent who tries hard yet cannot adequately care for a child is unfit within the meaning of K.S.A. 38-2269[a]."); *In re M.P.*, No. 119,444, 2019 WL 2398034, at *4 (Kan. App. 2019) (unpublished opinion); *In re A.L.E.A.*, No. 116,276, 2017 WL 2617142, at *6 (Kan. App. 2017) (unpublished opinion). One of the Code's fundamental purposes lies in protecting the physical safety and emotional wellbeing of children residing in Kansas. And that purpose cannot be served if the concept of unfitness fluctuates to account for parents' inability to meet those needs through no fault of their own.

The point is compellingly illustrated in *In re M.P.*, a tragic case in several respects. M.P.'s mother and father were not married and broke up before her birth. Mother abused the infant and inflicted permanent brain damage that left the child unable to breathe or eat on her own—she had a tracheostomy and a respirator and had to be fed through a

gastrointestinal tube. M.P. required skilled care around the clock. After his paternity was confirmed, Father stepped forward to attempt to parent M.P. But he was never able to master the skills necessary to take care of his daughter. We affirmed the district court's decision terminating his parental rights, so M.P. could be adopted by her caregivers, a nurse with advanced training and his spouse, both of whom were capable of providing the required care and had previously cared for profoundly impaired children. In part, we explained our conclusion this way:

> "[Father] has been motivated throughout this case by an admirable combination of moral obligation to M.P., as his daughter, and earnest willingness to assume the burden of caring for her. But for two years, [Father] tried to fashion those worthy intentions into a concrete reality that would allow him to parent M.P. He has been unable to do so." 2019 WL 2398034, at *5.

Without attempting to draw a raft of legal or moral equivalencies, we can assuredly say that if Father in *In re M.P.* were unfit (and sadly, he was), then a fortiori Mother is in this case. Her victimization does not lessen the legal effect of the facts demonstrating her to be unfit.

Although Mother also challenges the district court's finding that any unfitness on her part would persist for the foreseeable future, she offers a terse argument. First, Mother chides the district court for referring to change in "the nearby future" when the statutory language uses the term "foreseeable future." See K.S.A. 38-2269(a). We fail to see any material difference, especially given the district court's explanation of this aspect of its ruling. Simply failing to parrot statutory language is not itself error.

The district court pointed to the lack of forward progress over the four-year history of the proceedings, including Mother's failure to engage in therapy and the absence of in-person visits with the children for an extended time. That conduct (or lack of conduct) supports the district court's finding that family reunification was not close on the horizon

and could be glimpsed, at best, only in the indeterminate distance. Based on the record evidence, a reasonable fact-finder could conclude it was highly probable that reunification would not be accomplished any time soon, which is to say in either the "nearby future" or the "foreseeable future."

The conclusion is consistent with the foreshortening required under child time. Here, the effect of child time would differ for at least some of the children. It would be less impactful for J.D.-W, who was 14 years old at the time of the termination hearing, as compared to A.E.T., who was barely 3 years old. Regardless, however, the evidence does not suggest dispatch in restoring the family, particularly given the depth and breadth of the emotionally and physically difficult conditions the children endured while in Mother's custody, as the district court noted, coupled with the still unmet need for therapy jointly involving Mother and all of the children. Likewise, as we have pointed out, the record fails to establish a timetable for Mother to obtain gainful employment or to provide suitable housing. Her optimistic assessment that both could be accomplished quickly was belied by the four-year history of these proceedings.

Mother also submits that the six-month gap between the termination hearing and the filing of the district court's 32-page decision somehow undermines the foreseeable future finding. She suggests—without any cited substantive support in the record—that the family could have been reunified in that time. The argument is both factually unfounded and a non sequitur. The outcome in this case would have been no different had the district court entered a short, hastily drafted order within a week after the evidentiary hearing. We find no error in the district court's determination Mother's unfitness would persist for the foreseeable future.

In closing out our opinion, we return to the best interests of the children. Although we have already disposed of Mother's specific arguments on this part of the termination order adversely to her, we consider the sufficiency of the evidence more generally. By

doing so, we likely extend Mother more procedural consideration than required and take this extra step principally because of the fundamental rights at stake. We review for abuse of discretion. The district court identified the correct legal standard set out in K.S.A. 38-2269(g)(1) and discussed specific facts supported in the record, including the length of time the children had been out of the home and their progress in the placements made through the Department.

Continuing these proceedings indefinitely—affording Mother some unknown, though likely extended, period to continue her almost listless efforts toward reunification—would be deleterious to that continuity and progression. Returning the children to Mother after they have had only the briefest contacts with her literally for years would not be to their long-term benefit or in their best interests, especially given the history of neglect and maltreatment they experienced. Those considerations apply to all five children and are sufficient for us to conclude other district courts would have made the same call. Accordingly, we find no abuse of discretion in the district court's best interests determination.

Affirmed.