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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Dependency of G.M.,
d.o.b. 07/31/2013, B.M., d.o.b.
07/31/2013, and I.M., d.o.b. 07/31/2013,)

STATE OF WASHINGTON,
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES,)

Respondent,)

v.)

D.M.,)

Appellant.)

No. 77672-0-1

(consolidated with 77673-8-1, 77674-6-1,
77675-4-1, 77676-2-1, 77677-1-1)

DIVISION ONE

UNPUBLISHED OPINION

FILED: January 22, 2019

SMITH, J. — D.M. appeals the trial court’s order terminating his parental rights to his triplet sons G.M., B.M., and I.M. D.M. argues that the State of Washington Department of Social and Health Services (Department) failed to prove it offered all necessary services or that he is currently unfit to parent his children. We conclude substantial evidence supports the trial court’s findings of fact and the findings support the conclusions of law. Accordingly, we affirm.

FACTS

D.M. and W.H. are the parents of triplets G.M., B.M., and I.M., born prematurely at 28 weeks gestation on July 31, 2013. The triplets tested positive for cocaine and

methadone at the time of birth. W.H.'s parental rights were terminated by default in September 2016, and she is not a participant in this appeal.

The triplets spent two months at the hospital in the intensive care unit before being released into the care of a foster parent. Their medical challenges include respiratory problems, gastrointestinal problems, feeding issues, infection control issues, eye issues, and developmental issues. All three boys have asthma, requiring administration of Flovent twice per day as a preventive measure, plus Albuterol as a "rescue" medication when active respiratory symptoms are present. They have eye conditions that require them to wear eyeglasses full-time to aid in their visual development. They require speech therapy, vision therapy, and occupational therapy, and they have individualized education plans for cognitive issues.

On November 25, 2013, the court entered an agreed order of dependency as to D.M. The facts establishing dependency referenced D.M.'s volatile relationship with W.H., including allegations of verbal and physical aggression during pregnancy. The court ordered remedial services for D.M., including two random urinalysis tests per week for 60 days, a domestic violence batterer's assessment, a psychological evaluation with a parenting component, and compliance with recommendations. The dependency order authorized supervised visitation with his children.

The Department initially planned for the triplets to be placed in the care of D.M.'s sister L.R., where D.M. could learn how to raise them with the help of L.R. and her husband. But D.M. subsequently changed his mind and decided he wanted to raise them himself.

Department social worker Denise Huynh was assigned to the triplets' case in November 2013. She worked with D.M. to comply with the court-ordered service requirements. In 2013, D.M. successfully completed his urinalysis test requirements. He also participated in a domestic violence assessment that recommended he complete a state-certified domestic violence program. D.M. completed treatment in 2015. And in 2014, D.M. completed a psychological and parenting evaluation with Dr. Steve Tutty. Dr. Tutty's report recommended "stepped reunification" over time contingent upon D.M. making adequate progress in addressing his clinical and parenting challenges.

Katie Egbert was the triplets' visitation supervisor from June 2014 to April 2015. She testified that she observed D.M. being affectionate with the children and that during most visits she didn't need to intervene. However, there were times she needed to help D.M. manage the children, including keeping them in sight, preventing them from putting things in their mouths, and assisting when they choked on food. She often needed to prompt D.M. to administer asthma medication when she observed the children exhibiting signs of respiratory distress. She described D.M. as generally receptive to feedback, although there were other times when he was defensive or unwilling to accept feedback. On one occasion when Egbert attempted to enforce rules regarding who was allowed to be present during visits, D.M. became "very assertive and agitated" and accused Egbert of disrespecting him and interfering with his human rights. He blocked her exit from the room, and she had to ask him several times to allow her to step out to make a phone call.

In October 2014, the Department planned to gradually transition visits from supervised to unsupervised. But the Department could not implement the transition

plan right away because D.M. said his home was not yet ready. In January 2015, supervised visits moved from Department offices to the apartment of D.M. and his spouse R.M.

In March 2015, the Department authorized visits to move from supervised for three hours to unsupervised for seven and one-half hours. D.M. had approximately 15 unsupervised visits with his children in March and April 2015. Huynh testified that problems occurred during almost every visit. Two incidents were particularly concerning. On March 23, 2015, visitation supervisor Egbert was driving the triplets home from an unsupervised visit when I.M. vomited and began choking. Egbert stopped the car to administer abdominal thrusts and back blows, and I.M. resumed breathing. Egbert subsequently found a grape in the fluid I.M. expelled during the incident. D.M. confirmed that he had fed the children grapes during the visit. And on April 13, 2015, following a nine hour unsupervised visit, the triplets arrived home in respiratory distress and needed to be immediately transported to the emergency room. The boys all had respiratory infections, and the foster mother had been keeping them stable with medications. But D.M. had not administered any asthma medication to the children during the duration of the unsupervised visit. In addition, the boys returned from visits with bleeding diaper rashes.

