

THE UTAH COURT OF APPEALS

STATE OF UTAH, IN THE INTEREST OF B.J., C.J., AND S.W.,
PERSONS UNDER EIGHTEEN YEARS OF AGE.

C.D.,
Appellant,
v.
STATE OF UTAH,
Appellee.

Opinion
No. 20250836-CA
Filed September 24, 2026

First District Juvenile Court, Logan Department
The Honorable Bryan Galloway
Nos. 1210346, 1210347, 1210349

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JUDGE RYAN D. TENNEY authored this Opinion, in which
JUDGES GREGORY K. ORME and RYAN M. HARRIS concurred.

TENNEY, Judge:

¶1 At the conclusion of a three-day trial, the juvenile court terminated C.D.'s (Mother) parental rights to three of her children. Mother now challenges that decision on three grounds. First, she argues that the court erred in finding that the Utah Division of Child and Family Services (DCFS) had made reasonable efforts to reunify her with her children prior to

terminating her parental rights. Second, she argues that the court erred in finding that DCFS's efforts were compliant with the Americans with Disabilities Act (the ADA). Finally, she challenges the court's finding that termination was in the children's best interests. For the reasons set forth below, we affirm.

BACKGROUND

¶2 Mother has six children, but only four of them are at issue in this appeal, and as explained below, this appeal ultimately concerns a ruling that terminated her parental rights to just three of them. The involved children are: B.J. (a boy who was born in 2011); C.J. (a boy who was born in 2014); H.J. (a girl who was born in 2017); and S.W. (a girl who was born in 2019). The biological father of B.J., C.J., and H.J. (Father) is also the legal father of S.W. because he was married to Mother at the time of S.W.'s birth. D.W. is the biological father of S.W. and was living with Mother and the children when the legal proceedings at issue in this appeal began.¹

The First Removal Proceeding

¶3 On April 18, 2022, the State filed a Verified Petition for Protective Supervision as to Mother, D.W., and the children. The

1. The four children we've just identified were involved in most of the proceedings at issue in this appeal, and for ease, we'll generally use the term "the children" to refer to them collectively. As will be noted later in this opinion, however, H.J. was placed in a permanent custody and guardianship with her aunt midway through the process, so Mother's parental rights to H.J. were not terminated and are not at issue in this appeal.

In addition, we note that while the parental rights of both Father and D.W. were also eventually terminated, this appeal only concerns Mother's parental rights.

petition came in response to multiple referrals to DCFS. One referral alleged that H.J. was being neglected because her special needs for speech therapy were not being met and that she had been dropped off at preschool in clothes that were caked in dirt and with her underwear covered in dried feces. The same referral noted that H.J. had “a large bite mark on her left shoulder,” which H.J. reported had been caused by C.J. Another referral came after law enforcement had been called to Mother’s home in response to a domestic dispute between Mother and D.W. This referral from law enforcement included allegations that the home was a “deplorable mess” and “unfit for any human or animal to live in.” DCFS also received information that the children were not attending school and that when they did come to school, B.J. and C.J. smelled bad and were dirty. Additional information showed that C.J. had come to school with “a large bruise on his cheek.”

¶4 On May 3, 2022, while the petition was pending, Mother and D.W. were arrested and the children were removed and taken into state custody. Mother was charged with four counts of child endangerment, two counts of child abuse, possession or use of a controlled substance, and use or possession of drug paraphernalia, while D.W. was charged with one count of child endangerment, one count of child abuse, possession or use of a controlled substance, and use or possession of drug paraphernalia. Mother later pleaded guilty to certain charges in the criminal case. At the close of a shelter hearing, the children were placed in Father’s temporary custody, with DCFS providing both protective supervision services and reunification services to Mother and D.W.

¶5 The juvenile court issued an adjudication order on the petition in June 2022. There, the court found that D.W. had physically abused both H.J. and S.W. The court also determined that the children had been neglected by both Mother and D.W. In support of the neglect determination, the court entered factual findings detailing how Mother and D.W. had failed to obtain

necessary services such as autism testing and speech therapy for H.J., had failed to obtain medical care for B.J., had allowed the children to have poor hygiene and miss school, and had allowed the children to live in “deplorable conditions.” The court also found that drug paraphernalia had been located in areas of the home that were accessible to the children.

¶6 On the same date the court entered this ruling, DCFS submitted a Child and Family Plan. The juvenile court accepted this plan and entered a finding that it “constituted reasonable efforts on the part of [DCFS] to accomplish the goal of reunification.” The Child and Family Plan directed Mother to complete a “mental health assessment” and enroll in a parenting course. It further provided that DCFS would arrange for in-home parenting instruction and make a referral for Mother’s mental health assessment.

¶7 In accordance with this plan, Mother completed a comprehensive mental health assessment in July 2022 with a psychotherapist (Psychotherapist). Psychotherapist diagnosed Mother with (1) dysthymic disorder,² (2) an unspecified anxiety disorder, (3) post-traumatic stress disorder, and (4) an unspecified personality disorder. Psychotherapist recommended continued therapy, including “cognitive behavioral interventions.”

¶8 The court held a review hearing in September 2022. At the close of that hearing, the court ruled that Mother could have overnight visits with the children, so long as D.W. was not present. The court also entered a finding that DCFS was making

2. Dysthymic disorder, which is now referred to as persistent depressive disorder, “is mild or moderate depression that doesn’t go away.” *Persistent Depressive Disorder (PDD)*, Cleveland Clinic, <https://my.clevelandclinic.org/health/diseases/9292-persistent-depressive-disorder-pdd> [<https://perma.cc/NE4C-A2GC>].

“reasonable efforts toward finalizing the permanency goal of reunification.”

¶9 In November 2022, DCFS submitted an updated Child and Family Plan that was similar to the first plan. This second plan noted that Mother and D.W. had completed mental health assessments pursuant to the first plan, and it incorporated the prior plan’s recommendation for “ongoing therapy” for Mother. Also in November 2022, Mother was sentenced on charges stemming from her May 3 arrest. Her jail sentence was suspended, and one of the requirements of her probation was that she “[c]omply [with] and follow DCFS recommendations.” It appears from the record that around this time, Mother moved out of the home she shared with D.W. and into Father’s home, which is where the children were staying.

¶10 Back in the protective supervision case, Mother and D.W. obtained a continuance for a hearing that had been scheduled for December, and they then failed to appear for a hearing that was scheduled for January 2023. In a DCFS progress report that was submitted around this time, DCFS observed that “the barriers preventing” the children from returning to Mother and D.W.’s home were “the lack of follow through by [Mother] and [D.W.] in completing their services and providing a safe home.”

¶11 After a review hearing that was held in February 2023, the court found that “very little of the services had been completed or complied with.” The court also found that Mother was “residing in the home” with Father and “having unsupervised access to the children.” The court further noted that DCFS had “re-assessed the risk and safety of the children,” that DCFS had concluded that the children were “at moderate risk and safe,” and that DCFS was recommending “that the case be closed.”

¶12 Accepting the recommendation of DCFS, the juvenile court closed the first removal proceeding.

The Second Removal Proceeding

¶13 Between May and August 2023, law enforcement was called seven times with reports that the children had been observed unsupervised. On August 14, 2023, the State filed a Verified Petition for Custody and Substantiation, along with a Motion for Expedited Placement in Temporary Custody, based on the allegations of non-supervision as well as reports of the continued unsanitary nature of the home.

¶14 On August 21, 2023, Mother was arrested on an outstanding warrant for failing to appear in justice court on a traffic citation, and DCFS took custody of the children.

¶15 At an August 24, 2023, shelter hearing in the removal case, the court found that there was “a substantial danger to the physical health or safety of the children and [that] the children’s physical health or safety may not be protected without removing the children from the custody of the children’s parents.” The court based this finding on “the seven occurrences of a lack of supervision,” the “unsanitary conditions of the home,” and the “unavailability of the medications for [B.J.] and [C.J.] when the children were removed at the time of [Mother’s] arrest.” The court also found that

reasonable efforts [had been] made to prevent the need for removal of the children from the children’s home, including a child protective services investigation for the past two months, during which time the parents^{3 1} were notified on several occasions of the necessity of more diligent

3. Though not explicitly spelled out in the court’s order, insofar as Mother was living with Father at this point, it seems the reference to “parents” as well as others in the above paragraph were about Mother and Father (as opposed to Mother and D.W.).

supervision, of the need to maintain a more sanitary living environment, and of the need to communicate with one another regarding the care of the children.

The court further found that DCFS had “provided cleaning supplies, trash bags, and groceries,” and it also found that DCFS had “attempted to arrange a meeting” with Mother and Father “to make a firm plan regarding care of the children, but the parents failed to cooperate with this effort.” The court ordered the children’s removal from the home, and the children were placed in various foster homes or with relatives.

