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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0708**

In the Matter of the Welfare of the Child of:
A. R. J. and B. J. J., Parents.

**Filed October 31, 2022
Affirmed
Smith, Tracy M., Judge**

St. Louis County District Court
File No. 69DU-JV-17-357

Miles John Ringsred, Duluth Minnesota (for appellant mother A.R.J.)

Kimberly J. Maki, St. Louis County Attorney, Benjamin M. Stromberg, Assistant County Attorney, Duluth, Minnesota (for respondent St. Louis County Public Health & Human Services Department)

Tess V. Jacobson, Duluth, Minnesota (for child L.J.J.)

Joan Mahle, Duluth, Minnesota (guardian ad litem)

Considered and decided by Larson, Presiding Judge; Smith, Tracy M., Judge; and Kirk, Judge.*

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant-mother A.R.J. challenges the district court's order summarily denying her petition to reestablish parental rights to one of her children following the voluntary

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

termination of her parental rights. She argues that the district court erred because (1) certain provisions of the reestablishment-of-parental-rights statute, Minnesota Statutes section 260C.329 (2020), do not apply in the context of a voluntary termination of parental rights and (2) even if those provisions are applied, she established grounds to reestablish her parental rights, or at least a prima facie case, entitling her to an evidentiary hearing. A.R.J. also argues that the district court erred by denying her request for visitation and that this court should order visitation and contact. We affirm.

FACTS

In June 2016, respondent St. Louis County Public Health & Human Services Department petitioned the district court to adjudicate as children in need of protection or services (CHIPS) the two children of A.R.J. and father B.J.J. The children, L.J. (born in 2010) and N.J. (born in 2012), were removed from the home, placed in foster care, and later adjudicated CHIPS. After efforts to reunify the family failed, the county petitioned the district court to involuntarily terminate the parental rights (TPR) of both parents. On the first day of trial on January 16, 2018, both parents agreed to voluntarily terminate their parental rights to both children. The parents executed affidavits of consent, which were accepted by the court that day, and the county dismissed its petition for an involuntary TPR.

On January 26, before the district court filed a final TPR order, the parents moved to vacate their consents to the termination. In an affidavit, A.R.J. stated that she and B.J.J. felt “unfairly pressed” into signing the agreement to terminate their parent rights. She said that they were told by their counsel that they did not foresee the trial ending in their favor

and that signing a consent to a voluntary TPR “was the only way to have guaranteed contact” with their minor children.

Following a hearing, the district court filed an order denying the parents’ motions to vacate their consents to a voluntary TPR. The memorandum accompanying that order stated that (a) the parents’ “extremely difficult, painful decision” agreeing to a voluntary TPR “does not rise to the level of duress or coercion, and the Court declines to allow a withdrawal of consent in this case”; (b) the parents’ attorneys were “doing their job” when they informed their clients that an involuntary TPR would mean that they had no right to have contact with their minor children but that “a consent to termination” might allow the parents “to set up visits and continue contact”; and (c) the best interests of the children would not be served by permitting withdrawal of the parents’ consent.

Soon after denying the motions to vacate, the district court filed orders voluntarily terminating each parent’s parental rights to each child. Neither parent appealed.¹

In March 2022, A.R.J. filed a petition to reestablish parental rights pursuant to Minnesota Statutes section 260C.329. Additionally, A.R.J. filed a motion to vacate the TPR order and to compel the county to grant visitation with the children. Following a hearing, the district court concluded that, on its face, the petition to establish parental rights did not satisfy the requirements of section 260C.329 and denied the petition without an evidentiary

¹ Over the next several years, the parents brought various unsuccessful actions in state and federal courts seeking to vacate the voluntary TPR and to reestablish parental rights.

hearing. In the same order, the district court also denied the motion to vacate or to order visitation.

A.R.J. appealed. A special term panel of this court ruled that we lack jurisdiction over A.R.J.'s challenge to the denial of the motion to vacate and dismissed that portion of the appeal.

DECISION

A.R.J. challenges the denial of her petition to reestablish parental rights, arguing that the district court erred in applying certain provisions of the reestablishment-of-parental-rights statute and erred by denying her petition without an evidentiary hearing. Appellant also challenges the district court's denial of her motion to order visitation. We address each of A.R.J.'s arguments in turn.

I. Petition to Reestablish Parental Rights

A. Application of Section 260C.329

A.R.J. contends that the district court erred by applying certain provisions of section 260C.329 for two reasons. First, she argues that those provisions do not apply in the context of a voluntary TPR because doing so would wrongly presume—in conflict with other law—that a parent who voluntarily terminated parental rights is an unfit parent. Second, she argues that applying the provisions specifically in her case violates her due-process rights because there was no factual adjudication on the question of “good cause” to voluntarily terminate parental rights to her children when the TPR order was filed. We address both arguments in turn, but first we describe the relevant statutory framework.