Huynh hoped that with time the quality of unsupervised visits would improve. But on April 27, 2015, Dr. Kathy Risse, who had been the triplets' pediatrician since they were two months old, wrote a letter to Huynh expressing serious concerns for their safety during unsupervised visits. Dr. Risse said she asked D.M. how much asthma medication each boy was using and whether G.M. still needed the diaper rash cream

she had prescribed, but D.M. replied, "he didn't know anything about their medications." Dr. Risse also expressed concern regarding the April 13, 2015, emergency room visit and stated that "[g]iven the biological father's inability to provide the medically necessary medications for all three of his son's [sic] on the recent unsupervised visit . . . I feel it is medically unsafe for him to currently have unsupervised visits until he can demonstrate that he can appropriately care for them."

In May 2015, following the letter from Dr. Risse, the Department changed visits from unsupervised back to supervised. As a result, the Department's March 2015 service referral for a public health nurse was never implemented.

Jody Warwick started supervising visits in May 2015. She testified that every visit required multiple safety interventions. During a visit at D.M.'s residence in June 2015, Warwick saw one boy putting Play-Doh near his mouth while on his back during a diaper change, so she instructed D.M. to take it away. She said he refused to do so, and he continued to speak negatively about her in a "very aggressive, fast-moving" manner. Warwick subsequently asked the Department to provide a second supervisor during visits because she didn't think she would be able to remove the three boys by herself if she needed to leave. The Department refused, and so visits were moved back to the Department office. Huynh denied D.M.'s request to assign a different visitation supervisor.

On July 22, 2015, the court entered a permanency planning hearing order stating that no progress had been made toward correcting the problems that necessitated placement in out-of-home care. The court specifically noted the choking incident, the

bleeding diaper rashes, and D.M.'s failure to administer asthma medication to the children.

D.M. and R.M. subsequently received asthma training from Dr. Risse and a medical assistant on September 28, 2015. However, at a medical appointment with the triplets on October 19, 2015, Dr. Risse observed that D.M. and R.M. "couldn't see the external signs [of respiratory distress] and had a lack of understanding of when to give the Albuterol." Dr. Risse therefore directed a registered nurse at the clinic to provide further asthma training. She also refused D.M.'s request to write a letter regarding his ability to medically care for the children because she felt he had not yet demonstrated that he could appropriately identify when to administer Albuterol. She said they became very angry at her refusal to write the note.

D.M. testified that he and R.M. sought a different pediatrician for the triplets because he felt Dr. Risse was discriminating against them "as Hispanics or as a gay union." He therefore made an appointment with Dr. Michael Dudas to discuss the asthma issue. On December 7, 2015, D.M. and R.M. met with Dr. Dudas and received additional asthma training from nurse Diane Rykert. They obtained a letter from Dr. Dudas establishing two medical recommendations that should be in place prior to D.M. managing the children's medical conditions independently, including maintaining an up-to-date care notebook and demonstrating accurate recognition of how to manage an asthma episode on at least two occasions.

In January 14, 2016, the court entered a dependency review hearing order stating that D.M. had shown some progress in his ability to recognize and manage the triplets' asthmas symptoms. The order also noted that D.M. had completed Positive

Parenting Program (PPP) coaching and that he had been trained in asthma management by the childrens' pediatrician and nurses. The order noted that visits are to be maintained as supervised, with D.M. following Dr. Dudas's recommendations.

Project Safe Care parenting coach Esther Patrick was referred three times to work with D.M. between July 2014 and July 2016. Patrick testified that D.M. loved his children and tried hard to care for them. However, she testified that visits were chaotic and that D.M. did not implement her suggestions most of the time. She testified that D.M. "would say he needed help but when it was time to give him the parenting instructions, he frequently became defensive and would have the attitude that he knew how to do it." On April 20, 2016, Patrick summarized her concerns regarding D.M. in a Project Safe Care monthly report:

[D.M.] loves his boys and it is very unfortunate that he is not able to put their needs ahead of his need to be "right." [D.M.] is preoccupied with what others are doing to him. Regardless of the number of conversation[s], he goes back to his civil rights being violated and can't seem to move forward. The impact of his struggle to read and respond appropriately to their cues, despite 18 months of training, is concerning. While gauging how much to feed his children is problematic, this is not as concerning as the children's medical conditions and his inability to respond to their medical needs. It is also concerning that [D.M.] lacks the ability to control his children. They appear to be in control of him. This is the 3rd SC referral and this provider does not believe the family will benefit from continuing services.