¶16 The court later issued an adjudication order, wherein it made a finding that during a home visit in July 2023, Mother had told DCFS that she was “currently receiving mental health therapy.” The court also made a legal determination that “the children were neglected due to the faults or habits” of Mother, Father, and D.W. This determination was supported by factual findings detailing multiple instances of lack of appropriate supervision of H.J. and S.W., evidence of substance abuse by the adults in the home, concerns about C.J.’s mental health not being attended to, physical abuse of B.J. by Father, and, again, the deplorable conditions inside the home.

¶17 In October 2023, the court held a dispositional hearing where it addressed the terms of a newly proposed Child and Family Plan and concluded that this plan constituted “reasonable efforts on the part of [DCFS] to accomplish the goal of reunification.” This Child and Family Plan included requirements similar to the prior plans (including a requirement that Mother “follow[] the recommendations from her Mental Health Assessment”), and it also required a co-parenting course for Mother and Father as well as a stepparenting course for Mother’s and Father’s new partners. A DCFS progress report from late December 2023 indicated that Mother and her new partner

attended the required course and “seemed to benefit from having participated in the class.” The same report indicated that Mother had met with a therapist one time and that they were scheduled to meet weekly.

¶18 At a review hearing in January 2024, the court ordered DCFS to expand Mother’s parent-time “up to and including [a] trial home placement.” A DCFS progress report from March 2024 indicated that Mother had “been consistent with her attendance in therapy,” and Mother’s therapist reported that she “actively participated in sessions.” At a review hearing later that month, the court entered a finding that B.J., C.J., and H.J. had begun trial home placements and that S.W. would be starting one soon as well. At this same hearing, DCFS raised and addressed ongoing concerns with school attendance, as well as with “appropriate supervision of” S.W., and Mother’s counsel presented photographs of the home’s current condition and discussed Mother’s attempts to address DCFS’s concerns. At the close of the hearing, the court found that DCFS was making “reasonable efforts” toward reunification.

¶19 On April 17, 2024, H.J. and S.W. were found wandering unsupervised near a busy intersection. Five days later, DCFS ended the trial home placements of C.J., H.J., and S.W. and returned those children to foster homes. Immediately after these removals, Mother’s counsel filed a Discovery Request seeking all of the documents that DCFS had relied on when deciding to remove the children.

¶20 On April 29, 2024, Mother’s probation officer filed an affidavit in support of a motion for an order to show cause in her criminal case. There, the probation officer alleged that Mother had lied to her children, DCFS, her attorney, and a social worker about being pregnant and delivering a stillborn child. The probation officer alleged that Mother had used an internet photograph of a stillborn child in support of this lie. And the probation officer

further alleged that Mother had perpetuated this lie in an attempt to be “freed from jail to attend” the alleged child’s funeral. As a result of this motion for an order to show cause, Mother’s probation was revoked and restarted in early May 2024, and she was ordered to serve 30 days in jail.

¶21 In late May 2024, a DCFS progress report indicated that Mother’s therapist said she had met with Mother three times in March but that Mother then “no showed 3 times before going into the jail.” At the conclusion of this progress report, DCFS requested “that the court include in its order a finding that reasonable efforts were made to finalize” the “service plan” and “permanency goal” for the children. Shortly thereafter, Mother filed a document captioned “Memorandum Opposing [DCFS’s] Reasonable Efforts Finding.” In this document, Mother alleged that DCFS had failed to follow its procedures in its response to the April 17 non-supervision incident as well as in the subsequent removal of the youngest children, and she further alleged that DCFS had failed to comply with prior discovery requests. This document said nothing, however, about Mother needing any additional services.

¶22 On May 30, 2024, the court ordered B.J. to return to a trial home placement with Mother.⁴ The court also ordered DCFS to conduct weekly home visits.

¶23 In July 2024, the court held a pretrial conference before a permanency hearing, and during this conference DCFS outlined its plan for bringing each of the children home on a trial placement over the next 30 days. A DCFS progress report from this time indicated that DCFS had “not received an update on [Mother’s] continued therapy attendance.” At the conclusion of the progress

4. The record indicates that B.J. had been removed from Mother’s custody at some point after the April 17, 2024, incident, but the circumstances of that removal are unclear.

report, DCFS recommended that the court “terminate jurisdiction and release all parties from the case.”

¶24 That same month, Mother’s counsel arranged for Mother to complete a psychological evaluation with a retained clinical psychologist (Psychologist). Psychologist determined that Mother “presented with symptoms of borderline personality disorder.” Although this evaluation was performed in July, its results were not provided to DCFS or the juvenile court until after the second removal proceeding had closed. Mother also began seeing a new therapist and participated in a total of ten sessions with this therapist between July 2024 and January 2025. These sessions focused on “emotional regulation, distress tolerance, and trauma.”

¶25 On August 15, 2024, the juvenile court returned custody of B.J., C.J., and S.W. to Mother pursuant to the plan DCFS had presented at the July 2024 permanency hearing. The court granted a permanent custody and guardianship of H.J. to her aunt, with whom she had been placed sometime after the second removal, and it granted this permanent custody and guardianship pursuant to a stipulation from the parties. The court’s order stated that it was basing its rulings on a DCFS court report and “the oral representations and recommendations of the parties,” and it concluded that it was in the best interests of the children “to be released from the custody and legal guardianship” of DCFS. The court did not make a finding that DCFS had provided reasonable efforts at reunification, nor did it comment on Mother’s memorandum opposing a finding of reasonable efforts. Upon issuing this order, the court closed the second removal proceeding.

The Third Removal Proceeding

¶26 On September 6, 2024, Mother was again arrested and incarcerated, necessitating another removal of B.J., C.J., and S.W.

from the home.⁵ Mother's arrest was a result of an alleged probation violation relating to S.W. being left unsupervised in the parking lot of the apartment complex where the family was living. In an affidavit in support of a motion for an order to show cause that was filed in the criminal case, Mother's probation officer detailed the allegation involving S.W., and the probation officer further alleged that there were poor living conditions in the home.

¶27 At a shelter hearing on September 17, 2024, the juvenile court found that there was "serious danger to the physical health or safety of the children" and that the "danger to the health or safety of the children result[ed] from" the "incarceration of [Mother]." ⁶ The court found that S.W. had been in "serious danger due to being unsupervised." The court also found that DCFS had "provided extensive services to the family over the past two and one-half years, and that these efforts constitute[d] 'reasonable efforts to prevent or eliminate the need for removal.'" And the court concluded that there were "no services available that would prevent the need for continued removal, in light of the parents' current unavailability" due to incarceration. The children were separately placed with foster families at this point.

¶28 On November 1, 2024, Mother was released from jail, but on November 11, she was again arrested, this time for retail theft and violating the terms of her probation. An adjudication hearing was held on November 13, 2024. At the close of that hearing, the court determined that the children were neglected, and the court issued detailed findings in support of that determination. On

5. From this point forward, and unless context suggests otherwise, references to "the children" should be understood as referring to the three children who were still involved in the ongoing events and legal proceedings (B.J., C.J., and S.W.).

6. Father was already incarcerated for domestic violence and alcohol-related offenses at the time of the third removal.

November 20, Mother admitted to the probation violation allegations in her criminal case and was sentenced to 364 days in jail. She asked to be screened for mental health court, but that request was denied.

DCFS's Motion for No Reunification Services

¶29 On October 8, 2024, DCFS filed a Motion for Dispositional Order of No Reunification Services. DCFS argued that Utah Code section 80-3-406(5) provides a presumption against reunification if a minor has been “removed from the minor’s home on at least two previous occasions and reunification services were offered or provided to the family at those times.” DCFS asserted that the “children ha[d] been removed on three separate occasions,” that “reunification services [had been] offered or provided to each of the parents at that time,” and that the “parents ha[d] failed to respond to those services.” DCFS accordingly requested that it not be required to provide additional reunification services to Mother, Father, or D.W. and that the permanency goal for the children be set as adoption.

¶30 On December 4, 2024, the court held an evidentiary hearing on DCFS’s motion. Psychologist testified at that hearing and explained that he had diagnosed Mother with borderline personality disorder. He testified that this disorder causes “marked impulsivity” and “increase[s] one’s focus on and devotion to one’s immediate needs, often at the sacrifice of long-term goals and accomplishments.” He said that persons with this disorder often “remain[] in high-risk relationships” and engage in “compulsive lying.” Psychologist further testified that the “science would tell us that if people are willing to engage in appropriate interventions for the treatment of . . . borderline personality [disorder],” the “prognosis can be promising.” He testified that treatment for this disorder is “usually . . . intensive,” involving treatment sessions “multiple times in a week for a minimum of one year,” that it “typically moves to one session a

week for about another year” and that it then involves ongoing sessions that are a little less frequent for “another two to three years following that.”

