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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1597
A21-1598**

In the Matter of the Welfare of the Children of:
M. H., Parent.

**Filed May 2, 2022
Affirmed
Ross, Judge**

Washington County District Court
File No. 82-JV-20-151

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(for appellant M.H.)

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N.H.)

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Considered and decided by Larkin, Presiding Judge; Worke, Judge; and Ross,
Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

A father killed his five-month-old son by intentionally forcing the infant's head to drop against the floor on two occasions because the father was frustrated by the child's crying. Washington County successfully petitioned to terminate the father's parental rights

to two younger children born during the pendency of the resulting homicide case that resulted in the father's guilty plea to manslaughter. The district court terminated father's rights and concurrently denied the mother's alternative petition to transfer sole legal and physical custody of the younger children to her. Both the father and mother argue on appeal that termination is not in the best interests of the children and that the district court should have instead issued an order transferring custody to the mother. Because the district court did not abuse its discretion by concluding that termination serves the children's best interests, we affirm.

FACTS

M.H. (Father) and N.H. (Mother) have been married since 2017 and had three sons. In the interest of privacy and to avoid confusion, we will call the first son Adam, the second Ben, and the third Cam. Adam was born in 2018. Adam was admitted to the hospital when he was five months old because he suddenly stopped breathing. He died five days later. An autopsy revealed that Adam died from blunt-force head trauma and that the force occurred twice—about two weeks before his death and within one week before his death.

Officials suspected abuse and investigated. Both parents first denied harming Adam, saying that they were unaware of any occasion when he fell or was otherwise injured. Father eventually confessed to twice mistreating Adam shortly before he died. He admitted that he “bonked” the infant's head against the floor and later dropped him to the floor headfirst from about chest level. Father cited his frustration with the child's crying as his reason. The state charged Father with second-degree murder, and he ultimately pleaded guilty to first-degree manslaughter. The district court sentenced him to prison.

In the period after Father killed Adam and before he pleaded guilty, Mother gave birth to Ben and Cam. On Ben's birth, Washington County immediately petitioned to terminate Father's parental rights to Ben. The district court promptly found that Father had egregiously harmed Adam, which relieved the county of any duty to make reasonable efforts to reunify Father and Ben. The district court allowed Ben to remain in Mother's care and ordered Father to have no contact with him except, eventually, short video calls between Father and child. By the time of Father's trial on the county's petition to terminate his parental rights, he had spent a total of about ten hours on these video calls. Cam was born 19 months after the county had filed the petition, which the county then amended to also seek to terminate Father's parental rights to Cam. At the time of the trial, Father had never met Cam, even by video interaction.

Mother filed a competing petition to transfer sole legal and physical custody of Ben (and later Cam) to herself, seeking to ensure that Father would have the opportunity to parent the children (and, as acknowledged during this appeal, to remain jointly obligated to meet their financial needs) during and after his incarceration. The parties stipulated that clear and convincing evidence met two statutory bases to terminate Father's rights—that a child has experienced egregious harm in Father's care of a nature “that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care” under Minnesota Statutes section 260C.301, subdivision 1(b)(6) (2020), and that Father was convicted of a specifically listed crime justifying termination under section 260C.301, subdivision 1(b)(9) (2020). The parents maintained that the only issue remaining for trial was whether the

children's interests were better served by terminating Father's rights or by maintaining his rights while transferring custody to Mother.

After a two-day trial, the district court found that termination was in the children's best interests, and it ordered Father's rights terminated. Father and Mother separately appealed. We now resolve the consolidated appeals.

DECISION

Our only question in this narrow appeal is whether the district court appropriately found that terminating Father's parental rights is in the children's best interests. Ordinarily, we review the district court's conclusion that termination is in the children's best interests for an abuse of discretion. *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021). But reviewing the conclusion in this case seems somewhat, if not entirely, to be an academic exercise given Mother and Father's pretrial stipulation. They stipulated that clear and convincing evidence proved that Adam "experienced egregious harm in [Father's] care . . . *such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care.*" Minn. Stat. 260C.301, subd. 1(b)(6) (emphasis added). Mother and Father stipulated that a reasonable person would find it contrary to *any* child's best interests to be in Father's care. Because that stipulation is not challenged on appeal, we cannot say that the district court abused its discretion by making its best-interests decision. Although the district court must conduct a separate analysis to determine whether termination is in the best interests of the child after it finds that a statutory ground to terminate exists, the legislature crafted subdivision 1(b)(6) uniquely among the enumerated statutory bases for terminating rights.

It did so by including a built-in best-interests premise. But the county did not raise this as a basis to affirm, and, for the following reasons, our analysis leads us easily to conclude that the district court did not abuse its discretion even apart from the integral nature of the best-interests feature of subdivision 1(b)(6).

The district court did not abuse its discretion by concluding that terminating Father's rights is in Ben's and Cam's best interests. The district court considered and applied the juvenile-protection rule's criteria when addressing the best-interests question, which are the children's interest in preserving the parent-child relationship, Father's interest in preserving the parent-child relationship, and any competing interests of the children. *See* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii); *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). The district court's findings on the three challenged factors find support in the record.

As for the first best-interests factor, the district court acknowledged but gave limited weight to Father's assertion that he had developed a bond with Ben. It credited the social worker's observation that a genuine father-child bond unlikely developed through video contact—the only contact Ben ever experienced with Father. And Cam had never encountered Father by video or otherwise. Additionally, Mother's separate argument that the district court ignored the effect that terminating Father's rights would have on the children's relationship with extended family misstates the record. The district court addressed the issue, citing Ben's paternal grandfather's testimony that Ben would "still have [him]" regardless of termination.

As for the second factor, the district court found that it cut *against* terminating Father's rights. Mother and Father's arguments on this factor add nothing to our review.

As for the final factor, Mother and Father's arguments fail. Father unpersuasively argues that the district court focused only on the children's physical safety. Given the nature of the specific safety risk Father poses in light of his killing of Ben and Cam's infant brother, we cannot say that the district court's best-interests consideration overemphasized the children's safety risk. But even assuming the argument otherwise has merit, it is factually unsupported because the district court terminated Father's rights out of concern that the children be protected from a "safety risk in *any* form." (Emphasis added.) The district court also did not ignore Father's testimony that he intends to seek help in prison or that no evidence of a pattern of abuse exists. It concluded that causing the death of a child is so serious that mitigation efforts are "nearly impossible." It credited the social worker's and guardian ad litem's testimony, which supported this finding. Mother's arguments fail for the same reason. Mother disagrees with the district court's conclusion that the children's emotional health and stability would be best served by terminating Father's rights, but that conclusion is grounded in the social worker's and the guardian ad litem's testimony.

Because the district court's analysis found the children's interest in preserving the relationship with Father and the children's competing interests favor termination of his parental rights, and because its reasoning is supported by the record, the district court did not abuse its discretion.

Affirmed.