A court may voluntarily or involuntarily terminate parental rights “[i]f, after a hearing, the court finds by clear and convincing evidence that one or more of the conditions set out in section 260C.301 [(2020)] exist.” Minn. Stat. § 260C.317, subd. 1 (2020). One of the conditions in section 260C.301 is that the parent has provided written consent that the parent “for *good cause* desires to terminate parental rights.” Minn. Stat. § 260C.301, subd. 1(a) (emphasis added). Good cause exists under “a variety of circumstances” and does not require a fitness analysis. *In re Welfare of D.D.G.*, 558 N.W.2d 481, 485-86 (Minn. 1997); *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 135-36 (Minn. 2014). A TPR with a parent’s consent is a voluntary TPR. *Id.* The remaining conditions set out in section 260C.301 provide statutory grounds for an involuntary TPR. *See* Minn. Stat. § 260C.301, subd. 1(b).

After parental rights have been voluntarily or involuntarily terminated, section 260C.329 provides a route for parents to petition to reestablish parental rights. That statute lays out the conditions that must be met to petition for reestablishment of parental rights. Minn. Stat. § 260C.329, subd. 3. One condition is that “the parent has corrected the conditions that led to an order terminating parental rights.” *Id.*, subd. 3(2). Section 260C.329 also dictates the contents of a parent’s petition to reestablish parental rights. *Id.*, subd. 3a. Among other things, the parent must state “what steps the petitioner has taken toward personal rehabilitation since the order terminating parental rights, including treatment, work, or other personal history that demonstrates rehabilitation,” *id.*, subd. 3a(a)(6), and “how the petitioner has corrected the conditions that led to the order terminating parental rights for which reunification is sought,” *id.*, subd. 3a(a)(7).

1. Unfitness

A.R.J. asserts that she is a presumptively fit parent following her voluntary TPR. She then relies on that presumption to argue that sections 260C.301 and 260C.329 are in conflict because a voluntary TPR under section 260C.301, subdivision 1(a), carries no presumption of unfitness but section 260C.329, subdivision 3a(a), presumes unfitness by requiring parents to rehabilitate or to correct conditions that led to the TPR. She argues that, to avoid violating her due-process rights, those provisions of section 260C.329 must be interpreted to not apply to her petition because she voluntarily terminated her parental rights.

“The interpretation of a statute is a question of law that [appellate courts] review de novo.” *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). When reviewing a district court’s reading of a statute, the reviewing court first determines whether the statute’s language is ambiguous. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017); *In re Welfare of Children of A.M.F.*, 934 N.W.2d 119, 122 (Minn. App. 2019). A statute is ambiguous if “its language is subject to more than one reasonable interpretation.” *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015); *A.M.F.*, 934 N.W.2d at 122. When addressing whether a statute’s language is ambiguous, “words and phrases are construed according to rules of grammar and according to their common and approved usage.” Minn. Stat. § 645.08(1) (2020); see *In re Welfare of Children of S.R.K.*, 911 N.W.2d 821, 827 (Minn. 2018) (citing Minn. Stat. § 645.08(1) (2016) in a TPR appeal). If the court determines that statutory language is unambiguous, the language’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.

A.R.J. seeks to create a conflict between sections 260C.301 and 260C.329 by reading a presumption of unfitness into section 260C.329. A.R.J. infers this presumption from the requirement in section 260C.329 that a petitioner demonstrate personal rehabilitation and correction of the conditions that led to the order terminating parental rights. In essence, A.R.J. argues that requiring her to “rehabilitate” or “correct the condition[]” leading to her voluntary TPR requires her to admit that she is unfit to parent, which violates her due-process rights. Her argument is unavailing.

A.R.J. contends that she must be considered a presumptively fit parent because she is a natural parent to L.J. and she voluntarily terminated her parental rights. It is true that a natural parent has a fundamental liberty interest in the care and custody of their children and “is presumed to be suitable to be entrusted with the care of [their] child.” *See R.D.L.*, 853 N.W.2d at 133, 136 (quotation omitted). But, though A.R.J. is L.J.’s natural parent, she no longer stands in the role of parent to L.J. because her parental rights to L.J. were severed by the TPR.