¶31 Psychologist observed that “dialectical behavioral therapy” (DBT) is “the gold standard” for treating an individual with borderline personality disorder. He explained that “DBT is one of the veins in the umbrella of” cognitive behavioral therapy (CBT)⁷ and that CBT “runs through the whole of DBT.” At one point, Psychologist suggested that if a clinician “didn’t have specific training in understanding the symptoms and presentation of borderline personality [disorder], they may engage in good faith efforts that are less successful and potentially even problematic.” But Psychologist also testified that “the science is very clear that when a person chooses to participate and does so reasonably effectively, there’s an expectation of growth,” regardless of the type of treatment the person is receiving. He thus observed that while there is a “much better expectation of faster and longer sustained benefit from DBT than . . . from other treatment paradigms . . . , again, some treatment is generally better than no treatment.” Psychologist further testified that “if a person chooses not to participate” in any treatment, “the prognosis is usually” that “the symptoms become significantly increased or at minimum maintain in their stability over time and also across contexts.” And he also testified that, given Mother’s history of “sporadic treatment interventions,” her “prognosis would be in the poor range.”

7. Cognitive behavioral therapy is a “form of psychological treatment” that “involves efforts to change thinking patterns” and “efforts to change behavioral patterns.” *What is Cognitive Behavioral Therapy?*, Am. Psych. Ass’n, <https://www.apa.org/ptsd-guideline/patients-and-families/cognitive-behavioral> [<https://perma.cc/894K-79JJ>].

¶32 Mother testified at the hearing. When asked “what would be different this time” if the court ordered reunification services, Mother testified that she would be “[t]aking her mental health seriously.” She testified that because she “know[s] [she] ha[s] this diagnosis now,” she could “work towards getting better and not having this hinder [her].” Mother testified that she planned to address her mental health by “doing DBT” with her therapist, but she noted that she hadn’t “had time to do DBT” yet because of her incarceration.

¶33 In closing arguments, Mother’s counsel argued that Mother’s past challenges were “not necessarily due to a lack of effort, but to a lack of the right people and the right tools to actually guide her,” and counsel further argued that “the evidence from [Psychologist] shows that.” Mother’s counsel noted that there had recently been “a modicum of improvement and glimmer of progress,” and counsel asserted that there could now “be greater improvement with the correct treatment.”

¶34 At the close of this hearing, the court ruled from the bench. The court stated that it wished it had supervised Mother’s case more carefully during past proceedings, and it acknowledged that she had made some “change[s].” But it then observed that Mother had not “responded to treatment in the past very well,” noting that she “picked up a few things here and there that made things better for a period of time, but not to the point [that] the children were appropriately being cared for.” The court accordingly concluded that Mother had not rebutted the statutory presumption against providing reunification services and ordered that no further reunification services would be offered. The court then set adoption as the primary permanency goal.

¶35 In early January 2025, the State filed a Verified Petition for Termination of Parental Rights. On February 4, 2025, Mother was arrested for another probation violation (this time for forging a

doctor's note), and after pleading guilty to one count of forgery, she was sentenced on April 2 to 180 days in jail.

The Termination Trial

¶36 In June 2025, the court held a three-day trial on the State's petition to terminate Mother's parental rights. Before trial, Mother filed a trial brief in which she argued that "[a]t its core, the [c]ourt [was] asked to determine whether [DCFS] made reasonable efforts to reunify [Mother] with her children, and whether the failure to do so—particularly in light of her documented disabilities—render[ed] the termination of her parental rights legally and constitutionally impermissible." In this brief, Mother expressed her view that the trial would "center on" several issues related to the ADA.

¶37 **Mother's testimony.** At trial, Mother testified that she has "borderline personality disorder," which she regarded as a "disability." When asked what DCFS could have "done differently to help" her, Mother testified that she "wish[ed] [she] would have known that [she] had" borderline personality disorder "before" because "going into counseling with the right tools and knowing would have been a little bit different." Mother further testified that no one had explained to her that "if [she] had a disability, [DCFS] would be required to provide reasonable accommodations to help [her] access or participate in the services" and that no one had given her information about the ADA. She testified that she felt overwhelmed and "unable to fully participate in meetings or services."

¶38 **DCFS testimony.** The State called Mother's DCFS caseworker (Caseworker) and a DCFS supervisor (Supervisor) to testify. Caseworker testified that in the course of his employment with DCFS, he had not "received training on" the ADA. When asked why DCFS had recommended that the second removal proceeding be closed in 2024, Caseworker responded that DCFS

“had offered all the services that [it] could” and that it had “worked with [Mother] to the best [it] could to get her to fulfill those services.” Caseworker testified that Mother “made the assurance that she was going to continue the mental health services for her and the children” and that she “wanted DCFS out of her life also.” Caseworker testified that to his knowledge, Mother did not receive any DBT during his time working with her.

¶39 During cross-examination, Mother’s counsel confronted Caseworker about assessments he had conducted using the Utah Family and Child Endangerment Tool (UFACET), and counsel suggested that during the first two removal proceedings, despite flagging multiple “areas that called for immediate attention,” DCFS had failed to establish appropriate requirements for Mother. Caseworker admitted that portions of the Child and Family Plans (which, as noted, had built on each other through the subsequent removal proceedings) should have been removed because there was no evidence that Mother needed those particular types of interventions,⁸ and he further admitted that some of DCFS’s arguments to the juvenile court had been based on Mother not being compliant with what now seemed to be those unnecessary interventions. He also admitted that DCFS policy had not been followed in certain respects during the April 2024 removal because DCFS did not complete a risk assessment

8. For example, Caseworker testified that although neither Mother’s UFACET assessment nor mental health assessments supported a substance use requirement, DCFS imposed substance use requirements on Mother anyway. Caseworker also testified that domestic violence and anger management requirements carried over from the Child and Family Plans in the first removal proceeding to the Child and Family Plans in the second removal proceeding but that those requirements “should have been removed.”

before removing the children from Mother's custody. During this same questioning, Mother's counsel suggested that "the children were not to be considered candidates for serious risk of removal" under DCFS policy because the children were on a trial home placement with Mother at the time of the April 2024 removal. Caseworker admitted that he had not watched existing surveillance footage of the non-supervision incident that led to the April 2024 removal.

¶40 For her part, Supervisor admitted that she was not aware of a guidance memorandum that had been issued by the federal government in August 2015 about how to handle parents with disabilities in removal or termination cases, and she testified that DCFS had not instituted systematic employee training sessions on the ADA until the week before this trial. Supervisor also testified that pursuant to "DCFS policy," a UFACET assessment "is supposed to be completed prior to" a proceeding being closed, and Mother's counsel suggested that at least one UFACET assessment was completed after the closure of a proceeding.

¶41 **Psychotherapist's testimony.** As noted, Psychotherapist evaluated Mother in July 2022, and he testified at trial as well. He expressed his view that Psychologist's subsequent diagnosis of Mother having borderline personality disorder was not contrary to his own earlier diagnoses. He also testified that DBT is a category of CBT. He agreed that in "the recommendations that [he] made, [he] didn't say DBT," but he observed that they were "essentially the same kind of recommendations that one would think about when recommending DBT." He testified that he did not "make a borderline [personality disorder] diagnosis, and [he] didn't recommend DBT, but [he] essentially did recommend DBT strategies."

¶42 **Psychologist's testimony.** Psychologist testified about his conclusion that Mother "presented with symptoms of borderline

personality disorder.” He testified that he did not believe his diagnosis “and recommendations [were] divergent from” Psychotherapist’s. He also agreed that the “underpinnings of DBT share much in common with CBT.” He testified that DBT is “commonly identified” as the “gold standard for treatment of borderline personality disorder” and that CBT would not “administer the same level of clinical success for borderline personality disorder treatment as DBT” would.

¶43 Psychologist testified that he would classify Mother as moderate to severe in terms of how impacted she was by her borderline personality disorder. He testified that borderline personality disorder is a highly stigmatized disorder, and he agreed that there is a risk that individuals who have borderline personality disorder and are struggling with parenting abilities might be blamed for their lack of willingness to try, as opposed to recognizing that their failures are attributable to the disorder.

¶44 **Testimony from Mother’s therapist.** The therapist who had treated Mother during ten sessions between July 2024 and January 2025 testified. He explained that he had some familiarity with DBT and had incorporated aspects of DBT into those sessions, including “mindfulness practice,” “breathing exercises,” “progressive muscle relaxation,” and “activities that would bring about more positive emotions to counteract the negative ones.” He testified that in those sessions, she was improving in her emotional regulation before their work was interrupted due to Mother’s incarceration. He further testified that he had tried to get Mother into the DBT treatment program at his clinic but that this effort was unsuccessful because the program was already full.

¶45 **B.J.’s testimony.** B.J. was fourteen years old at the time of trial. As noted, B.J. had been removed from Mother’s home in September 2024 and had been living with foster parents. B.J. testified that his mental health was better than it was when he

lived with Mother. Speaking of his foster placement, B.J. said that “[i]t actually feels like a home.” He testified that he didn’t “feel left out all the time” and that he didn’t “feel like” he was “not loved.” When asked if he felt like his siblings would be “safe and healthy” if they went back to Mother’s care, B.J. responded, “No, not at all.” When asked what he thought would be best for him long-term, B.J. responded, “Not going home” and “staying in the placement” that he was in. Speaking of his siblings, he said he thought it would be best if they stayed in their current placements as well, observing that those placements were “great for them” and that they were “doing a lot better.”

