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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1251**

In the Matter of the Welfare of the Child of:
T. D. S.,
Commissioner of Human Services, Legal Custodian.

**Filed February 8, 2021
Reversed and remanded
Gaïtas, Judge**

Hennepin County District Court
File No. 27-JV-17-3601

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Considered and decided by Slieter, Presiding Judge; Gaïtas, Judge; and Rodenberg, Judge.*

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

H.B. (child) was placed in foster care with appellant A.M. (foster parent) days after his birth. Soon after, child's biological parents relinquished their parental rights. Foster

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

parent tried to adopt child, and the Hennepin County Human Services and Public Health Department (department) supported foster parent as an adoptive placement. But after child had lived with foster parent for almost four years, a lengthy relative search identified a relative willing to adopt child. The department then withdrew its support of foster parent as an adoptive placement, terminated foster parent's adoption agreement and petition, and now seeks to place child for adoption with the relative. Foster parent filed a motion for adoptive placement and requested an evidentiary hearing on her motion. The district court denied the motion, concluding that foster parent had not made a prima facie showing that the department acted unreasonably in changing course to support adoptive placement with the newly identified relative. We reverse and remand to the district court for an evidentiary hearing pursuant to Minnesota Statutes section 260C.607, subdivision 6(c)-(d) (2018).

FACTS

Child was born in 2016. Days later, the department removed child from T.D.S. (mother) and, upon discharge from the hospital, placed child in foster parent's care. The department filed a child-in-need-of-protective-services (CHIPS) petition against mother, alleging substance abuse, prenatal exposure to chemicals, homelessness, and neglect. Child was adjudicated in need of protection or services, and legal custody was transferred to the department in October 2016.

The department ultimately petitioned to terminate the parental rights of child's biological parents, who both voluntarily relinquished their rights in writing. The district court issued an order finalizing the termination of parental rights (TPR) and formally placed child under the guardianship of the commissioner of human services pending a final

placement decision. Mother notably asked the department to place child with a paternal aunt (R.M.).

After child had spent the first 20 months of his life with foster parent, the department removed child from foster parent's care and placed him with R.M. in March 2018. But the placement did not last long. After about five months, the department became concerned for child's immediate safety after learning that a search warrant had been executed at R.M.'s residence, resulting in an arrest and the discovery of controlled substances. The department no longer supported placing child with R.M. and looked for an alternative relative placement. When no known biological relatives were available, the department decided that returning child to foster parent "on an emergency basis" would be in child's best interests because foster parent and child had established a "significant relationship."

Soon after accepting child back into her home in September 2018, foster parent notified the department of her interest in adoption. Foster parent enrolled in adoption classes and prepared to move forward with the adoption process. Additionally, foster parent tended to child's wellbeing and developmental needs, which seemed to have stunted while in R.M.'s care. Foster parent took child to necessary medical appointments, which included replacing child's bilateral ear tubes, and scheduled a speech assessment to address child's speech delays. According to foster parent, after the five months in R.M.'s care, child seemed "significantly more aggressive," he tried to bully other kids, he was "constantly dysregulated," and "his sleep suffered a lot."

Months later, the guardian ad litem (GAL) asked the department to reopen the kinship search, asserting that doing so would be in child's best interests. The GAL

indicated that several relatives had recently indicated interest in adoption. Additionally, the GAL expressed similar concerns to those of foster parent regarding child's speech development. The GAL also questioned foster parent's ability to style child's hair in a "culturally appropriate" manner. Around the same time, the department filed a report updating the district court on permanent placement options for child. The department ruled out a local relative, noting problems with a background check, and advised the district court that placement with an out-of-state relative would continue to delay child's placement for another 12 to 18 months. Despite the GAL's objection, the department maintained that adoption by foster parent was in child's best interests, observing that child and foster parent "are attached and bonded" and that foster parent attended to all of child's needs.

The department executed an adoptive placement agreement with foster parent in January 2019, formally placing child in her care under Minnesota Statutes section 260C.613, subdivision 1 (2018). The GAL opposed that decision and again recommended that the department continue the kinship search. Despite the GAL's objection, the department filed an adoption petition to finalize foster parent's adoption of child in early February 2019.

