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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0744**

In the Matter of the Welfare of the Child of:
J. A. T. and R. N. V., Parents

**Filed October 15, 2018
Affirmed
Rodenberg, Judge**

Olmsted County District Court
File No. 55-JV-18-55

Frederick S. Suhler, Jr., Rochester, Minnesota (for appellant J.A.T.)

Sherri L. Whalen, Anderson Law Firm, Rochester, Minnesota (for respondent R.N.V.)

Debra A. Groehler, Sr. Assistant Olmsted County Attorney, Rochester, Minnesota (for
respondent Olmsted County Community Services)

Michelle Frohrip, Rochester, Minnesota (guardian ad litem and attorney pro se)

Considered and decided by Rodenberg, Presiding Judge; Connolly, Judge; and
Johnson, Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Appellant-mother J.A.T. appeals from the district court's order transferring physical and legal custody of the child J.E.T. to respondent-father R.N.V., arguing that the district court's findings of fact fail to show either that the father is a suitable custodian or that transferring custody to the father is in J.E.T.'s best interest. We affirm.

FACTS

The facts of this case are substantially undisputed. Mother and father are the parents of one child, J.E.T., born on July 25, 2015. Mother and father were not in an intimate relationship or living together when J.E.T. was born. The parents initially shared joint legal custody of their child; mother had sole physical custody and father had regular parenting time. Olmsted County Community Services (OCCS) received a report that the child tested positive for tetrahydrocannabinol (THC) at the hospital shortly after birth. OCCS provided child-welfare services to mother intermittently over the next two years through its Parent Support and Outreach Program, focusing on concerns of possible continuing drug use. Mother thereafter worked with OCCS on a voluntary basis and made sufficient progress on her case plan that the case was closed in March 2016.

In May 2017, OCCS received a report that mother was under the influence of drugs when she picked up J.E.T. from a visit with his father, and drove away without putting J.E.T. in his car seat. The reporter claimed that mother was “flipping out.” Another reporter shared concerns that mother had been using methamphetamine and displayed irrational and aggressive behaviors and paranoid ideation (believing her friends were undercover agents). OCCS conducted a Family Assessment. During the assessment process, mother admitted to marijuana use; she denied methamphetamine use. According to OCCS, urine samples provided by mother were diluted, and mother avoided other scheduled urine tests. OCCS observed mother as aggressive and irrational with family and assigned social workers.

OCCS filed a CHIPS petition and informed the family that it would seek to place J.E.T. in foster care because of concerns regarding mother's alleged methamphetamine use and her inability to follow the previously developed safety plan. Father was also not thought to then be a placement option because of his own chemical-use problems. After a hearing, the district court placed J.E.T. in emergency protective foster care. Father agreed that he was then not able to care for J.E.T. because he did not have suitable housing, had only been sober for three months, and wanted to continue to manage his sobriety before assuming more parental responsibility. J.E.T. was adjudicated in need of protection or services with respect to father (per his admission) on July 25, 2017, and with respect to mother on August 24, 2017, after a court trial.

J.E.T. was initially placed in foster care with his maternal grandparents. Both parents were offered out-of-home-placement plans that included visits with J.E.T. and services directed toward reunification. OCCS reported that mother's compliance with drug screens was inconsistent. Mother provided her first negative drug screen in September 2017 and continued to provide negative screens until a November 4 drug screen was positive for THC, which mother claimed was the result of using medical marijuana. Mother provided no drug screens after November 15, and OCCS claims that mother began demonstrating signs that she was using drugs again. OCCS reported that it requested a drug screen at a meeting with mother on November 27. Mother stated she could not provide a sample until later in the day. OCCS told mother she had until 2:00 p.m. to provide a sample or it would deem her failure to test as a positive test result. Mother never returned to provide a sample. Mother also admitted to using methamphetamines as late as

December 1, 2017 (despite her later trial testimony that she has been sober since she found out that she was pregnant). OCCS reported that, when mother was asked to complete a drug screen in January 2018, she gave a social worker toilet water. At the time of the transfer-of-custody trial, mother recounted that she had completed three inpatient and two outpatient chemical-dependency-treatment programs. Most recently, mother completed an inpatient treatment at Keystone in mid-February 2018. Mother completed a cosmetology program during the pendency of the case and intends to take the state certification exam.