In April 2016, there was a break in visitation which D.M. attributed to his unwillingness to continue with Warwick as visitation supervisor. D.M. chose to resume visitation in late May 2016 but did not accept the full allowable amount of visitation time.

On June 22, 2016, the court entered a permanency planning hearing order stating that D.M. "has not made progress in his ability to parent his three children, even with his spouse's assistance." The order noted that the permanent plan for the children

had not been achieved and stated that a termination petition should be filed. On June 27, 2016, the State filed a petition to terminate D.M.'s parental rights.

During a supervised visit in August 2016, I.M. kicked himself backwards while strapped in his high chair and hit his head. In the caregiver notebook that D.M. exchanged with the foster mother, D.M. wrote only that I.M. knocked over his high chair and got scared. However, when I.M. was returned home, the foster mother noticed that he seemed unwell and had a bump on the back of his head. She took I.M. to the hospital, where Dr. Denise Shushan diagnosed him with a mild concussion.

Huynh referred D.M. to Dr. Shepel for a neuropsychological evaluation with a parenting component to determine whether he had any significant impairments that might prevent him from benefiting from services and becoming a fit parent. Dr. Shepel testified that D.M. had failed to make significant progress, even though the Department had provided many individualized services. In her January 2017 report, Dr. Shepel concluded that the test results suggest mild attention deficits, limited ability to reason and problem solve using English vocabulary and abstract concepts, and difficulty with divided attention. She opined that he did not fully comprehend the severity of the triplet's issues and the risk of harm from not attending to their safety and health needs. Regarding asthma training, Dr. Shepel felt that cognitive challenges may limit his ability to apply what he had been taught. She recommended offering Spanish-speaking providers and reevaluating him in six months. She also recommended additional domestic violence training.

In March 2017, the court ordered D.M. to engage in the recommendations from Dr. Shepel's report. Huynh subsequently referred D.M. to Spanish-speaking parent

coach Isabel Estrada and parent coaching and domestic violence treatment services in Spanish with Zoila Saritama. The Department also arranged for additional asthma training in Spanish with Dr. Risse.

In April 2017, D.M. began visiting the triplets for the full 12 hours a week authorized by the court. Prior to that date, D.M. had typically not utilized the full amount of weekly allotted visitation time.

At the end of April 2017, following a visit with D.M., the boys suddenly began to express an extreme fear of monsters. Visitation supervisors Diane Henshaw and Sao Leaoa, who observed visits during the spring and summer of 2017, also noted that the triplets talked about monsters. During one visit, Leaoa intervened to stop D.M. from showing the children a monster video. The foster mother testified that “[p]oppa told me monsters are going to come get me at the house tonight.” The Court Appointed Special Advocate (CASA), Jennifer Smyth, also testified that the boys told her “poppa” said monsters live under the bed at “momma’s house” and would take them if they were bad. As a result, the triplets began attending counseling sessions with Dr. Joanne Solchany to address their monster fears. Dr. Solchany recommended medication for G.M., who was suffering from nightmares. D.M. wanted to take G.M. to Bastyr Center for Natural Health to seek homeopathic alternatives. Huynh, who was present at the appointment, noted that D.M. failed to provide G.M.’s complete medical history and told the doctor at Bastyr that there was no known cause for G.M.’s nightmares. The doctor decided not to treat G.M. homeopathically until she had an opportunity to speak with the foster mother.

On May 14, 2017, visitation supervisor Henshaw said that visits were so chaotic that she was afraid one of the boys would get seriously hurt during the visit. On June 7,

2017, the boys asked Henshaw if they could go home several times during the drive to the visit. During the visit, she noticed worrisome behavior changes such as regressing in toilet training and "shutting down." However, Saritama felt that D.M. showed some parenting improvement and was becoming less defensive.

Smyth, the CASA, was assigned to the case in December 2013. Smyth had visited the triplets at various locations every four to six weeks. Smyth reviewed every court filing, medical report, visitation report, and court report she received. She also spoke with D.M., his family, the triplets' physicians, the social workers, and the visitation supervisors. Smyth did not believe that D.M. had shown consistent competence in caring for the medical needs of the triplets. She recommended termination of the parent-child relationship.

