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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0477**

In the Matter of the Welfare of the Child of:
C. R. P. and S. K. A. f/k/a S. K. W., Parents.

**Filed August 6, 2018
Affirmed
Schellhas, Judge**

Dakota County District Court
File No. 19HA-JV-17-1823

David A. Jaehne, West St. Paul, Minnesota (for appellant C.R.P.)

James C. Backstrom, Dakota County Attorney, Jennifer L. Jackson, Assistant County Attorney, Hastings, Minnesota (for respondent Dakota County Social Services)

S.K.A., Maplewood, Minnesota (pro se respondent)

Natasha Solem Walker, West St. Paul, Minnesota (guardian ad litem)

Considered and decided by Hooten, Presiding Judge; Ross, Judge; and Schellhas, Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant-father challenges the district court's transfer of legal and physical custody of the minor child to respondent-mother. We affirm.

FACTS

Appellant-father C.R.P., and respondent-mother S.K.A. f/k/a S.K.W., are the parents of J.M.P., born in September 2006. The parties were never married but were in a relationship until September 2008, when mother obtained an order for protection (OFP) against father. Two months later, J.M.P. was removed from mother's care due to allegations of physical abuse. At the time, mother suffered from posttraumatic stress disorder and chemical-dependency issues. Orders were later filed in March 2010, granting father sole legal and physical custody of J.M.P.

In 2015, the district court ordered the parties to begin therapy to reunify mother with J.M.P. Although father initially failed to cooperate with reunification efforts, mother saw J.M.P. on March 5, 2017, after father contacted mother and informed her that J.M.P. wanted to see her. At about the same time, father began exhibiting behavior consistent with mental illness. And on March 21, 2017, father's wife obtained an OFP against father based on allegations of threatening and stalking behavior.

On April 4, 2017, respondent Dakota County Social Services (county) received a neglect report involving father and J.M.P., alleging that father was experiencing delusions and paranoid ideation. As a result, the county filed a petition alleging that J.M.P. was in need of protection or services. Father admitted the petition by default when he left the courthouse before the case was called. The district court placed J.M.P. with mother under the protective supervision of the county and ordered that any visitation between father and J.M.P. be supervised. The district court also ordered father to cooperate with a psychological assessment and chemical-dependency evaluation and follow all

recommendations; to abstain from the use of alcohol or non-prescribed mood-altering drugs; to submit to random urinalysis as determined by the county; to cooperate with reunification therapy with mother and J.M.P.; and to cooperate with county case-management services.

Father failed to progress with his case plan and the court-ordered conditions and recommendations. He also continued to exhibit behavior consistent with mental illness. As a result, the county filed a petition to commit father as mentally ill, which was granted on October 12, 2017. In the meantime, the county filed a petition on October 4, 2017, to transfer permanent legal and physical custody to mother. At a hearing in February 2018, father admitted that he was “currently under civil commitment for mental illness” and “under an order for the administration of neuroleptic medications.” Mother testified that she had been sober for seven years, that her mental health was stable, and that she had “learned how to self-sooth with grounding and things to keep [her] hands busy, like cross-stitching and knitting.” The guardian ad litem (GAL) reported that J.M.P. had “adopted very well to residing with his mother,” that he wanted to “remain in his current placement,” and that she had no concerns about mother’s parenting of the child. The GAL recommended granting the petition to transfer legal and physical custody of J.M.P. to mother because it was in J.M.P.’s best interests.

The district court concluded that the county “made reasonable efforts to prevent transfer of [J.M.P.],” but that father “has refused to cooperate with the case plan provided for him,” and that the “conditions which led to the removal of [J.M.P.] from Father’s home still exist if [J.M.P.] were to return to the Father’s care.” The district court also concluded

that J.M.P. “has flourished while in [mother’s] care,” that she “has demonstrated an ability” to provide for all of the child’s needs, and that it is “in the best interests of [J.M.P.] to be placed in the legal and physical custody of Mother.” The district court therefore transferred legal and physical custody of J.M.P. to mother.

This appeal follows.

D E C I S I O N

On appeal from a juvenile-protection order transferring legal custody, this court applies a two-part standard of review. *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321 (Minn. App. 2015), *review denied* (Minn. July 20, 2015). We review factual findings to determine whether they address the statutory criteria and are supported by “substantial evidence,” or whether they are clearly erroneous. *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). “A finding is clearly erroneous only if there is no reasonable evidence to support the finding or when an appellate court is left with the definite and firm conviction that a mistake occurred.” *D.L.D.*, 865 N.W.2d at 322 (quotation omitted). But the ultimate decision that a statutory basis supports a permanency disposition is reviewed for an abuse of discretion. *Id.*

The district court “may order permanent legal and physical custody to a fit and willing relative in the best interests of the child.” Minn. Stat. § 260C.515, subd. 4 (2016). Such an order must address (1) how the child’s best interests are served by the order; (2) the nature and extent of the responsible social services agency’s reasonable efforts to reunify the child with the parent; (3) the parent’s efforts and ability to use services to correct the conditions which led to the out-of-home placement; and (4) that the conditions leading to

the out-of-home placement have not been corrected to permit the child to safely return home. Minn. Stat. § 260C.517(a) (2016).

Father challenges the district court's transfer of permanent legal and physical custody of J.M.P. to mother, arguing that the transfer was not in the child's best interest. But father merely makes assertions of error. He does not cite supporting facts, makes no legal arguments, and provides no citations to relevant legal authorities. "An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection." *Schoepke v. Alexander Smith & Sons Carpet Co.*, 290 Minn. 518, 519–20, 187 N.W.2d 133, 135 (1971); *see In re A.R.M.*, 611 N.W.2d. 43, 50 (Minn. App. 2000) (citing this aspect of *Schoepke* in a juvenile-protection appeal). No prejudicial error is obvious here on mere inspection. Father's challenge to the district court's transfer-of-custody order therefore is not properly before us.

Moreover, even if addressed on the merits, the district court's best-interests determination was not an abuse of discretion. The district court made extensive findings related to father's unusual behavior leading up to, and after, the placement of J.M.P. outside of his home. The district court also found that father failed to comply with the case plan and "repeatedly failed to provide UAs as ordered by the Court." In addition, the district court made extensive findings related to mother's ability and willingness to care and protect J.M.P. The district court found that while in mother's care, J.M.P. has "flourished," that his "behavior greatly improved," that he "appears happy and comfortable" with her, and "has voiced his desire to live with" her. The district court further recognized that although

mother “has a criminal history,” she “has been sober for seven years,” “has been upfront and honest about her struggles, and has worked hard to get herself into a good place mentally and emotionally.” Finally, the district court determined that the “most relevant best-interest factor to be considered here is [J.M.P.’s] safety,” and that “[u]nlike Father, Mother provides a safe environment for [J.M.P.]” The district court’s best-interests determination is thoughtful, well-analyzed, and amply supported by the record. We therefore conclude that the district court did not abuse its discretion by transferring legal and physical custody of J.M.P. to mother.

Affirmed.