¶46 **Testimony from the children’s therapists.** The therapists who were treating B.J. and C.J. also testified. B.J.’s therapist testified that “stability is probably [B.J.’s] greatest need, to feel safe and stable so that he can move on.” She testified that something that “provide[s] him the most stable environment going forward, and not a back-and-forth type of a situation” would be “in his best interest.”

¶47 C.J.’s therapist testified that his greatest concern for C.J. was “[o]ngoing stability and consistency.” He testified that C.J. was aware that he may be adopted and had not “shared any concern about that.” He also testified that C.J. “like[d] interacting with [Mother]” and loved her “deeply.”

¶48 **Testimony from foster parents.** One foster parent for each of the children testified. B.J.’s foster mother testified that she had acted in that capacity since September 2024 and that she hoped to adopt him. She testified that DCFS had not explained to her the differences between a permanent custody and guardianship as opposed to an adoption, but she said that “[p]ermanent guardianship never really crossed [her] mind[]” because “[a]dopting” B.J. “was something that [she] wanted to do to make him permanently part of [her] family.” She testified that B.J. had minimal contact with Mother because he didn’t “want to talk to

her.” She testified that she would “do whatever” she could “to make sure” that B.J. could “still talk to and see his siblings” and that she would be supportive if B.J. chose to maintain a relationship with Mother.

¶49 C.J.’s foster father testified that C.J. was initially placed with him temporarily in April 2024, and then continuously beginning in September 2024. He testified that he understood the differences between adoption and permanent guardianship and that he preferred adoption because Mother had “lied and been very manipul[at]ive” when given control over situations,” so he did not “trust her to make the decisions,” and he further testified that he did not think that a permanent custody and guardianship “would be in C.J.’s best interest.” He testified that DCFS had spoken with him about the differences between a permanent custody and guardianship versus adoption. He testified that he would support C.J.’s continued communication with Mother post-adoption.

¶50 S.W.’s foster mother testified that S.W. had been with her since January 2025. She testified that she preferred adoption over a permanent custody and guardianship, and she said that she supported S.W. maintaining a relationship with her siblings and with Mother. She testified that DCFS “briefly” discussed with her the differences between a permanent custody and guardianship versus adoption.

¶51 **Testimony from Mother’s expert.** Mother presented expert testimony from a licensed clinical social worker (Expert), who said that she had prepared for trial “[t]hrough a review of [the] records and documentation” from Mother’s proceedings. Expert testified that DCFS had provided Mother with “inconsistent services” and also identified what she regarded as a systemic failure by DCFS to be trauma-informed. She testified that parents in child welfare cases may have “functional barriers that may actually appear as noncompliance.”

¶52 Expert also testified that children who are adopted out of foster care may experience ambiguous loss, and that, as a result, the American Academy of Pediatrics has reported that children who are adopted out of the child welfare system have four times the rate of suicidality than their non-adopted peers. She testified that secure attachment to a foster parent should not preclude reunification with a parent and that such an attachment is actually a positive indicator of a child's mental health. She opined that profound trauma may result from adoption out of foster care, and, citing peer-reviewed research, she stressed the importance of preserving sibling bonds in terms of providing family continuity, preserving identity and cultural norms, and developing coping skills.

The Termination Order

¶53 After the submission of written closing arguments, the juvenile court issued a detailed termination order. We'll provide a summary here but provide additional details from the court's ruling in the relevant portions of our analysis below.

¶54 The court first found that there were several grounds for terminating Mother's parental rights. These included abuse, neglect, a failure of parental adjustment, and unfitness.

¶55 The court also addressed Mother's arguments that DCFS had not made reasonable efforts at providing reunification services. With respect to the first and second removal proceedings, the court held that this question had been "rendered moot by the fact that the children were successfully reunited" with Mother in each proceeding. In the court's view, the question of whether reasonable efforts had been made at providing reunification services "need not be answered if the goal" of reunification "was in fact accomplished," which was the case here in both of the prior proceedings. And the court found that DCFS "was not ordered to provide reunification services following the

children's removal in September 2024." But having said that, the court addressed whether DCFS had made reasonable efforts at providing reunification services throughout the proceedings anyway. The court acknowledged that "[a]t times, [DCFS's] efforts did not comply with division policies." But even so, the court pointed out that it had previously made findings that reasonable efforts at reunification had been made in the prior proceedings. It then found that the reunification efforts that DCFS had made were "reasonable, fair, and serious," and it further found that any failure by DCFS to follow its policies likely did not matter because "[M]other failed to seriously engage in a manner that took advantage of the services provided."

¶56 The court also addressed the question of whether DCFS had complied with the ADA. The court held that the services that had been offered had satisfied "any need for 'accommodations,'" and it further concluded that even if Mother's borderline personality disorder had been identified earlier and she had received treatment for it, the outcome of these proceedings would not have changed.

¶57 Turning to the statutorily required best interests determination, the court found that termination was in the children's best interests in order to provide stability and ultimately adoption, and the court found that this was so even though this would mean that the children were separated from each other.

¶58 From all this, the court terminated Mother's parental rights to B.J., C.J., and S.W. This appeal followed.

ISSUES AND STANDARDS OF REVIEW

¶59 Mother raises three issues on appeal. First, she argues that the juvenile court erred in concluding that DCFS made reasonable

efforts at providing reunification services. A juvenile court’s “determination that DCFS made reasonable efforts to provide reunification services involves an application of statutory law to the facts that presents a mixed question of fact and law, requiring review of the juvenile court’s factual findings for clear error and its conclusions of law for correctness.” *In re N.K.*, 2020 UT App 26, ¶ 15, 461 P.3d 1116 (quotation simplified). “Because reasonableness is an objective standard that depends upon a careful consideration of the facts of each individual case, we afford the juvenile court broad discretion in determining whether reasonable reunification efforts were made.” *In re L.J.*, 2026 UT App 14, ¶ 3, 586 P.3d 531 (quotation simplified), *cert. denied*, 591 P.3d 748 (Utah 2026).

¶60 Second, Mother argues that the juvenile court erred in concluding that DCFS provided reasonable accommodations as required by the ADA. A juvenile court is “in the best position to evaluate . . . the parent’s level of participation in reunification services, and whether services were appropriately tailored to remedy the problems that led to the child’s removal.” *In re K.F.*, 2009 UT 4, ¶ 52, 201 P.3d 985. “Accordingly, absent a demonstration that the determination was clearly in error, we will not disturb the determination.” *Id.* (quotation simplified); *see also In re D.R.*, 2022 UT App 124, ¶ 9, 521 P.3d 545 (applying this same standard to a claim that the juvenile court “exceeded its discretion” in denying a “motion to reinstate reunification services on ADA grounds”).

¶61 Third, Mother argues that the juvenile court erred when it determined that termination was in the children’s best interests. “We review deferentially a lower court’s best-interest determination and will overturn it only if it either failed to consider all of the facts or considered all of the facts and its decision was nonetheless against the clear weight of the evidence.” *In re L.J.*, 2026 UT App 14, ¶ 2 (quotation simplified).

ANALYSIS

I. Reasonable Efforts at Providing Reunification Services

¶62 Utah law requires that “in any case in which the juvenile court has directed [DCFS] to provide reunification services to a parent, the juvenile court must find that [DCFS] made reasonable efforts to provide those services before the juvenile court may terminate the parent’s rights.” Utah Code § 80-4-301(4)(a). Relatedly, Utah law also requires a court to consider whether “sufficient efforts were dedicated to reunification in accordance with Section 80-4-301” when “determining whether termination is in the best interest of the child, and in finding, based on the totality of the circumstances, that termination of parental rights, from the child’s point of view, is strictly necessary to promote the child’s best interest.” *Id.* § 80-4-104(12)(b).

¶63 As noted, the juvenile court entered findings during the first removal proceeding and early in the second removal proceeding that reasonable efforts had been made. But, as noted, after the children were removed in April 2024, in the midst of the second removal proceeding, Mother filed a document entitled “Memorandum Opposing DCFS’s Reasonable Efforts Finding.” There, she argued that DCFS had “failed to comply with procedural rules” and that its response to the April 17, 2024, incident of H.J. and S.W.’s non-supervision “lack[ed] adequate justification and fail[ed] to meet the required legal standard for reasonable efforts.” The court never made any ruling concerning this filing, nor did it make any further findings about reasonable efforts during the second removal proceeding, but it ultimately reunified the children with Mother in August 2024 and closed the second removal proceeding. Mother did not appeal any findings in the first or second removal proceedings—which should perhaps be no surprise given that reunification had ultimately occurred in both of those proceedings. In the third removal proceeding, however, Mother did raise the reasonable-efforts

issue, asking the court at the termination trial “to determine whether” DCFS had “made reasonable efforts to reunify [Mother] with her children.” In its termination ruling, the juvenile court concluded that it was not required to answer that question because Mother had been reunified with the children in the first and second proceedings and because, with respect to the third removal proceeding, DCFS had not been “ordered to provide reunification services.” But even so, the court then found that DCFS had made “reasonable, fair, and serious” efforts at reunification—though it is a touch unclear from the ruling whether this finding was directed at the first, second, or third removal proceeding, or instead all of them together.