Shortly thereafter, child's maternal great grandmother moved to intervene, requesting that she be considered an adoptive placement option for child. Additionally, the GAL moved to reopen the department's kinship search. The department opposed both motions because it believed finalization of foster parent's adoption was in child's best interests. The district court denied the intervention motion, but granted the GAL's motion and ordered the department to reopen the kinship search required under Minnesota Statutes

section 260C.221(f) (2018) and to continue communication and coordination with relatives.

Upon resuming the relative search, the department identified three potential placements, including two out-of-state relatives. The district court ordered the department to refer any potential relatives for a home study and found good cause to delay foster parent's adoptive placement proceedings in the interim. Before the home studies were complete, the department tried to finalize foster parent's adoption during a review hearing in August 2019, but the district court denied the request. In a written order, the district court again found good cause to postpone finalizing foster parent's adoption, stating, "The Department is not authorized to go forward with the adoption placement agreement. The Department shall continue to exercise due diligence in the relative search, including by referring [a local relative] for a home study."

On February 18, 2020, foster parent petitioned this court for a writ of prohibition or mandamus. *In re A.L.M.*, No. A20-0265 (Minn. App. March 17, 2020) (order), *review denied* (Minn. May 27, 2020). We denied her petition as "an improper collateral attack" on the district court's order to reopen the kinship search because foster parent was not a party in those TPR proceedings. The supreme court subsequently denied review. *Id.*

In the meantime, the GAL informed the district court that child's biological mother had given birth to two additional children since the TPR involving child. The GAL advised that the two children remained in mother's care after she successfully completed a case plan in a separate CHIPS matter that had been dismissed. She recommended that child

have contact with his siblings, other relatives, and mother. The district court issued an order granting regular visits between child and his relatives.

In July 2020, when child was approximately four years old and had spent all but five months of his life in foster parent's care, the department notified the district court of its decision to go in a different direction. The department explained that, upon receiving two approved home studies for local relatives, it had evaluated child's best interests under Minnesota Statutes section 260C.212, subdivision 2(b) (2018), and decided to withdraw from its agreement with foster parent's adoption petition and terminate the adoptive placement agreement. The report mentioned a "tentative transition plan" to remove child from foster parent's care and finalize placement with a local relative, child's paternal aunt, on August 11, 2020.

When foster parent learned of this development, she filed a motion for adoptive placement under Minnesota Statutes section 260C.607, subdivision 6(a)-(b) (2018), and asked the district court to stay any change in child's placement pending a ruling on her motion. The district court declined to stay the placement change and scheduled a hearing to address foster parent's motion.

Foster parent argued that she was entitled to an evidentiary hearing on her motion for adoptive placement, alleging that her motion and supporting documents satisfied her statutory burden for obtaining such a hearing—establishing a *prima facie* case that the department had acted unreasonably in rejecting her as a candidate for adoption. *See* Minn. Stat. § 260C.607 subd. 6(b). In support of the motion, foster parent submitted a lengthy affidavit detailing how she was meeting child's developmental, cultural, educational, and

medical needs, and explaining why adoptive placement with her was in child's best interests. She described the bond that had formed between child and her family over the past four years, stating that child tells her "you're my mommy" and "we are a family." Foster parent detailed how abrupt changes in child's situation have proven to be difficult for child. For example, when child was emergently returned to foster parent after the five-month placement with a relative, foster parent noticed that child suffered developmental delays and seemed unsettled and anxious. More recently, after attending visitations with the newest relative identified for placement, child threw tantrums and had problems sleeping at night.

Foster parent also submitted a written report from a licensed independent clinical social worker who is an expert in family therapy. The expert opined that removing child from foster parent's home after four years would cause child to lose his sense of security and safety. According to the expert's report, it is unrealistic to assume child will readily adapt to an abrupt and significant change in his home environment. The expert expressed concern that such a change would cause child to have an attachment disorder, anxiety, and other mental health problems in the future.