Trial took place over the course of 13 days during July, August, and September 2017. By that time, the triplets had been in foster care for almost 4 years. Twenty-eight witnesses testified at trial.

At the conclusion of trial, the court entered 171 findings of fact and granted the State's petition to terminate D.M.'s parental rights. The court concluded that the State had proved all six statutory factors in RCW 13.34.180(1) by clear, cogent, and convincing evidence, and that termination of parental rights was in the best interests of the children. D.M. appealed.

ANALYSIS

"Parents' 'fundamental liberty interest in the care and welfare of their minor children' must be balanced with the State's 'interest in protecting the physical, mental, and emotional health of children.'" In re Welfare of Ca.R., 191 Wn. App. 601, 607, 365

P.3d 186 (2015) (quoting In re Dependency of Schermer, 161 Wn.2d 927, 941, 169 P.3d 452 (2007)). To terminate parental rights, the State must prove the following six statutory factors of RCW 13.34.180(1) by clear, cogent and convincing evidence:

- (a) That the child has been found to be a dependent child;
- (b) That the court has entered a dispositional order pursuant to RCW 13.34.130;
- (c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;
- (d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;
- (e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. . . .
-
- (f) That continuation of the parent and child relationship clearly diminishes that child's prospects for early integration into a stable and permanent home.

"Clear, cogent, and convincing evidence exists when the ultimate fact in issue is shown by the evidence to be 'highly probable.'" In re Dependency of K.R., 128 Wn.2d 129, 141, 904 P.2d 1132 (1995) (internal quotation marks omitted) (quoting In re Welfare of Sego, 82 Wn.2d 736, 739, 513 P.2d 831 (1973)). If the State satisfies the requirements of RCW 13.34.180(1), the court may terminate parental rights if it finds by a preponderance of the evidence that termination is in the child's best interests. RCW 13.34.190(1)(b); State v. Saint-Louis, 188 Wn. App. 905, 914, 355 P.3d 345 (2015), aff'd, In re Dependency of D.L.B., 186 Wn.2d 103, 376 P.3d 1099 (2016).

In reviewing the decision to terminate parental rights, we determine whether substantial evidence supports the trial court's findings of fact by clear, cogent, and convincing evidence. In re Parental Rights to K.M.M., 186 Wn.2d 466, 477, 379 P.3d

75 (2016). We defer to the finder of fact regarding witness credibility and persuasiveness of evidence. In re Welfare of K.M.M., 187 Wn. App. 545, 564, 349 P.3d 929 (2015), aff'd, 186 Wn.2d 466, 379 P.3d 75 (2016). "We review de novo whether the court's findings of fact support its conclusions of law." In re Parental Rights to K.M.M., 186 Wn.2d at 477.

D.M. challenges the termination order on two grounds. First, he contends that the State failed to prove that it provided all necessary services as required by RCW 13.34.180(1)(d).¹ Second, he argues that the State failed to prove he is currently unfit to parent his children.

Necessary Services

The State must prove that it has offered or provided "all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future." RCW 13.34.180(1)(d). "Necessary services" are those services "needed to address a condition that precludes reunification of the parent and child." In re Parental Rights to K.M.M., 186 Wn.2d at 480 (quoting In re Dependency of A.M.M., 182 Wn. App. 776, 793, 332 P.3d 500 (2014)). "The services offered must be tailored to each individual's needs." In re Dependency of T.R., 108 Wn. App. 149, 161, 29 P.3d 1275 (2001).

¹ D.M. does not dispute that the Department satisfied RCW 13.34.180(1)(a), (b), and (c). He did assign error to the trial court's conclusion that the factors set forth in RCW 13.34.180(1)(d), (e), and (f) were proven by clear, cogent, and convincing evidence. However, D.M. offered no argument in his opening brief or in his reply brief regarding why specific findings of the trial court relevant to factors (e) and (f) were not supported by the evidence. Assignments of error regarding those factors are therefore waived. Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).

It is undisputed that the Department offered and provided the following services to D.M. during the pendency of the triplet's dependency cases: urinalysis testing in 2013, domestic violence assessment and batterer's treatment program, psychological evaluation in 2014 with Dr. Steve Tutty, neuropsychological evaluation with parenting component with Dr. Tatyana Shepel, multiple rounds of Project Safe Care parent coaching with Patrick, PPP instruction with Natasha Troutman, family preservation services with Isabel Estrada, parenting instruction with Saritama, father engagement and parent education, asthma training with Dr. Risse and other medical professionals, Kindering services, and birth-to-three services with Northwest Center.

