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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1016**

In re the Matter of the Welfare of the Child of:
J. C., Father.

**Filed December 23, 2019
Affirmed
Ross, Judge**

Ramsey County District Court
File No. 62-JV-17-2125

Jerry A. Burg, The Law Office of Jerry A. Burg, Minneapolis, Minnesota (for appellant)

John J. Choi, Ramsey County Attorney, Stephanie Wiersma, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Kim Lee, St. Paul, Minnesota (guardian ad litem)

Considered and decided by Rodenberg, Presiding Judge; Ross, Judge; and
Klaphake, Judge.*

UNPUBLISHED OPINION

ROSS, Judge

Former foster parent S.R. challenges the district court's order denying her motion to intervene in foster child A.K.'s child-protection case and her request for an order for adoptive placement with her. Because the district court acted within its discretion by

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

denying S.R.'s motion for permissive intervention and because S.R. lacked standing to present her adoptive-placement request in that proceeding, we affirm.

FACTS

Ramsey County child-protection workers who suspected prenatal drug exposure removed newborn A.K. from his mother shortly after his birth in October 2016. The county placed A.K. with foster parent S.R., who began the process of adopting A.K. after the district court terminated A.K.'s parents' parental rights. But in April 2019, the county received a report of A.K.'s maltreatment in S.R.'s care. The report alleged that S.R. had left the toddler unsupervised and closed in a bedroom with a childproof doorknob while she walked her grandchild to a bus stop, that S.R. had fallen asleep with the oven on and was awakened only by A.K.'s crying, and that S.R. had left A.K. in the custody of a man she barely knew and who had a drinking problem.

The county investigated the allegations and, finding that maltreatment had occurred, removed the child from S.R.'s custody and placed him in a different foster home. S.R. moved the district court to intervene as a party in A.K.'s child-protection case. She also asked the district court to order adoptive placement with her. Concluding that S.R. failed to show that allowing her to intervene would serve the child's best interests, the district court denied S.R.'s motion to intervene under rule 34 of the Minnesota Rules of Juvenile Protection Procedure.¹ Concluding that the county had not been unreasonable in failing to make the adoptive placement with S.R., the district court denied S.R.'s request to order

¹ The Minnesota Rules of Juvenile Protection Procedure were extensively renumbered effective September 1, 2019. We cite the current rules in their renumbered form.

adoptive placement under Minnesota Statutes section 260C.607, subdivision 6(a) (2018). S.R. appeals.

D E C I S I O N

S.R. challenges the district court’s denial of her motion to intervene in A.K.’s child-protection case and its failure to issue an order for adoptive placement. A person who is not entitled to intervene as a matter of right may intervene in a child-protection case if the district court finds that the intervention meets the child’s best interests. Minn. R. Juv. Prot. P. 34.02. We review a district court’s denial of a request for permissive intervention for an abuse of discretion. *State v. Deal*, 740 N.W.2d 755, 760 (Minn. 2007). The district court here acted within its broad discretion.

S.R. insists that the district court abused its discretion by rejecting her request to intervene. A district court abuses its discretion if its decision is against logic and the facts in the record. *State v. Guzman*, 892 N.W.2d 801, 810 (Minn. 2017). S.R. fails to identify any intervention-related reason that she presented to the district court demonstrating how her intervention in the proceeding serves the child’s best interests. The record shows that the district court considered S.R.’s intervention motion and her supporting documents. It also heard S.R.’s argument, in which she maintained that she should be permitted to permissively intervene because “it would be in the best interest of the child that the child remain with her [as] that is the only place he has ever lived.” The district court concluded that S.R. made “no significant showing . . . that intervening in this case as a party would serve the child’s best interests.” S.R. cites nothing in the record that would lead us to deem that conclusion against logic or the facts in the record.

S.R.’s focus in the district court, and again on appeal, appears to be a conflation of unrelated issues. The district court’s order denying S.R.’s intervention motion emphasized that the “[i]ssues concerning a child’s placement are distinct from issues concerning permissive intervention.” The same must be emphasized on appeal, where S.R. supports her position with the rhetorical question, “How could it NOT be in his best interests for [S.R.] to fully participate in the proceeding?” after listing circumstances focusing on the stability of her home environment and the child’s favorable developmental progress in her care. These are clearly circumstances that might bear on a placement decision, but S.R. does not explain how her success as the child’s foster parent, or the child’s success in her foster care, bears on her effort to intervene as a party in his child-protection case.

The district court’s decision is highly discretionary, meaning that we will not merely substitute our judgment for the district court’s. S.R. has not established on appeal that the district court’s intervention decision was an abuse of discretion.

We observe that the district court’s order might in one respect be mistaken to suggest that S.R.’s intervention motion would succeed only if she asserted some “specific needed legal right[] in th[e] proceeding.” Instead, again, a party may succeed by demonstrating that “intervention is in the best interests of the child.” Minn. R. Juv. Prot. P. 34.02. The movant need not assert any legal right to participate in the proceedings. In context, however, the district court may have been attempting to emphasize that S.R.’s focus on her foster-care success with the child does not establish a legal right to intervention. And even if this is not so and the district court’s statement reflects a legal error, we still would not reverse. That is because the district court clearly and correctly identified S.R.’s burden to

show that her intervention is in the child's best interests, and then it concluded that S.R. failed to carry that burden. This logically supported conclusion is a sufficient ground to affirm, making the possible legal misstatement merely a harmless error.

S.R. also contends that the district court erred when it failed to grant her request to issue an order of adoptive placement with S.R. A nonparty, nonparticipant who fails to intervene in a child-protection proceeding lacks standing to participate in the proceeding. *See* Minn. R. Juv. Prot. P. 32.02–33.02 (describing the rights of parties and participants in juvenile-protection matters); *see also* Minn. R. Juv. Prot. P. 33.01(g) (noting that “current foster parents” are participants). The district court denied S.R.’s motion for permissive intervention, leaving her without standing to move the district court to take any action in that proceeding regarding adoptive placement. The legislature has provided an implicit limited exception to the rule, authorizing “a relative or the child’s foster parent” to move for adoptive placement. Minn. Stat. § 260C.607, subd. 6(a). But the record informs us that S.R. was not the child’s relative and had been replaced as his foster parent. We therefore affirm the district court’s decision rejecting her adoptive-placement request.

Affirmed.