A.R.J. appears to extrapolate a larger presumption of fitness following a voluntary TPR from the presumption of unfitness following an involuntary TPR. Following an involuntary TPR, a parent is presumed “palpably unfit to be a party to the parent and child relationship upon a showing that the parent’s parental rights to one or more *other* children were voluntarily terminated.” Minn. Stat. § 260C.301 subd. 1(b)(4) (emphasis added). A.R.J. is correct that she is not presumed unfit following her voluntary TPR, unlike in the case of an involuntary TPR. *See In re Welfare of Child J.D.T.*, 946 N.W.2d 321, 326 (Minn. 2020) (“[A] parent whose parental rights have been voluntarily terminated by a district

court is not presumed to be unfit in subsequent proceedings.”). But recognizing that A.R.J. will not be presumed to be unfit with respect to other children does not mean that she is presumed to be fit for purposes of reestablishing parental rights to a child to whom her parental rights have been terminated.

Moreover, contrary to A.R.J.’s argument, the plain language of section 260C.329 does not require a parent to admit that they were an unfit parent. That statute requires a petitioner to describe the “steps the petitioner has taken toward personal rehabilitation since the time of the order terminating parental rights” and how the petitioner has “corrected the conditions that led to the order terminating parental rights.” Minn. Stat. § 260C.329, subd. 3a(a)(6), (7). While these requirements apply with respect to conditions leading to an involuntary TPR, there is nothing in the statute limiting their application to involuntary TPRs. Under a plain reading of section 260C.329, a petitioner seeking to reestablish parental rights following a voluntary TPR must establish personal rehabilitation and correction of the condition of “good cause” that led to the voluntary termination of parental rights. *See* Minn. Stat. § 260C.301, subd. 1(a). Thus, the petitioner does not need to admit prior unfitness to parent.

In sum, we discern no conflict between the statute creating a presumption of unfitness in the case of an involuntary TPR and the statute requiring that rehabilitation and correction of conditions be alleged in a petition to reestablish parental rights.

2. “Good Cause” for Voluntary TPR

A.R.J. also argues that her right to due process of law was violated because the TPR order did not identify the “good cause” supporting her voluntary TPR with sufficient

specificity to allow her to show that she had corrected the conditions prompting the TPR. She also asserts that the “condition” prompting her TPR was that she was fraudulently induced to consent to the TPR by the representation that she would be able to continue to have contact with her children after a voluntary TPR. Therefore, A.R.J. contends, the district court should have reestablished her parental rights.

We are not persuaded. A TPR court must specify the good cause for a voluntary TPR. *In re Welfare of J.M.S.*, 268 N.W.2d 424, 427 (Minn. 1978). A.R.J. had multiple remedies available for any alleged insufficiently specific articulation by the TPR court of the good cause supporting her voluntary TPR. A.R.J. could have moved the TPR court to amend the findings in its TPR order. *See* Minn. R. Juv. Prot. P. 21.03. Or she could have appealed the TPR order. *See* Minn. R. Juv. Prot. P. 23.02. Or she could have done both. She did neither. Thus, regarding of any alleged lack of specificity in the TPR order, the order is now final and is not subject to collateral attack in this proceeding. *See Dieseth v. Calder Mfg. Co.*, 147 N.W.2d 100, 103 (Minn. 1966) (stating, in a civil case, that “[e]ven though the decision of the trial court in the first order may have been wrong, if it is an appealable order it is still final after the time for appeal has expired”); *Nussbaumer v. Fetrow*, 556 N.W.2d 595, 599 (Minn. App. 1996) (stating both that public policy favors the finality of rulings and the ability of parties to rely on those rulings and that Minnesota does not permit collateral attacks on facially valid rulings), *rev. denied* (Minn. Feb. 26, 1997); *cf. Loo v. Loo*, 520 N.W.2d 740, 743-44 & n.1 (Minn. 1994) (explaining that preclusive effect must be given to a matter decided in a final spousal-maintenance order

when a later motion to modify spousal maintenance seeks to relitigate an issue decided in the previous order).

Moreover, in juvenile-protection matters, the time to appeal expires 20 days after service by the district court administrator of notice of filing of the ruling in question. Minn. R. Juv. Prot. P. 23.02, subd. 2; *see* Minn. R. Juv. Prot. P. 23.01 (noting that, with certain exceptions, the rules of civil appellate procedure govern appeals in juvenile-protection matters). Thus, reviewing any aspect of the 2018 TPR order in this appeal would improperly extend the time to appeal that order. Doing so would also be contrary to the well-established principle that juvenile-protection cases should be resolved quickly and with finality. *See R.D.L.*, 853 N.W.2d at 134-35; *In re Welfare of J.R., Jr.*, 655 N.W.2d 1, 5 (Minn. 2003). In short, any alleged defect in the 2018 TPR order is not a basis for relief from the order denying A.R.J.'s petition to reestablish parental rights.²

B. Prima Facie Case to Reestablish Parental Rights

Having concluded that the district court did not err by applying the provisions of section 260C.329 to A.R.J.'s petition, we turn to A.R.J.'s argument that the district court erred by summarily denying her petition to reestablish parental rights.