Here, the trial court found as follows:

The Department has offered or provided to [D.M.] the necessary services reasonably available and capable of correcting the parental deficiencies within the foreseeable future.

Due to triplets' young age, the 'foreseeable future' is a limited length of time and should be measured at the most by months, and certainly not years. The triplets have been in out of home care for over four years. [D.M.]'s parental deficiencies will not be corrected in the foreseeable future as evaluated from triplets' point of view and young age.

The trial court concluded:

There is little likelihood that conditions will be remedied so that the triplets can be returned to [D.M.] in the near future. Additionally, because [D.M.] failed to substantially improve his parental deficiencies within twelve months following the entry of the dispositional order, it is presumed that there is little likelihood that conditions will be remedied so that the triplets can be returned to [D.M.] in the near future.

D.M. contends that the State failed to provide all necessary and reasonably available services because it did not provide a public health nurse to provide the hands-on asthma training he needed. But RCW 13.34.180(1)(d) requires the Department to provide necessary services that are "reasonably available." Huynh testified that public

health nurses only work with parents who have children in their care. She therefore made a referral for a public health nurse in March 2015, when the Department began allowing D.M. to have unsupervised visits with his children. However, when the Department revoked unsupervised visits after the emergency room incident in April 2015, D.M. was no longer eligible for that service.

Nevertheless, substantial evidence indicates that D.M. subsequently received ample one-on-one asthma training from medical professionals on multiple occasions. D.M. did not challenge the trial court's findings that he and R.M. were provided asthma and asthma medication instructions and training from Dr. Risse and a medical assistant on September 28, 2015 (finding of fact 2.3.22); from a registered nurse on October 19, 2015 (finding of fact 2.3.23); from a medical assistant on December 7, 2015 (finding of fact 2.3.24); and again from Dr. Risse through a Spanish interpreter on March 29, 2017 (finding of fact 2.3.25). Nor did he challenge finding of fact 2.3.26: "Dr. Risse testified that [D.M.] received more instruction and teaching on asthma than any other caregiver she has worked with."

D.M. argues that receiving asthma information in a crowded doctor's office is no substitute for proper one-on-one asthma training from a public health nurse in a home environment. He contends that Huynh should have placed a referral for a public health nurse at an earlier juncture, when the service would have been helpful.

There is sufficient evidence in the record from which the trial court could have determined that asthma training from a public health nurse, even if provided, would not have corrected D.M.'s parental deficiency regarding asthma management in the foreseeable future. Even though D.M. received extensive individualized asthma

training, Dr. Risse testified that D.M. still didn't know when to administer the asthma medication. And during a visit in April 2017, Warwick had to administer asthma medication to one of the boys after D.M. and R.M. failed to recognize that he was experiencing signs of respiratory distress. Huynh found this very concerning in light of the fact that they had recently received additional asthma training in Spanish. In addition, Dr. Shepel and Patrick expressed significant concerns regarding D.M.'s ability to attend to the safety and medical needs of the triplets. "[E]ven where the State inexcusably fails to offer a service to a willing parent . . . termination is appropriate if the service would not have remedied the parent's deficiencies in the foreseeable future, which depends on the age of the child." In re Dependency of T.R., 108 Wn. App. at 164. The trial court reasonably determined that D.M. received all reasonably necessary services capable of correcting his parental deficiencies in the foreseeable future.

Current Unfitness

In addition to meeting the six statutory prerequisites of RCW 13.34.180(1), due process protections require the State to show current parental unfitness by clear, cogent, and convincing evidence. In re Parental Rights to B.P., 186 Wn.2d 292, 312-13, 376 P.3d 350 (2016). To meet this burden, the State must prove that that the parenting deficiencies prevent the parent from providing the child with "basic nurture, health, or safety." In re Welfare of A.B., 181 Wn. App. 45, 61, 323 P.3d 1062 (2014) (quoting RCW 13.34.020). Satisfying the elements of RCW 13.34.180(1) raises an implicit finding of unfitness. In re Dependency of K.N.J., 171 Wn.2d 568, 577, 257 P.3d 522 (2011). Here, the trial court made an express finding that D.M. was currently unfit to parent the triplets.

D.M. challenges 51 of the trial court's 171 findings of fact. He contends that many of the trial court's findings that bear on D.M.'s current fitness to parent are either factually unsupported or do not support a finding of current parental fitness.