The department opposed foster parent's motion for adoptive placement. According to the department, it had acted reasonably by following the court's order to reopen the relative search, "pursu[ing] placement with a biological relative," and considering child's best interests in its July 2020 report.

After considering the procedural history, competing allegations, and the parties' arguments, the district court denied foster parent's motion without an evidentiary hearing.

The court recognized that foster parent has acted lovingly and diligently to meet child's needs and has developed an attachment. But even though foster parent's affidavit "outlines how she is suited to meet the child's needs," the district court determined foster parent had failed to "allege facts showing that the Department's decision to place the child for adoption with the paternal aunt was unreasonable, irrational or capricious." The district court concluded that foster parent failed to make a prima facie showing that the department had acted unreasonably, and accordingly, was not entitled to an evidentiary hearing.

Foster parent appeals.

DECISION

This case turns on the answer to one question: Did foster parent make a prima facie showing that the department was unreasonable in failing to place child for adoption with her? If so, foster parent is entitled to have an evidentiary hearing on her motion for adoptive placement. And if not, Minnesota law requires dismissal of foster parent's motion. As the appellate court, we are tasked with reviewing the district court's answer to this question.

"A motion for adoptive placement is analogous to a motion to modify custody." *In re Welfare of L.L.P.*, 836 N.W.2d 563, 570 (Minn. App. 2013). In the analogous context of a motion to modify custody, we have stated that: "At the prima-facie-case stage of the proceeding, [the movant] need not *establish* anything. [The movant] need only make allegations which, if true, would allow the district court to grant the relief [the movant] seeks." *Amarreh v. Amarreh*, 918 N.W.2d 228, 231 (Minn. App. 2018) (emphasis in original), *review denied* (Minn. Oct. 24, 2018); *see Tousignant v. St. Louis County*, 615 N.W.2d 53, 59 (Minn. 2000) (stating that a prima facie case is "one that prevails in the

absence of evidence invalidating it” (quotation omitted)). Thus, in reviewing the district court’s decision here—that foster parent did not make a prima facie showing—we must determine whether foster parent’s motion and supporting documents failed to set forth allegations which, if true, show that the department acted unreasonably in declining to place child with foster parent for adoption.

In considering this issue, we begin with the statutes governing adoption proceedings, before turning to the standard of review. “Adoption is a creation of statute and therefore the [district] court’s authority in matters relating to adoption is limited to the authority set forth by [the Juvenile Court Act].” *In re Adoption of C.H.*, 554 N.W.2d 737, 740 (Minn. 1996); *see* Juvenile Court Act, Minn. Stat. §§ 260C.001-.637 (2018).

When a child has been placed under the guardianship of the commissioner of human services after the biological parents’ rights have been terminated, an agency acting on behalf of the commissioner must make “reasonable efforts” to finalize an adoption. Minn. Stat. §§ 260C.601, subd. 2, .605, subd. 1. Reasonable efforts include identifying an appropriate prospective adoptive parent in accord with the child’s best interests, *see* Minn. Stat. § 260C.212, subd. 2(b), performing an up-to-date relative search, and ultimately finalizing the child’s adoption, Minn. Stat. § 260C.605, subd. 1. To determine the needs and best interests of the child, the agency must consider various factors, including:

- (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, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences.

Minn. Stat. § 260C.212, subd. 2(b). When a prospective adoptive parent has been established, and after considering these factors, the agency may execute an adoptive placement agreement. Minn. Stat. § 260C.613, subd. 1.

A relative or foster parent with a competing interest in adopting the child may, within the statutory time period, move the district court for an adoptive placement of the child with the movant. Minn. Stat. § 260C.607, subd. 6(a). "The motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement." *Id.*, subd. 6(b). If the district court determines that the movant's motion and supporting documents fail to "make a prima facie showing" that the agency acted unreasonably in refusing to make the adoptive placement requested by the movant, "the court *shall* dismiss the motion." *Id.*, subd. 6(c) (emphasis added). If, however, the district court determines that the movant's motion and supporting documents assert a "prima facie basis" that the agency acted unreasonably in denying the movant's requested placement, "the court *shall* set the matter for evidentiary hearing." *Id.* (emphasis added). Thus, whether the movant's motion and supporting documents allege a prima facie case that the agency acted unreasonably in failing to make the adoptive placement requested by the movant is dispositive of whether the district court must set an

evidentiary hearing on the movant's motion. *See* Minn. Stat. § 645.44, subd. 16 (2018) (stating that “[s]hall’ is mandatory”).

At an evidentiary hearing on the movant's motion, the agency presents evidence to support its decision not to make the adoptive placement with the movant. Minn. Stat. § 260C.607, subd. 6(d). Thereafter, “[t]he moving party has the burden of proving by a preponderance of the evidence that the agency has been unreasonable in failing to make the adoptive placement” sought by the movant. *Id.* The district court “*may*” order the agency to make an adoptive placement of the child with the movant if, at the conclusion of the hearing, the district court “finds” both that (a) “the agency has been unreasonable in failing to make the adoptive placement” sought by the movant and (b) the movant provides “the most suitable adoptive home to meet the child’s needs using the factors in section 260C.212, subdivision 2, paragraph (b).” *Id.*, subd. 6(e) (emphasis added); *see* Minn. Stat. § 645.44, subd. 15 (2018) (stating that “[m]ay’ is permissive”).

A district court's denial of an adoptive-placement motion is an appealable order. *L.L.P.*, 836 N.W.2d at 568-69. We review the denial of an adoptive placement motion without an evidentiary hearing in three parts. *See id.* at 570. First, we apply de novo review in examining whether the district court treated the parties' supporting documents “properly.” *Id.* (citing *Boland v. Murtha*, 800 N.W.2d 179, 185 (Minn. App. 2011)). Second, we consider whether the district court abused its discretion in determining that the movant failed to make a prima facie showing. *Id.* And third, we apply de novo review in considering the district court's denial of an evidentiary hearing. *Id.* (noting that the failure to make a prima facie showing is dispositive of the need for an evidentiary hearing).

Applying these standards of review, we conclude that the district court erred in each of the three parts of the analysis. We address each error in turn.

I. The district court erred in its treatment of foster parent’s motion and supporting documents.

As noted, the first step in reviewing the district court’s decision requires us to determine whether the district court treated foster parent’s motion and supporting documents “properly.” *See id.* A district court treats an adoptive-placement motion and supporting documents “properly” by accepting the facts alleged by the movant as true, disregarding any contrary allegations, and only considering the respondent’s allegations and the procedural history to the extent either “explain[s] or provide[s] context.” *Id.* Here, foster parent argues that although the district court accurately summarized the law, it failed to accept the facts alleged in her motion and supporting documents as true and it weighed the procedural history against the facts that she alleged. The department counters that the district court “clearly accepted the facts in [foster parent]’s affidavit as true,” did not weigh evidence, and conducted a proper prima facie analysis devoid of reversible error. After carefully reviewing the record and the district court’s order, we agree with foster parent.

The district court’s order provides an accurate summation of the law regarding proper treatment of the foster parent’s motion papers. But the district court failed to accept the facts alleged by foster parent as true in performing its subsequent analysis. For example, the district court stated: “While the Movant’s Affidavit outlines how she is suited to meet the child’s needs, it does not allege facts showing that the Department’s decision to place the child for adoption with the paternal aunt was unreasonable, irrational or

capricious.” In making this determination, the district court overlooked foster parent’s assertions about the strong attachment that child has developed to her after almost four years in her exclusive care. Additionally, the district court did not accept the truth of foster parent’s allegation—backed by the report of an expert witness—that removing child from foster parent’s care to place child for adoption with a family member previously unknown to child would hinder child’s development and cause additional trauma.¹ Although the department attempts to cast foster parent’s claims as conclusory assertions, foster parent’s detailed affidavit buttresses her concerns with specific, firsthand observations of child’s behavior before and after visitations with the new relative placement (e.g., child throwing tantrums, refusing to get into the car, and requiring hours of rocking to fall asleep afterwards). Foster parent’s affidavit also details the difficulties that child experienced following an earlier unsuccessful placement with another relative. Thus, the district court’s determination that foster parent’s factual allegations were limited to facts about her suitability as an adoptive placement reveals the district court’s failure to accept all of foster parent’s assertions as true.

The district court’s reasoning also suggests that foster parent had the burden to *disprove the reasonableness* of the department’s decision to place child with the relative. This is incorrect for two reasons. First, in considering whether to order an evidentiary hearing, the district court was not tasked with deciding whether child’s relative was a more

¹ Although the expert report discusses the harm in *removing* child from foster parent’s care, the removal of child from foster parent’s care and the department’s refusal to place child for adoption with foster parent are functionally the same given the factual circumstances here.

suitable placement option. Instead, under section 260C.607, subdivision 6(b), (c), at the prima facie stage of the proceeding, the question before the district court is limited to whether the movant alleged a prima facie case that the department acted unreasonably in declining to make the placement requested by the movant. Thus, a focus on the reasonableness or unreasonableness of the placement with a relative is misplaced. Second, foster parent was not required to prove anything. In *Amarreh*, a district court denied, without an evidentiary hearing, a father's motion to modify custody based on its determination that "[f]ather ha[d] not *established* the four elements required to establish a prima facie case [to modify custody.]" 918 N.W.2d at 231 (emphasis added). This court rejected that analysis, stating, among other things, that "[a]t the prima-facie-case stage of the proceeding, father need not *establish* anything. Father need only make allegations which, if true, would allow the district court to grant the relief he seeks." *Id.* Thus, at the prima facie case stage of the proceeding, the movant need not prove, or disprove, *anything*; the district court's inquiry is limited to evaluating whether the movant's motion and supporting documents make allegations which, if true, would show that the department acted unreasonably in declining to make the placement requested by the movant.

Finally, the district court used the procedural history—and in particular, the district court's own prior order to reopen the kinship search—as evidence supporting its conclusion that foster parent failed to make a prima facie showing of the department's unreasonableness. But the caselaw makes clear that in determining whether to order an evidentiary hearing on a motion for adoptive placement, the district court should only consider the procedural history of a case for context, and not as evidence to be weighed in

deciding whether an agency acted unreasonably. *See L.L.P.*, 836 N.W.2d at 570 (“The district court must . . . consider the non-moving party’s supporting documents only to the extent that they explain or provide context.”). Whether the department’s denial of the movant’s requested placement actually *was* unreasonable is not relevant at the prima facie case stage, where the question is whether the movant made a prima facie showing of unreasonableness.

In considering foster parent’s motion for adoptive placement, the district court did not accept all of foster parent’s facts as true, imposed a different burden on foster parent than required by law, and considered the procedural history of the case as evidence. We therefore conclude that the district court erred in its treatment of foster parent’s motion papers and supporting documents.

II. The district court abused its discretion by concluding that foster parent failed to make a prima facie showing of unreasonableness.

Next, we consider whether the district court abused its discretion in determining that the allegations in foster parent’s motion and supporting documents did not show a prima facie case that the department acted unreasonably in declining her request to adopt child. *See id.* Generally, a district court abuses its discretion if it makes findings of fact that are unsupported by the record, it improperly applies the law, or it otherwise resolves the discretionary question in a manner that is contrary to logic and facts on the record. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997); *see In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010) (applying this aspect of *Dobrin* in an adoption appeal). When

assessing whether a movant makes a prima facie case, however, the district court accepts the movant's assertions as true and disregards contrary assertions of the nonmoving party. *L.L.P.*, 836 N.W.2d 570-71. Therefore, at the prima facie case stage of the proceeding, (a) the district court does not find facts and (b) the "facts" relevant to the district court's assessment of whether the movant's motion and supporting documents make a prima facie case are those alleged by the movant.