Mother had the opportunity to engage in supervised visits with J.E.T. during the course of the case until OCCS learned of several conflicts at the maternal grandparents' home. One conflict escalated to the point where mother would not leave until after her father called law enforcement. As a result, OCCS informed mother that her parents would no longer be able to supervise visits. OCCS then arranged for mother to have supervised visits at the Keystone Family Access Center an average of two days per week. These visits eventually had to be suspended because mother did not follow the facility's rules. Mother was eventually allowed back to the Family Access Center, but in the four scheduled visits after mother was discharged from treatment at Keystone, the first two were cancelled, mother was late for a third but nevertheless allowed to visit (contrary to ordinary Keystone Family Access Center policy), and the fourth visit was cancelled because mother was again late. Mother also missed a meeting relating to J.E.T.'s education plan, despite stating a few days prior that she would attend the meeting.

Both OCCS and the Guardian ad Litem (GAL) have stressed concerns with mother's irrational, agitated, and aggressive behaviors while using drugs, and claim that these

behaviors have been unrelenting other than the short period of sobriety from about September to November 2017.

In December 2017, OCCS decided to transition the full-time care of J.E.T. from the foster parents to an extended visit with father. It obtained the district court's approval for this extended visit. The district court ordered OCCS to cease reunification efforts with mother.

In January 2018, OCCS filed a petition to transfer permanent legal and physical custody of J.E.T. to father. The district court found that father complied with his case plan, obtained part-time employment, and had appropriate housing for the child. The district court found that reunification of J.E.T. with his mother was unlikely because she had not complied with her case plan, continued to use methamphetamine and marijuana throughout the case, and tampered with drug screens as late as January 10, 2018, when she gave a social worker toilet water instead of a urine sample. The district court found it in J.E.T.'s best interests that sole physical and legal custody be transferred to father.

This appeal by mother followed.

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. *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321-22 (Minn. App. 2015), *review denied* (Minn. July 21, 2015). When reviewing an order transferring legal custody, we determine “whether the trial court’s findings address the statutory criteria and are supported by substantial evidence, or whether they are clearly erroneous.” *In re Welfare of A.R.G.-B.*, 551 N.W.2d 256, 261 (Minn. App. 1996)

(quotation omitted). We review a district court’s decision regarding whether to transfer legal custody for an abuse of discretion. *In re Welfare of Children of A.I.*, 779 N.W.2d 886, 895 (Minn. App. 2010), *review dismissed* (Minn. Apr. 20, 2010). “Consistent with the level of proof generally required in child protection proceedings,” a permanent placement determination must be supported by “clear and convincing evidence.” *A.R.G.-B*, 551 N.W.2d at 261.

I. The district court acted within its discretion in determining father was a suitable legal and physical custodian.

Mother argues that the district court’s determination that father is a suitable legal and physical custodian is not supported by adequately detailed findings. “[A]n order for transfer of permanent legal and physical custody shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian.” Minn. Stat. § 260C.515, subd. 4(1) (2016). Mother asserts that the district court’s seven sentences of findings relating to the suitability of father as the sole custodian are “rather cursory” and fail to take into account a number of issues regarding father that reasonably call into question his suitability as the permanent sole custodian of J.E.T.

The number or length of a district court’s findings is not determinative of whether the district court made adequate findings. *See In re Civil Commitment of Spicer*, 853 N.W.2d 803, 810 (Minn. App. 2014) (noting that the district court’s order containing 317 paragraphs of findings of fact was insufficient where the findings were merely a recitation of evidence presented at trial). The critical issue is whether the district court makes

findings of fact on which it bases its decision, thereby facilitating effective appellate review. *Id.* at 811.

Here, the district court found that the father “has demonstrated that he can meet all of [J.E.T.’s] needs.” The district court made several specific findings relating to father’s suitability as a custodian. It found that father complied with his case plan by completing outpatient treatment, was attending parenting classes, had arranged for and attended medical and educational appointments, and had obtained appropriate housing for J.E.T. Mother does not assign error to any particular factual finding, but instead argues that these findings do not discuss in sufficient detail why father’s history of chemical use, unstable housing and employment, and inability to provide parental care without assistance from family members were not matters of concern to the court. As noted, that the district court’s findings do not detail each specific issue does not mean the court abused its discretion in determining that father is a suitable custodian. Here, the GAL testified that she had no concerns about father’s chemical use, found his housing to be suitable, and was confident in his ability to care for J.E.T. Likewise, an OCCS social worker testified to like effect and was not presently concerned with father’s history of chemical use and resulting difficulties. After he completed outpatient treatment, father was involved in multiple support groups and was attending NA meetings. The district court considered and credited this evidence.