The question of whether a parent is currently fit focuses on whether the identified parental deficiencies have been corrected. In re Welfare of M.R.H., 145 Wn. App. 10, 27, 188 P.3d 510 (2008). Here, the identified parental deficiencies include D.M.'s inability to understand and provide for the triplets' medical and safety needs and his resistance and inability to internalize parental instruction.

D.M. contends that the State failed to prove that he is currently unfit to parent his children. He contends that the evidence shows he consistently demonstrated he can provide a safe environment for the boys, that he understands positive discipline and provides structured visits, that he has familial support, and that he is ready to parent the boys right now. We disagree.

"Deference to the trial court is particularly important in proceedings affecting the parent and child relationship because of 'the trial judge's advantage in having the witnesses before him or her.'" In re Dependency of M.-A.F.-S., 4 Wn. App. 2d 425, 455-56, 421 P.3d 482 (quoting In re Welfare of A.W., 182 Wn.2d 689, 711, 344 P.3d 1186 (2015)), review denied, 191 Wn.2d 1024 (2018). The trial court found that "[t]he most credible witnesses in this case were Ms. Huynh, Dr. Risse, Ms. Smyth, and Ms. Patrick. Their testimony was given the most weight. This credibility and weight finding is based on their respective expertise and experience in their fields, the length of time each has spent on these, the extensive interactions each had with D.M. and the twins, and their extensive efforts to assist D.M."

Dr. Risse stated that D.M. and R.M. received more instruction and teaching on asthma training than any other caregiver she has ever worked with. Yet Dr. Risse had “grave concerns” regarding D.M.’s ability to keep up with their medical needs even when he is not taking care of them full time. Dr. Risse testified that D.M. knows how to administer the asthma medication but lacks the ability to know when to administer it. This is a very serious concern, as Dr. Risse stated that children “can get sick fast with asthma, and when I say ‘sick,’ truly kids can die from asthma.” She also noted that D.M. was unable to focus on what was being said even without kids in the room.

Huynh recommended terminating the parent-child relationship. She testified that the children are having “significant emotional problem[s]” despite all the services provided. She said D.M. had trouble with divided attention, that the visits lacked structure, and that he was “not even able to keep the children safe in a confined environment” for two to three hours at a time. Smyth did not believe that D.M. had shown consistent competence in caring for the triplets. She too recommended terminating the parent-child relationship. And Patrick concluded that the family would not benefit from further services.

Numerous other witnesses deemed credible by the trial court offered similar testimony. Dr. Shepel noted that D.M. “continues to struggle with the same difficulties” despite receiving multiple supports and programs over a period of three years. Dr. Shepel opined that D.M. does not fully comprehend the severity of his children’s issues and the risk of not attending to their needs.² D.M.’s sister L.R. raised numerous

² Dr. Shepel recommended providing D.M. with additional training in Spanish. But the trial court found that this recommendation was rebutted by later findings of the

concerns about D.M. and his parenting skills and testified that D.M. has made threatening comments to her that she does not know him, does not know what he is capable of, and that he would kill. Henshaw described recent visits as chaotic. Egbert and Warwick described multiple incidents where D.M. was defensive, argumentative, and resistant to feedback. And several witnesses described the harm done to the triplets by the "monster talk."

D.M. argues that the evidence shows Dr. Risse and Huynh were biased against him. He asserts that he has been discriminated against because of his sexual orientation, same-sex marriage status, culture, or ethnicity. The trial court found that D.M. and R.M.'s testimony was not credible in this regard. We defer to the trial court's assessment of credibility. And D.M. did not challenge the trial court's finding that D.M.'s "alleged lack of English speaking and understanding . . . lacks merit and is not given any weight."

D.M. also argues that Warwick was not objective in her dealings with him. The court found that Warwick might not have been the best fit as visitation supervisor for D.M. but that this did not lessen her credibility or the weight given to her testimony. We defer to the trial court's credibility determination.

D.M. notes that certain witnesses, such as Isabel Estrada, made favorable statements regarding his parenting progress. The trial court found some of D.M.'s witnesses credible but gave their testimony little weight because they do not have extensive experience with D.M. and the triplets. We defer to this assessment.

court, which indicated that D.M.'s claims that his English language skills present a barrier to reunification are not credible and are given little to no weight.

In sum, there is substantial evidence in the record to support the trial court's findings that the Department proved the elements of RCW 13.34.180(1) and current parental unfitness by clear, cogent, and convincing evidence, and that termination is in the children's best interest by a preponderance of the evidence.

Affirmed.

WE CONCUR:






