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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1122**

In the Matter of the Welfare of: B. S. L., Child

**Filed February 20, 2018
Reversed and remanded
Connolly, Judge**

Freeborn County District Court
File No. 24-JV-16-62

Cathryn Middlebrook, Chief Appellate Public Defender, Leslie J. Rosenberg, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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Considered and decided by Halbrooks, Presiding Judge; Connolly, Judge; and Reilly, Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

Appellant juvenile challenges the district court's delinquency disposition order that placed him at the Minnesota Correctional Facility in Red Wing. He argues that the district court erred by not ordering a less-restrictive disposition such as Prairie Lakes or with his mother under intense supervision. Because the district court's written findings were not

sufficient to support its decision, we reverse and remand for the district court to make the specific findings required by Minnesota law.

FACTS

In December 2015, appellant B.S.L. punched and threatened his father with a knife. The district court adjudicated him delinquent of domestic assault, in violation of Minn. Stat. § 609.2242, subd. 2 (2014), and terroristic threats, in violation of Minn. Stat. § 609.713, subd. 1 (2014). The district court placed B.S.L. on indefinite supervised probation at the juvenile correctional facility Mesabi Academy (Mesabi), with mandatory reviews every six months.

While on probation, B.S.L. tested positive for methamphetamine. Pursuant to an agreement between the parties and because Mesabi had closed, the district court placed B.S.L. at Anoka County Secure Program, pending transfer to Woodward Academy (Woodward). B.S.L. completed Woodward's program, and on December 8, 2016, the district court placed B.S.L. back in his father's custody. While still on probation, B.S.L. failed to appear for a mandatory review hearing. B.S.L. was arrested and placed at the Minnesota Correctional Facility in Red Wing (MCF-Red Wing), pending a probation revocation hearing. B.S.L. admitted to violating his probation by using controlled substances and failing to stay in contact with his court-services officer.

At the hearing, the district court stated that local or regional placement options had been exhausted because B.S.L. had been to at least six prior placements, but he continued to disobey probation rules. Consistent with B.S.L.'s court-services officer's

recommendation, the district court issued a two-page order directing that B.S.L. be placed at MCF-Red Wing. The order contained no specific factual findings.

D E C I S I O N

B.S.L. argues that the district court's order imposing out-of-home placement at MCF-Red Wing is not supported by sufficient findings. Specifically, B.S.L. argues that the district court did not make an adequate finding as to why placement at MCF-Red Wing is necessary rather than a less-restrictive placement such as Prairie Lakes or with his mother under intense supervision.

A district court has broad discretion to revoke probation and choose the appropriate disposition in a juvenile-delinquency case; thus, the disposition will not be reversed unless there is a clear abuse of discretion. *In re Welfare of R.V.*, 702 N.W.2d 294, 298 (Minn. App. 2005). But a district court must consider certain factors to ensure such a disposition “serve[s] established principles of dispositions,” including but not limited to: (1) the disposition's necessity to restore law-abiding conduct in terms of the risk to public safety, the child's culpability, the child's delinquency record, the child's programming history, and proportionality; (2) the child's best interests; (3) if out-of-home placement is ordered, the child's needs; (4) the appropriateness of sanctions, such as placement in secure facilities, if necessary to promote public safety and meet the child's needs; and (5) local dispositional criteria. Minn. R. Juv. Delinq. P. 15.05, subd. 2(B).

To place a juvenile at MCF-Red Wing, a district court must find that the juvenile has satisfied the facility's admissions criteria and that the county has “considered all appropriate local or regional placements and [has] exhausted potential in-state placements

in the geographic region.” Minn. Stat. § 260B.199, subd. 1 (2016). Additionally, “[t]he court must state on the record that this effort was made and placements rejected before ordering a placement or commitment to [MCF-Red Wing].” *Id.*

The juvenile delinquency rules also require that a dispositional order for out-of-home placement contain certain written findings of fact to support the disposition. The written findings of fact must address the following subjects:

(1) why public safety and the best interests of the child are served by the disposition ordered;

(2) what alternative dispositions were recommended to the court and why such recommendations were not ordered; and

(3) if the disposition changes the place of custody of the child:

(a) the reasons why public safety and the best interest of the child are not served by preserving the child’s present custody; and

(b) suitability of the placement, taking into account the program of the placement facility and assessment of the child’s actual needs.

Minn. R. Juv. Delinq. P. 15.05, subd. 2(A); *see* Minn. Stat. § 260B.198, subd. 1(13) (2016) (providing that a disposition order authorized by this statute must set forth, in writing “(i) why the best interests of the child are served by the disposition ordered; and (ii) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case”).

“A district court’s failure to make adequate written findings of fact in accordance with . . . Minn. R. Juv. [Delinq.] P. 15.05, subd. 2(A), in support of a juvenile-delinquency disposition constitutes reversible error.” *In re Welfare of N.T.K.*, 619 N.W.2d 209, 210

(Minn. App. 2000). However, if the disposition-hearing transcript contains “the requisite particularized findings” addressing the subjects, “it is appropriate for the district court to incorporate those findings by reference into that order.” *In re Welfare of D.T.P.*, 685 N.W.2d 709, 713 (Minn. App. 2004).

Here, the district court’s disposition order fails to comply with Minn. R. Juv. Delinq. P. 15.05, subd. 2(A) and Minn. Stat. § 260B.198, subd. 1(13). The district court neither made the requisite written findings addressing the factors, nor made sufficient oral findings at the disposition hearing that were incorporated by reference into its order. The order does not state why the disposition serves public safety, why the disposition serves B.S.L.’s best interests, why B.S.L.’s present custody is inappropriate, the alternative dispositions that were considered, or why the alternative dispositions were not imposed. The order merely states that B.S.L. was advised of his rights, B.S.L. admitted to violating probation, there is a factual basis for the admissions, testimony regarding disposition was heard from both parties, and keeping B.S.L. in his home is contrary to his welfare.

At the disposition hearing, B.S.L.’s probation officer testified about the reasons that placement at Prairie Lakes and with B.S.L.’s mother is inappropriate. The district court stated, on the record, that

the appropriate local or regional placements have been exhausted at this point in time given the conduct of the juvenile, his continued [disobedience] of the probation rules . . . [B.S.L.] doesn’t go to school, he didn’t follow father’s rules. He was ordered to have no use of mood altering chemicals and he admitted that he had use[d] . . . cocaine, marijuana and methamphetamine. He was ordered to be law abiding and of good behavior; that hasn’t happened. He was ordered to keep all appointments with [c]ourt [s]ervices and

that hasn't happened . . . Based on his lack of follow-through, the [c]ourt does find that prior placements are not appropriate at this time.

The district court also stated that

the [c]ourt considers all appropriate local or regional placements and have exhausted potential in-state placements . . . I do find that the probation officer did consider placement options other than [MCF-]Red Wing and efforts were made by the probation agent to consider those other placement options . . . I think given the prior placement of those prior facilities, they were considered and not viable options, so essentially were rejected by the probation officer and therefore Red Wing is the committed facility.

These statements seem to suggest that the district court considered some alternative dispositions, but in particular, do not address why MCF-Red Wing was chosen over Prairie Lakes. They are also totally lacking as to the other required findings.

The district court erred by ordering out-of-home placement without detailing supportive findings. Therefore, we reverse and remand to the district court for written findings addressing the rule 15.05, subd. 2(a), and Minn. Stat. § 260B.198, subd. 1(13), factors.

Reversed and remanded.