¶64 On appeal, Mother advances two arguments. First, in what’s essentially a “scope of review” argument, Mother challenges the court’s conclusion that it was not required to determine whether reasonable efforts were made in the first and second removal proceedings. Second, turning to the merits, Mother contends that DCFS did not make reasonable efforts at providing reunification services during any of the removal proceedings. For their part, DCFS and the Guardian ad Litem (the GAL) both contend that because the first and second proceedings were closed without an appeal, the question of whether reasonable efforts were made in the first and second proceedings is not subject to review by this or any court. And they both contend that, in any event, reasonable efforts were made throughout.

¶65 For the reasons set forth below, we conclude that (A) even though Mother was reunified with her children in both the first and second removal proceedings, she can still argue on appeal that DCFS did not make reasonable efforts at providing reunification services, but (B) Mother has not persuaded us that DCFS failed in this regard.

A. Scope of Review

¶66 The first question is whether Mother can argue that DCFS did not make reasonable efforts to provide reunification services in the first and second removal proceedings, even though Mother was reunified with the children in both proceedings and both proceedings were then “closed” without an appeal. This question largely turns on the meaning of a single word—“case.” As noted, the Utah Code states that “in any *case* in which the juvenile court has directed [DCFS] to provide reunification services to a parent, the juvenile court must find that [DCFS] made reasonable efforts to provide those services before the juvenile court may terminate the parent’s rights.” Utah Code § 80-4-301(4)(a) (emphasis added). Mother asks us to interpret the word broadly, thus encompassing not only the particular removal proceeding at issue but also any past removal proceedings involving the same child, while DCFS and the GAL ask us to interpret this word narrowly, meaning that the statute *only* looks to the current proceeding (thus foreclosing review of any past removal proceeding that was subsequently closed). We agree with Mother.⁹

¶67 “It is well settled that when faced with a question of statutory interpretation, our primary goal is to evince the true intent and purpose of the Legislature.” *Anderson v. Utah Dep’t of Com.*, 2025 UT 19, ¶ 14, 572 P.3d 373 (quotation simplified). “We begin by looking at the plain language of the statute itself because the statutory language is the best evidence of the legislature’s intent.” *Id.* (quotation simplified). And here, “our interpretive task” starts with a look at “the ordinary meaning or usually accepted interpretation of the statutory language.” *State v. Hatfield*, 2020 UT 1, ¶ 17, 462 P.3d 330 (quotation simplified).

9. A careful reader may note that we’ve taken care to refer to these as the first, second, and third removal *proceedings*, as opposed to the first, second, and third *cases*. We’ve done so to avoid assuming the answer to this question.

“After determining our starting point, we then must look to the context of the language in question.” *Id.* (quotation simplified). “We do not view individual words and subsections in isolation; instead, our statutory interpretation requires that each part or section be construed in connection with every other part or section so as to produce a harmonious whole.” *Id.* ¶ 16 (quotation simplified).

¶68 Here, the parties’ competing positions have persuaded us that this term is, on the face of this statute, ambiguous. On a surface level, the word “case” could plausibly and narrowly refer to just one proceeding, or it could plausibly and more broadly encompass past proceedings too. But several things persuade us that, for purposes of this statute, Mother’s approach as to how to interpret this term in this statute is the correct one.

¶69 First, in the Utah Juvenile Code, the legislature has directed that a juvenile court may terminate a person’s parental rights if the court finds that termination is strictly necessary to promote the child’s best interest “based on the totality of the circumstances.” Utah Code § 80-4-301(1). And this directive is borne out in child welfare caselaw too. *See In re N.E.*, 2026 UT App 24, ¶ 9, 586 P.3d 47 (“A best-interest analysis is a wide-ranging inquiry that asks a court to weigh the entirety of the circumstances, including a parent’s past behavior, to determine what is in the best interest of the child under all of the circumstances.” (quotation simplified)), *cert. granted*, 594 P.3d 1111 (Utah 2026); *In re B.T.B.*, 2018 UT App 157, ¶ 47, 436 P.3d 206 (“The ‘best interest’ test is broad, and is intended as a holistic examination of all the relevant circumstances that might affect a child’s situation.”), *aff’d*, 2020 UT 60, 427 P.3d 827. As an overarching matter, this general approach to child welfare law suggests that a broad interpretive approach is likely warranted with respect to this provision.

¶70 Second, there is support for a more expansive view of the word “case” in the docketing practices that were followed by the juvenile court in these proceedings and seem to be followed by other juvenile courts in this state as well, wherein each child is assigned a single case number that remains with that child through the duration of the proceedings in the child welfare system.¹⁰ This approach aligns with the National Council of Juvenile and Family Court Judges’ “one family–one judge” model, where “[a]ll children, youth, and families will be served by one family–one judge case assignments, to the extent possible.”¹¹

¶71 Third, the parental termination scheme itself also contemplates that there will be some analytical overlap between separate removal proceedings involving the same children. For example, Utah Code section 80-3-406(5)(h) states that “[t]here is a presumption that reunification services should not be provided to a parent if the juvenile court finds” that “the minor was removed from the minor’s home on at least two previous occasions and reunification services were offered or provided to the family at those times.”¹² This statute creates a direct link between past removal proceedings and a subsequent one in which termination

10 . See *Family Department Organization and Operations*, Utah State Courts, <https://www.utcourts.gov/en/court-records-publications/publications/court-publications/court-reports/famctrpt/orgnops.html> [<https://perma.cc/78YF-BGVR>].

11. See Nat’l Council of Juv. & Fam. Court Judges, *Project ONE Key Principles* (Sep. 17, 2012).

12. As noted, DCFS relied on this very provision in the third removal proceeding, invoking it as the basis for asking the court to *not* order reunification services and setting the children’s permanency goal as adoption.

is sought. And this link is also predicated on reunification services having actually been offered or provided in the prior proceedings.

¶72 As another example, we note that Utah Code section 80-4-104(12)(b) states that

[i]n determining whether termination is in the best interest of the child, and in finding, based on the totality of the circumstances, that termination of parental rights, from the child's point of view, is strictly necessary to promote the child's best interest, the juvenile court shall consider, among other relevant factors, whether . . . sufficient efforts were dedicated to reunification in accordance with [s]ection 80-4-301.

This provision does not contain any limitations—it does not say, for example, that a juvenile court should only consider whether “sufficient efforts” were made “in this proceeding,” but it instead directs the court to consider the “totality of the circumstances” more broadly. And since the best interest determination is understood to be holistic, it makes sense to us that a parent could at least argue, at the best interest step of the analysis, that the parent's ongoing problems would have been solved if DCFS had made reasonable efforts to offer reunification services—and, thus, that termination is not in the children's best interests.

¶73 Fourth, as Mother points out, adopting a narrow definition of “case” for purposes of Utah Code section 80-4-301(4)(a) would create pronounced review problems in this particular scenario—namely, one in which DCFS removed a child in one or several past proceedings, the child was returned in each past proceeding (thus closing the proceeding), but DCFS is now using the past removals in support of a petition seeking termination of parental rights. Again, DCFS and the GAL are asking us to hold that in this scenario, the parent is foreclosed from arguing that DCFS did not

make reasonable efforts to provide reunification services in the prior proceedings—unless, that is, the parent appealed in the prior proceedings. But we have difficulty seeing how a parent could really be expected to have done so.

¶74 As noted, the statute at issue requires DCFS to provide “reasonable efforts” at “reunification services.” Utah Code § 80-4-301(4)(a). And in the first and second removal proceedings here, Mother was indeed reunified with her children. As recently emphasized by our supreme court, a “party who obtains the relief it sought below generally is not aggrieved by the judgment affording the relief and cannot appeal from it.” *Phillips v. Henderson*, 2024 UT 19, ¶ 10, 552 P.3d 195 (quotation simplified). “Simply stated, a party who prevails below is ordinarily not entitled to appeal.” *Id.* Given this, it seems unlikely that Mother could have appealed in the first and second removal proceedings, because she had already received the final remedy provided by the statute—*reunification*. In this sense, and as Mother’s counsel highlighted at oral argument in this appeal, it’s therefore not clear what additional remedy or relief Mother could have sought in a prior appeal, given that she had already received the end-goal contemplated by the statutory scheme in question.

¶75 To avoid these problems, we conclude that for purposes of Utah Code section 80-4-301(4)(a), the term “case” includes any past proceeding involving the same child and the same parent in which the court had ordered DCFS to provide reunification services. Thus, if DCFS subsequently asks a court to terminate the parent’s rights, we conclude that the parent may argue in response that those prior proceedings cannot be used as support for that petition because DCFS failed to make reasonable efforts at providing reunification services during the earlier removal proceedings.

B. Reasonable Efforts in Mother's Case

¶76 In light of this, we turn to the question of whether Mother has shown that DCFS failed to make reasonable efforts at providing reunification services in this case (with all that that word entails). And again, we do so on the basis of what seems to us to have been findings by the juvenile court that DCFS did comply with its obligations with respect to each of the prior removals. Here, we agree with DCFS and the GAL that Mother has not shown that the court abused its discretion.

¶77 For purposes of this statute, a “reasonable effort is a fair and serious attempt to reunify a parent with a child prior to seeking to terminate parental rights.” *In re L.J.*, 2026 UT App 14, ¶ 15, 586 P.3d 531 (quotation simplified), *cert. denied*, 591 P.3d 748 (Utah 2026). “Reasonableness in this context is an objective standard and depends upon a careful consideration of the facts of each individual case.” *In re K.F.*, 2009 UT 4, ¶ 51, 201 P.3d 985. In making this determination, a juvenile court should consider “the credibility of witnesses, the parent’s level of participation in reunification services, and whether services were appropriately tailored to remedy the problems that led to the child’s removal.” *Id.* ¶ 52.

¶78 Here, Mother makes what we regard as two groups of challenges. We address each in turn.

¶79 **Mental health diagnosis and treatment.** Mother’s first set of challenges relates to her mental health, and her principal argument is that DCFS did not make reasonable efforts at providing reunification services because it “never correctly identified Mother’s underlying mental health diagnosis: Borderline Personality Disorder.” We see no error here.

¶80 In the first removal proceeding, DCFS submitted a Child and Family Plan that required Mother to “complete a mental

health assessment.” As directed, Mother completed a comprehensive mental health assessment in July 2022 with Psychotherapist, who diagnosed Mother with four conditions, none of which were borderline personality disorder. Psychotherapist then recommended continued therapy, including “cognitive behavioral interventions.” DCFS’s Child and Family Plans from November 2022 and August 2023 noted Psychotherapist’s assessment and incorporated his recommendation for ongoing therapy. It was only in July 2024 that Mother was diagnosed with borderline personality disorder by Psychologist, but neither DCFS nor the juvenile court were presented with Psychologist’s report until the third removal proceeding was underway.

¶81 To the extent that Mother’s claim is about a failure to *diagnose* her with borderline personality disorder earlier, she has given us no reason to believe that her initial evaluation was somehow suspect or, critically, that DCFS should have understood that this evaluation was suspect and that Mother might actually have some other condition that required a different evaluation and a different course of treatment.

¶82 Mother also argues that because of what she regards as the “misdiagnosis,” she received the wrong mental health treatment—which, in her view, then rendered DCFS’s efforts at providing reunification services inadequate. But the statutory standard at issue does not require DCFS to have acted with omniscience, nor does it require the relevant actors to have acted in real time with the benefit of hindsight. Instead, DCFS is required to make “a fair and serious attempt to reunify” parents with their children, *In re S.T.*, 2022 UT App 130, ¶ 17, 521 P.3d 887 (quotation simplified), and this would naturally turn on what DCFS knew or reasonably should have known at the time of the decisions in question. Here, Mother was evaluated by Psychotherapist and was ordered to receive treatment that was consistent with his diagnoses. While much of Mother’s argument

on appeal centers on her subsequent diagnosis of borderline personality disorder and her related assertion that she should have received DBT, DCFS did not learn of this diagnosis until the termination proceedings were already underway, and testimony from several witnesses suggested that DBT was related to the CBT that she had already been receiving anyway. In light of all this, we see no basis for concluding that DCFS did not make reasonable efforts to provide reunification services based on a failure to assess or treat Mother's mental health problems.

¶83 **Other alleged errors.** Mother next points to a series of alleged failures that, based on the briefing and the arguments, we think best to assess in the aggregate. These include:

- DCFS's failure to respond to her discovery requests;
- DCFS's failure to "follow its own policies" related to the children's removal from Mother in April 2024;
- Caseworker's misuse of the UFACET assessment tool";
- DCFS requiring Mother to participate in "services" that were "unsupported by evaluations";
- DCFS removing the children in April 2024 without the caseworker having "watch[ed] exculpatory video evidence" or "conducting a required risk assessment"; and
- Caseworker's lack of ADA training.

¶84 We have some question about whether all of these alleged failures are actually germane to the particular question before us. Again, the statutory requirement at issue looks to whether DCFS made reasonable efforts at providing *reunification* services. On its face, this statute doesn't function as a catch-all for challenging conduct that isn't reasonably related to those reunification efforts,

and it's at least arguable that some of Mother's complaints fall outside the scope of this provision.

¶85 Regardless, having considered Mother's complaints, we're simply not persuaded that these alleged errors were sufficient, either alone or in the aggregate, to establish that DCFS did not make reasonable efforts at providing reunification services. Assessing this requirement, we have recently emphasized that "a reasonable effort is a fair and serious attempt at reunification, not a perfect one." *In re L.J.*, 2026 UT App 14, ¶ 18 (quotation simplified). And here, the record shows that DCFS did make some efforts to reunify Mother with the children. For example, in the first removal proceeding, DCFS facilitated Mother's mental health assessment with Psychotherapist, and it incorporated Psychotherapist's recommendation for continued treatment into the Child and Family Plans that followed. In the second removal proceeding, DCFS "provided cleaning supplies, trash bags, and groceries" to Mother to help improve the condition of the home, attempted to arrange a meeting with Mother and Father to help support their care of the children, and provided weekly home visits. Overall, the court found that the Child and Family Plans were "formulated with [Mother's] input, were individualized to meet her and the children's needs, and included the requirements necessary for the children to safely return to her care." And it noted that Mother "never objected or requested to the court that the services ordered or provided be modified for additional accommodation."

¶86 To the extent that DCFS's efforts failed, our cases have also stressed that "the process of reunification is recognized as a two way street which requires commitment on the part of the parents, as well as the availability of services from the State, and [a parent] [bears] the responsibility of participating in and completing those services provided to [the parent] by DCFS." *Id.* (quotation simplified). In its termination order, the juvenile court echoed this same language, finding that "although [DCFS] policy was not

always followed, the efforts made by [DCFS] were reasonable, fair, and serious,” in part, because “[M]other failed to seriously engage in a manner that took advantage of the services provided.” The court found that borderline personality disorder “can result in impulsiveness” and “poor decision making” and that “[e]ven with the best treatment,” the success for treating the disorder “is relatively low and normally takes years to accomplish.” Nonetheless, the court found that Mother’s “diagnosis of borderline personality disorder [did] not alleviate her of responsibility to engage in services ordered by the court or provided by [DCFS],” and it also found that throughout the case, Mother was “not only . . . sporadic in her compliance with court ordered services” but was “additionally engaged in criminal activities that led to her being unable to care for the children due to prolonged incarceration.”

¶87 In light of all this, Mother has simply failed to carry her burden of persuading us that the juvenile court’s findings on reasonable efforts were clearly erroneous, and this is particularly so because, even if those efforts were “not as fulsome” as they should have been, *id.*, Mother failed to engage with many of the reunification efforts that were provided.¹³

13. In this portion of her brief, Mother also pointed to a recent legislative audit of DCFS, wherein the auditor concluded that there were “concerning patterns in a significant number of cases” in which DCFS caseworkers had “violate[d] key investigation policies, leading to less safe conditions for families and unfair actions against families.” See Off. of the Legis. Auditor Gen., A Performance Audit of the Division of Child and Family Services, Report No. 2026-03, at ii (Jan. 2026). In Mother’s view, this supports her claims that DCFS did not comply with its obligations in this case. But this report was not made part of the record below, so we have no occasion to consider it now. See *State v. Hawkins*, (continued...)

¶88 We think one final note is in order. We recognize that the reasonable efforts requirement is an important one, and we agree with Mother that it needs to be taken seriously by DCFS and the juvenile courts. *See In re A.H.*, 2026 UT App 88, ¶ 42 n.4, 594 P.3d 616 (observing that since “our supreme court has made clear that [matters related to DCFS misfeasance] may not generally be raised in the best-interest portion of the inquiry, similarly affected parents in future cases would seem to have no place other than the reasonable-efforts portion of the inquiry in which to raise such matters” (quotation simplified)). We likewise recognize that appellate review of such decisions is not and should not be a rubber stamp. Token efforts alone will not suffice. But in this case, while the juvenile court recognized that DCFS could have done more, and while it further recognized that DCFS’s actions in this case did not always comport with its own policies or with best practices, the court still concluded that DCFS had at least made reasonable efforts to provide Mother with meaningful opportunities to address her issues and be reunified with the children. On this record, we see no reversible error in that decision.

2016 UT App 9, ¶ 61, 366 P.3d 884 (refusing to consider extra-record evidence attached as an addendum to a brief because “an appellate court’s review is limited to the evidence contained in the record on appeal” (quotation simplified)).

In any event, as a court, our role is not to supervise DCFS as a general matter. That is a task for the legislative and executive branches, not the judiciary. Instead, our role is to determine whether the juvenile court erred in finding that DCFS made reasonable efforts at providing reunification services *in this case*. As explained above, regardless of what is or is not happening systemically, Mother has not persuaded us that she is entitled to reversal in her case on this basis.

II. The ADA

¶89 The ADA “prohibits public entities from discriminating against disabled individuals.” *In re K.C.*, 2015 UT 92, ¶ 15, 362 P.3d 1248 (citing 42 U.S.C. § 12132). Specifically, it provides that “no qualified individual with a disability, shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity.” 42 U.S.C. § 12132. For purposes of the ADA, a government agency discriminates against a disabled individual if it fails to make “reasonable modifications.” *In re K.W.*, 2018 UT App 44, ¶ 15, 420 P.3d 82 (quotation simplified). And it is “readily apparent” that the ADA applies to reunification services in a child welfare case. *In re K.C.*, 2015 UT 92, ¶ 18.

¶90 Here, Mother argues that she has a disability because of her mental health conditions—including those diagnosed by both Psychotherapist and, later, Psychologist. In light of these conditions, she argues that DCFS should have provided her with simplified service plans, enhanced case management, and, of note, DBT as the treatment once she was diagnosed with borderline personality disorder by Psychologist. And on this front, she further argues that the fact she showed some “‘improvement’ after receiving five sessions of DBT is evidence that reasonable accommodations would have provided meaningful access to services and likely changed the outcome of this case.”¹⁴

14. In the termination order, the court made a finding that Mother “participate[d] in approximately five sessions of DBT treatment” with her therapist in January 2025, but the record is unclear on this point. At the hearing on DCFS’s motion for no reunification services in the third removal proceeding, Mother testified that she planned to address her mental health by “doing DBT” with her
(continued...)

¶91 But Mother has not persuaded us that DCFS violated the ADA. This is so for two reasons.¹⁵

¶92 First, a government agency does not have “an affirmative obligation” to identify “potential reasonable accommodations that the parent did not request.” *In re D.R.*, 2022 UT App 124, ¶ 13, 521 P.3d 545 (quotation simplified). Instead, the burden is “on the individual requesting accommodation under the ADA to present” the agency “with information regarding their disability, how it affects them, and the accommodations that would allow them to participate” in the services at issue. *Id.* ¶ 14.

¶93 Mother has not shown that she ever made such a request in this case. Again, after Mother was diagnosed with various conditions by Psychotherapist, she was ordered to receive therapy that seemed consistent with those diagnoses. Mother has not persuaded us that “the reasonable accommodations” requirement obligated DCFS to have done more than it did.

therapist, but she noted that she hadn’t “had time to do DBT” yet because of her incarceration. And at trial, Mother’s therapist testified that he had familiarity with DBT and he would do things with Mother such as “mindfulness practice,” “breathing exercises,” “progressive muscle relaxation,” and “activities that would bring about more positive emotions to counteract the negative ones.” But he testified that he was “trying to get her into the DBT group,” which was already full at the time. Accordingly, it is unclear exactly how much DBT Mother had participated in prior to her January 2025 incarceration.

15. In the briefing, the parties have discussed the question of whether Mother’s diagnoses even qualify as a disability for purposes of the ADA. Given our resolution on other grounds, we need not answer that question.

¶94 The real thrust of Mother’s complaint on appeal is what happened (or, more accurately, what didn’t happen) once she was diagnosed with borderline personality disorder in July 2024. But as noted, DCFS did not learn of this diagnosis until the third removal proceeding. At the December 2024 evidentiary hearing on DCFS’s Motion for Dispositional Order of No Reunification Services, Psychologist testified about his diagnosis and about how this disorder can be treated. For her part, Mother also testified at this hearing. She said that if the juvenile court ordered additional reunification services, she would take “her mental health seriously” because she now knew that she had borderline personality disorder. And Mother also expressed her desire to be accepted into mental health court. But Mother did not specifically link this diagnosis to any argument that she then made under the ADA—i.e., Mother did not testify that she had ever asked DCFS to provide her with DBT, much less that DCFS had been unwilling to do so, nor did she ask the court to order DCFS to provide DBT as part of ongoing reunification services moving forward. Indeed, to the seeming contrary, Mother testified that she hadn’t yet “had time to do DBT” because of her incarceration, and she further testified that she had “talked to [her] therapist and was going to be starting DBT with him.” In this sense, she seemed to indicate that she was already going to be receiving it, which undercuts her claim that DCFS had somehow violated the ADA by not providing it.

¶95 Second, we also conclude that Mother has not shown that any lack of reasonable accommodation affected her ability to engage with the services DCFS provided. *See In re L.J.*, 2026 UT App 14, ¶ 18 (“The process of reunification is recognized as a two way street which requires commitment on the part of the parents, as well as the availability of services from the State, and [a parent] [bears] the responsibility of participating in and completing those services provided to [the parent] by DCFS.” (quotation simplified)).

¶96 At the December 2024 evidentiary hearing, Psychologist testified that DBT is the “gold standard” for treating borderline personality disorder. Seizing on this, Mother argues that if she had been given that treatment, she would have been able to solve the problems that ultimately led the court to terminate her parental rights.

¶97 But we think the record is not so clear cut. At the same December 2024 evidentiary hearing, Psychologist testified that DBT requires “intensive involvement,” and he expressed his view that, given Mother’s history of “sporadic treatment interventions,” her “prognosis would be in the poor range.” Moreover, he also said that CBT—which is the type of therapy that was recommended in Mother’s July 2022 mental health assessment—is “related” to DBT and “kind of runs through the whole of DBT.” Psychologist testified that if “a person chooses to participate [in treatment] and does so reasonably effectively, there’s an expectation of growth,” and he said that this is so regardless of what type of treatment the person receives.

¶98 Psychotherapist testified to this same commonality as well. At the termination trial, he testified that DBT is a category of CBT and that in “the recommendations that [he] made, [he] didn’t say DBT,” but they were “essentially the same kind of recommendations that one would think about when recommending DBT.”

¶99 In its termination decision, however, the juvenile court found that although Mother was ordered to receive mental health treatment during the first removal proceeding, she had only “sporadically demonstrated an ability and willingness on various occasions to obtain services and follow through with treatment.” The court observed that “even when” mental health “support was given, [M]other failed to progress.” And it thus concluded that even if Mother’s borderline personality disorder “had been identified earlier in the case,” any resultant “recommendations of

mental health evaluations and treatment would not have changed” the outcome because Mother had “never consistently engaged with” mental health resources that had been provided throughout the course of the three removal proceedings. We’re not persuaded that these findings or conclusions were in error.

¶100 Finally, as to Mother’s testimony that because she had now learned of this condition, she would take treatment more seriously moving forward, the juvenile court specifically found that despite Mother’s “good intentions,” it was “unconvinced” by this assertion. The juvenile court is in a better position than we are to make a credibility determination, and we are not persuaded that we can or should reassess this one here. *See In re J.C.*, 2016 UT App 10, ¶ 13, 366 P.3d 867 (“We defer to the juvenile court because of its advantaged position with respect to the parties and the witnesses in assessing credibility and personalities.” (quotation simplified)).

¶101 In sum, it does not appear that Mother ever invoked the ADA to request the particular accommodations at issue. And even if she had, Mother has not persuaded us that they would have mattered. As a result, we see no basis for reversing the termination decision based on an alleged violation of the ADA by DCFS.

III. Best Interests of the Children

¶102 “The fundamental right of parents to raise their children is recognized by both the United States Constitution and the Utah Constitution.” *In re A.H.*, 2024 UT 26, ¶ 30, 554 P.3d 969. “Wherever possible, family life should be strengthened and preserved, but if a parent is found, by reason of the parent’s conduct or condition, to be unfit or incompetent based upon any of the grounds for termination . . . , the juvenile court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights

shall be ordered.” Utah Code § 80-4-104(12)(a). “A court may terminate parental rights only after making two necessary findings—first, the court must find, by clear and convincing evidence, that at least one statutory ground for termination exists, and second, the court must find that termination of the parent’s right is in the best interest of the child.” *In re L.J.*, 2026 UT App 14, ¶ 4 (quotation simplified). A juvenile court is required to determine whether termination is in the best interest of the child “based on the totality of the circumstances.” Utah Code § 80-4-104(12)(b).