As a threshold issue, foster parent contends that the district court misread or misunderstood the term "unreasonable" in section 260C.607, subdivision 6, to mean "not guided by reason; irrational or capricious," as defined by *Black's Law Dictionary* 1851 (11th ed. 2019). Foster parent argues that "unreasonable," as used in the statute, is ambiguous and urges us to look beyond the plain meaning of the term, and adopt a definition of "unreasonable" that incorporates the statutory best-interests factors. *See* Minn. Stat. § 260C.212, subd. 2(b) (providing best-interests factors).

Appellate courts review a district court's interpretation of a statute de novo. *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015); *see In re Welfare of Children of A.M.F.*, 934 N.W.2d 119, 122 (Minn. App. 2019) (applying the de novo standard of review to a district court's reading of Minn. Stat. § 260C.607, subd. 6). The reviewing court must first determine whether a statute's language is ambiguous. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017); *A.M.F.*, 934 N.W.2d at 122. "A statute is ambiguous when its language is subject to more than one reasonable interpretation." *Riggs*, 865 N.W.2d at 682; *see A.M.F.*, 934 N.W.2d at 122. In interpreting a statute, "words and phrases are construed according to rules of grammar and according to their common and approved usage." Minn.

Stat. § 645.08(1) (2018). If the court determines that a statute is unambiguous, the statute’s plain meaning controls. *Dupey v. State*, 868 N.W.2d 36, 39 (Minn. 2015); *see A.M.F.*, 934 N.W.2d at 122. When analyzing the plain and ordinary meaning of words or phrases that are not explicitly defined by a statute, a court may consider dictionary definitions. *See Thonesavanh*, 904 N.W.2d at 436; *In re Welfare of J.L.G.*, 924 N.W.2d 9, 14 (Minn. App. 2018) (using dictionaries when addressing the meaning of Minn. Stat. § 260C.607, subd. 2).

We do not agree with foster parent that the term “unreasonable” is ambiguous. The common and ordinary usage of the term—and the definition applied by the district court—is “not guided by reason; irrational or capricious.” *Black’s Law Dictionary*, *supra*, at 1851; *see also The American Heritage Dictionary of the English Language* 1898 (5th ed. 2018) (defining “unreasonable” as “[n]ot governed by or based on reason”). This is not a term that is subject to more than one reasonable interpretation. Of course, whether an agency actually acted unreasonably is inevitably a fact-driven determination that will depend on the unique circumstances of each case. But the necessity of a fact-specific inquiry, which requires the district court to exercise discretion, does not make the term itself ambiguous. Because the statute is unambiguous, we must give the term “unreasonable” its plain meaning. *See Dupey v. State*, 868 N.W.2d at 39; *A.M.F.*, 934 N.W.2d at 122. We see no error with the district court’s definition of the term, and we use the same definition here in reviewing the district court’s exercise of its discretion.

Applying that definition, we conclude that foster parent satisfied her burden of establishing a prima face case that the department acted unreasonably in refusing to make

her requested placement. In concluding otherwise, the district court resolved the question in a way that was contrary to logic and the facts² on this record—the district court abused its discretion.

We first emphasize that foster parent’s burden was not high. Our supreme court has defined a prima facie case as “one that prevails in the absence of evidence invalidating it.” *Tousignant.*, 615 N.W.2d at 59 (quotation omitted). But the supreme court has also acknowledged:

[T]he term “prima facie case” is a legal term of art that does not always carry the same meaning in every context. Rather, the specific quantum and quality of evidence that is necessary to establish a prima facie case may vary depending on the nature of the proceedings, the type of action involved, and the stage of the litigation.

Braylock v. Jesson, 819 N.W.2d 585, 590 n.2 (Minn. 2012). In a juvenile protection proceeding, where “[t]he paramount consideration” is a child’s “health, safety, and best interests,” see Minn. Stat. § 260C.001, subd. 2(a), “[t]he laws relating to the juvenile protection proceedings shall be liberally construed to carry out [the purposes of the Juvenile Court Act],” *id.*, subd. 4; see also *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 319 (Minn. App. 2015) (liberally construing father’s pleading obligations in petitioning for permanency, which required father to establish a prima facie case for transfer of permanent custody), *review denied* (Minn. July 21, 2015). Against this backdrop, foster parent’s motion and supporting documents were more than sufficient to make a prima facie showing

² As noted, at the prima facie case stage of the proceedings, the relevant “facts” are those *asserted* by the movant in her motion and supporting documents (but not yet proved or disproved by the parties).

that the department acted unreasonably in denying foster parent's requested placement of child.