Mother also claims that she was subject to a great deal of scrutiny concerning whether she was remaining abstinent from using controlled substances and that, during the same period, father was subjected to only one urine test. Any heightened scrutiny of mother by OCCS bears no relation to the issue of whether the district court reviewed the

suitability of father as the sole custodian as required under Minn. Stat. § 260C.515, subd. 4(1). It is readily apparent from the order that the district court reviewed father's suitability as a sole legal and physical custodian, its findings were adequate, and it acted within its discretion in determining that father was a suitable custodian.

II. The district court acted within its discretion in transferring legal and physical custody of J.E.T. to father.

After a CHIPS adjudication, a 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). An order permanently transferring legal and physical custody of a child 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)(1)-(4) (2016). Mother challenges only the first of these four requirements. She argues that the court did not adequately address how J.E.T.'s best interests are served by the custody-transfer order.

To be adequate, a district court's best-interests findings must facilitate effective appellate review, provide insight into which facts or opinions were most persuasive for the court's ultimate decision, and demonstrate the court's comprehensive consideration of the statutory criteria. *In re Tanghe*, 672 N.W.2d 623, 626 (Minn. App. 2003). The district court must make written findings that properly reflect its consideration of the relevant

statutory factors. *See Rosenfeld v. Rosenfeld*, 249 N.W.2d 168, 171 (Minn. 1976). The best interests of the child requires all relevant factors to be considered. Minn. Stat. § 260C.511(a) (2016). In the case of a permanency disposition, “the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.” *Id.* (b) (2016).

Here, the district court reviewed the relationships between J.E.T. and relatives, as well as other persons important to J.E.T. The district court found that it was in J.E.T.’s best interests to maintain relationships with family members and that father has demonstrated an ability to ensure regular contact between J.E.T. and all of his family members. The district court also found that reunification with mother was unlikely because she did not comply with her out-of-home-placement plan and continued to use drugs with only limited periods of sobriety.

Mother argues that the findings are legally insufficient because the district court did not address each of the best-interests criteria set forth in Minn. Stat. § 260C.212, subd. 2 (2016), which was meant to ensure that each child’s best interests are met by requiring an “individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed.” The statute provides:

- (b) Among the factors the agency shall consider . . . are the following:
 - (1) the child’s current functioning and behaviors;
 - (2) the medical needs of the child;
 - (3) the educational needs of the child;
 - (4) the developmental needs of the child;
 - (5) the child’s history and past experience;

- (6) the child's religious and cultural needs;
- (7) the child's connection with a community, school, and faith community;
- (8) the child's interests and talents;
- (9) the child's relationship to current caretakers, parents, siblings, and relatives;
- (10) the reasonable preference of the child, if the court . . . deems the child to be of sufficient age to express preferences.

Minn. Stat. § 260C.212, subd. 2(b). “[T]he court shall review and enter findings regarding whether the responsible social services agency made . . . an individualized determination as required under section 260C.212, subdivision 2, to select a home that meets the needs of the child.” Minn. Stat. § 260C.193, subd. 3(b)(2) (2016).

Here, the district court expressly stated that transfer of permanent legal and physical custody of J.E.T. to father was in J.E.T.'s best interests under Minn. Stat. § 260C.212, subd. 2(b), reasoning that J.E.T. has an Individual Education Plan for emotional and behavioral concerns, receives early childhood services through Rochester Public Schools, needs a parent who can meet his basic educational and medical needs, and that father has demonstrated he can meet those needs. It concluded that father has a positive relationship with mother's parents and has demonstrated the ability to ensure that J.E.T. has regular contact with all of his family members.

The district court's findings are sufficient to reflect that the district court considered the relevant statutory factors. *See In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 711 (Minn. App. 2004) (noting that the district court's findings need not “go into great detail”). Moreover, the record amply supports the district court's determination that it is in J.E.T.'s best interests to transfer custody to father. The GAL and OCCS believe it is in J.E.T.'s

best interests that sole physical and legal custody be entrusted to father. They believe that it is not in J.E.T.'s best interests that father share custody with mother. The district court also determined that mother becomes aggressive when using methamphetamine and has demonstrated little to no insight into how her chemical dependency affects J.E.T. The record supports these findings. The district court made sufficient findings to enable appellate review and acted within its discretion in determining that transfer of permanent legal and physical custody to father is in J.E.T.'s best interest.

Affirmed.