¶103 Here, Mother challenges the juvenile court’s decision that termination was in the children’s best interests, and she does so on three grounds. First, Mother argues that the court “completely disregarded the uncontroverted testimony of [Expert], the only expert who testified as to the best interests of the children.” Second, Mother argues that the court “failed to properly consider [a] permanent custody and guardianship as an alternative to termination.” Third, Mother argues that the court failed to consider “a structured framework for preserving [sibling] bonds via ongoing sibling visitation.” We disagree on all fronts.

¶104 First, we see no error relating to the court’s alleged failure to consider Expert’s testimony about “the impact termination would have on these children going forward.” A juvenile court is not required to specifically mention every piece of evidence before it in its termination order. *See Tilleman v. Tilleman*, 2024 UT App 54, ¶ 50, 549 P.3d 65 (“[T]he trial court is not required or expected to make a finding on every bit of evidence presented.”); *In re A.R.*, 2017 UT App 153, ¶ 26, 402 P.3d 206 (“Courts are not required to make a credibility finding for each witness, rather, the findings of ultimate facts implicitly reflect consideration of the believability of the witnesses’ testimony.” (quotation simplified)); *In re S.T.*, 928 P.2d 393, 398 (Utah Ct. App. 1996) (“A trial court is not required to recite each indicia of reasoning that leads to its conclusions, nor is it required to marshal the evidence in support

of them.” (quotation simplified)). And a trial court is also not required to follow an expert’s recommendation at all. *See, e.g., Woodward v. LaFranca*, 2016 UT App 141, ¶ 13, 381 P.3d 1125 (“The trial court thus has the discretion not only to choose between experts as to relative credibility but also to disbelieve all the expert testimony placed before it—provided it can articulate a reasonable basis for doing so.” (quotation simplified)).

¶105 Here, the juvenile court heard the testimony of Expert and acknowledged it (albeit in passing) in its order. Thus, to the extent that its decision ran contrary to the opinions of Expert, the clear implication is that the court simply disagreed with Expert’s recommendations.

¶106 And there was ample support for its decision to do so. Again, Expert testified about the trauma the children might experience if Mother’s parental rights were terminated and the children were then adopted by others. But in its best interests determination, the juvenile court was required to consider “the totality of the circumstances,” Utah Code § 80-4-104(12)(b), and in this case, it made detailed findings supporting its conclusion that termination was warranted. For example, the juvenile court found the following:

- Evidence from the children’s therapists “clearly demonstrate[d] that the children have suffered multiple adverse childhood experiences” while in Mother’s care.
- Mother failed to provide “consistent mental health treatment [for the children] over three years and three child welfare” proceedings, “despite the obvious need of the children to receive such care.”
- “The children’s foster parents testified about the tremendous progress of each child in their respective placements”

- “The risk . . . in not securing the relationships they have established with their current caregivers is great. This is the first real stability these children have ever experienced. [Mother] offered little to no evidence regarding how she could or would focus on the best interest[s] of the children if custody were returned to her.”
- “If the court were to return custody to [Mother], it would simply be removing the children from a placement of love[] and support and putting them back into a world of neglect.”
- B.J. himself was “the most qualified expert regarding his lived experience,” and he testified about “chronic conflict and chaos at [Mother’s] home.”
- B.J. testified that “he finally has a family and parents who act as parents” and he “wants to remain where he is.”
- B.J.’s “emotional exhaustion and fatigue were apparent as he testified.”
- “The children need safe, stable, nurturing parent-child relationships, which they have in their current placements.”
- “Requiring the children to resume the chaos and uncertainty of going between [Mother] and foster parents in the hope that [Mother] will be able to overcome her lifelong patterns would further traumatize and harm them.”
- “Over the past three years, the children have spent most of their time outside of [Mother’s] care because of her pattern of neglect.”

- “The evidence clearly demonstrates that [Mother] is unable and/or unwilling to parent the children safely and properly because of her long-term pattern of neglect.”
- “[Mother] is currently incarcerated and will not be released from jail until September 2025. She is not available to care for the children. Her pattern of leaving the children without a caregiver due to incarceration has repeatedly occurred.”
- “Terminating [Mother’s] parental rights allows the children to remain with and benefit from fit, competent parents who can meet their needs, including maintaining relationships among siblings and with [Mother]. Terminating [Mother’s] rights does not mean she can never see the children again.”
- “Relying on the testimony of the experts in this case, the court finds that the children’s greatest need is stability and permanency. This can only be done through terminating [Mother’s parental] rights and adoption.”

¶107 In light of these detailed findings, it’s clear enough to us that the court simply disagreed with the views advanced by Expert in this case. And it’s also clear that the court grounded its decision about what would be in the children’s best interests in other testimony that was presented at trial. We accordingly see no error on this point.

¶108 Second, we likewise see no error relating to the court’s alleged failure to properly consider a permanent custody and guardianship as an alternative to termination. “Where permanent guardianship is feasible and before the juvenile court, the statute requires the court to consider it on the record and determine if it can equally protect and benefit the children in the case before it.”

In re K.Y., 2022 UT App 149, ¶ 37, 523 P.3d 1159 (quotation simplified).

¶109 In addition to the findings recounted above, the juvenile court provided detailed findings about its attempts to explore kinship placements for the children. While we need not recount all of them here, it suffices to say that the court identified various options and then explained why each was either not available or not advisable. From there, the court then found that “even if an appropriate relative did exist,” a permanent custody and guardianship would “not provide the children the needed stability to promote growth and healing.” It found that “[e]ach of the children’s foster parents” had “been consulted regarding the distinctions between [a] permanent custody and guardianship” as opposed to “termination and adoption.”¹⁶ It found that each of them “strongly prefer[red] adoption, while retaining the right and authority to monitor [Mother’s] future contact with the children.” It found that “[r]equiring the children to resume the chaos and uncertainty of going between [Mother] and foster parents in the hope that [Mother] will be able to overcome her lifelong patterns would further traumatize and harm [the children].” And “[a]fter considering all possibilities,” it found that termination was “strictly necessary in that no lesser option provides the stability these children desperately need and have never been given.”

¶110 On this record, we cannot say that the juvenile court failed to properly consider a permanent custody and guardianship over termination and adoption. On the contrary, the juvenile court

16. As noted, it appears that this finding was correct as to the foster parents of C.J. and S.W., but not as to the foster parents of B.J. Regardless, B.J.’s foster mother testified that she (and apparently her husband) were not amenable to a permanent guardianship because “[a]dopting” B.J. “was something that [they] wanted to do to make him permanently part of [their] family.”

made clear findings about why it chose termination over a permanent custody and guardianship. Thus, we see no error on this point either.¹⁷

¶111 Finally, we see no error in the juvenile court's decision not to keep the children together in one placement. The court found that DCFS had "attempted to place the children together, in various configurations," but that the "children do much better with the individualized attention of not having their siblings with them in the same home." It found that the children have "a

17. Mother asserts that the State failed "to prove it was 'strictly necessary' for [the children] to have their relationships terminated" because "the State had already proved that guardianship was a viable and practicable alternative by placing [H.J.] in a successful permanent guardianship with an aunt." But Mother has pointed to no authority that would prevent the juvenile court from making a determination for the three children at issue in this appeal that was different than the determination that had previously been made for H.J.

In any event, there were material differences between the decision involving H.J. and the subsequent decisions regarding the other children. First, the decision to place H.J. in a permanent custody and guardianship with her aunt was the result of the parties' mediation and stipulation; it was not a decision directed by the juvenile court after a termination trial. Second, H.J. was placed in a permanent custody and guardianship at the conclusion of the second removal proceeding, which meant that the facts that led to the third removal proceeding had not yet happened, and which also meant that the court had not yet heard those new facts either. For these reasons, we see no merit in Mother's argument that because H.J. had previously been placed in a permanent custody and guardianship, the juvenile court could not later order something different with respect to the other children at the close of trial.

difficult relationship” with one another and that there had been past instances of violence by one of the children in particular toward one of the others. It found that the “foster parents for the children have ensured that the siblings continue to have contact with one another, including their sibling [H.J.], who is in the permanent custody” of her aunt. Further, the court found that terminating Mother’s parental rights would allow the children to better “maintain[] relationships among siblings.”

¶112 Beyond that, the juvenile court found that B.J.—whom it identified as “a compelling and truthful witness”—had testified “that he has observed and believes his siblings are doing well although they are not in the same placement.” And it credited B.J.’s testimony that his siblings were receiving “individual attention, care, and nurturing” in their current placements, which the court saw as a positive thing.

¶113 From all this, the court concluded that “[a]fter considering all possibilities[,] termination is strictly necessary in that no lesser option provides the stability these children desperately need and have never been given,” even though this meant that the siblings would not be placed together. On this record, we see no basis for overturning that decision.

CONCLUSION

¶114 Mother has raised several challenges to the juvenile court’s decision to terminate her parental rights, but we’re not persuaded that the juvenile court committed any reversible error. We accordingly affirm that decision.