First, the duration of child's placement with foster parent for almost four years, and the significant attachment that child developed to foster parent over the course of that placement, which is detailed in foster parent's motion papers, raises significant concern about the reasonableness of the department's actions. The department placed child with foster parent immediately after his birth. Child continuously lived with foster parent during the four-year period, except for a five-month interruption when child was a toddler and the department unsuccessfully placed child with a relative. According to foster parent's affidavit, after almost four years in her care, child considers her to be his "mommy," has developed a close attachment to foster parent's biological child, and considers these individuals to be his "family."

Second, foster parent supplied detailed and specific information, including the opinion of a licensed social worker, about how removing child from her care would harm child's development and overall wellbeing. Foster parent explained that she has been the only primary caregiver child has known. She detailed her firsthand experiences with child that cause concern about disrupting child's attachments. And foster parent's expert articulated the potential long-term harm to child that a new placement could cause.

Finally, foster parent's motion and supporting documents described the department's inconsistent positions regarding child's placement. As noted, the department placed child with foster parent as a newborn. After a brief, unsuccessful placement with a relative who exposed child to criminal activity, the department returned child to foster

parent. Soon after, the department fully supported adoptive placement with foster parent, representing to the district court that adoption by foster parent was in the child's best interests. The department continued to support adoptive placement with foster parent until it suddenly reversed course, due to no fault of foster parent. Upon locating a new relative, a paternal aunt, the department abruptly determined that removing child from foster parent's home and placing him with paternal aunt was in child's best interests.

Accepting all of foster parent's allegations as true, as the district court was required to do, the department's actions in rejecting foster parent as an adoptive placement appear unreasonable—not guided by reason; irrational or capricious. Child was placed with foster parent for an extended period of time from birth, developing a significant attachment to foster parent. *See In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 135 (Minn. 2014) (“Under our law, children are not to be kept waiting, uncertain who will raise them or where they will grow up.”); *A.M.F.*, 934 N.W.2d at 124 (stating that “additional delays in the adoption of a child under the guardianship of the commissioner are not in the child's best interests”). Foster parent raised substantial concern about the harm that could occur to child with an alternative adoptive placement at this juncture. *See L.L.P.*, 836 N.W.2d at 571 (concluding that movants established a prima facie case requiring an evidentiary hearing by supplying specific information about how alternative adoptive placement would harm child). And after consistently supporting foster parent as an adoptive placement, the department abruptly shifted positions in favor of paternal aunt. Foster parent's allegations established a prima facie showing of the department's unreasonableness. We conclude that the district court abused its discretion in concluding otherwise.

III. Because foster parent made a prima facie showing that the department was unreasonable in failing to place child with her for adoption, foster parent is entitled to an evidentiary hearing.

Based on the erroneous determination that foster parent had not met her minimal burden of showing a prima facie case that the department acted unreasonably in declining to make foster parent's requested placement of child, the district court denied foster parent's request for an evidentiary hearing, and dismissed foster parent's motion for adoptive placement. We conclude that foster parent's motion for adoptive placement and supporting documents satisfied the threshold requirement for an evidentiary hearing—a prima facie showing that the department acted unreasonably in declining to make the requested placement. Foster parent is accordingly entitled to an evidentiary hearing on her motion. *See* Minn. Stat. § 260C.607, subd. 6(c); *L.L.P.*, 836 N.W.2d at 570. We reverse and remand for an evidentiary hearing on foster parent's motion for adoptive placement.³

Reversed and remanded.

³ Although we conclude that foster parent established a prima facie case of the department's unreasonableness, we express no opinion about the suitability of either foster parent or paternal aunt as an adoptive placement. This is an issue for the district court to decide following an evidentiary hearing.