The parties note that the appellate courts have not yet identified a standard for reviewing a district court's denial, without an evidentiary hearing, of a petition to

² The same analysis also addresses A.R.J.'s assertion that the 2018 TPR order did not adequately address the children's best interests.

reestablish parental rights, and they suggest various possibilities.³ The standard of review under which it is easiest for an appellant to get relief on appeal is the de novo standard because, under that standard, an appellate court need not defer to the district court’s ruling. *See State v. Sargent*, 968 N.W.2d 32, 36 (Minn. 2021) (stating that under the de novo standard of review, appellate courts “do not defer to the analysis of the courts below, but instead . . . exercise independent review” (quoting *Wheeler v. State*, 909 N.W.2d 558, 563 (Minn. 2018))). As set out below, even if we do not defer to the district court’s decision, we conclude that the petition does not satisfy section 260C.329, subdivision 3(a). Thus, in this appeal, we need not definitively identify the standard for reviewing a district court’s denial, without an evidentiary hearing, of a petition to reestablish parental rights under Minnesota Statutes section 260C.329. For purposes of this appeal, we assume, without deciding, that the appropriate standard of review is de novo.

³ Focusing on the fact that her petition was denied without an evidentiary hearing, A.R.J. suggests that we apply the three-part standard for reviewing an order denying, without an evidentiary hearing, motions for adoptive placement. *See In re Welfare of L.L.P.*, 836 N.W.2d 563, 570 (Minn. App. 2013) (identifying the standard set out in *Boland v. Murtha*, 800 N.W.2d 179, 183 (Minn. App. 2011) as the one for reviewing the denial, without an evidentiary hearing, of a motion for an adoptive placement). Alternatively, she suggests that we apply the de novo standard used to review a judgment on the pleadings under rule 12.03 of the Minnesota Rules of Civil Procedure, *see D.L.H., Inc. v. Russ*, 566 N.W.2d 60, 71 (Minn. 1997), or, if matters outside the pleadings are considered, the de novo standard used to review a summary judgment, *see Day Masonry v. Indep. Sch. Dist.* 347, 781 N.W.2d 321, 325 (Minn. 2010). The county asserts that we should apply the standard applicable in TPR appeals: Clear-error for review of findings of historical facts and abuse-of-discretion for review of a statutory basis for relief. *See In re Welfare of Child of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011) (detailing this standard), *rev. denied* (Jan. 6, 2012). Alternatively, the county suggests that we apply the adoptive-placement framework and standard of review suggested by A.R.J.

A petition to reestablish parental rights must allege, among other things, the “steps the petitioner has taken toward personal rehabilitation *since the time of the order terminating parental rights.*” Minn. Stat. § 260C.329, subd. 3a(a)(6) (emphasis added). The only personal rehabilitation mentioned in A.R.J.’s petition is alleged to have taken place in 2016 and 2017, which is before A.R.J.’s 2018 voluntary TPR.⁴ Because A.R.J. needed to demonstrate rehabilitation “since the time of the order terminating parental rights,” *id.*, the 2016 to 2017 rehabilitation efforts alleged by A.R.J. do not satisfy that requirement. Further, because “good cause” existed to terminate A.R.J.’s parental rights despite her pre-termination efforts to improve her parenting, the petition’s failure to allege that A.R.J. made post-TPR efforts to improve her parenting can be ignored as harmless error. *See In re Welfare of D.J.N.*, 568 N.W.2d 170, 176 (Minn. App. 1997) (declining to reverse TPR for harmless error); *In re Welfare of Child. of D.F.*, 752 N.W.2d 88, 98 (Minn. App. 2008) (applying *D.J.N.* in TPR appeal).

Because A.R.J.’s petition fails to satisfy the statutory requirement that it allege the post-TPR steps that A.R.J. took toward personal rehabilitation, her petition does not satisfy section 260C.329, subdivision 3a(a)(6). The district court did not err by denying, without an evidentiary hearing, a petition that does not satisfy the statute.⁵

⁴ For example, A.R.J.’s petition and related submissions assert that she completed counseling and treatment for gambling in 2016 to 2017, secured permanent housing in 2016, attended individual and family counseling in 2017, and attended parenting classes in 2017.

⁵ A.R.J. also argues that the district court erred by failing adequately address whether reestablishment of her parental rights would be in the child’s best interests. Because A.R.J.

II. Visitation

Upon denying A.R.J.’s petition to reestablish parental rights, the district court also denied A.R.J.’s motion to compel the county to begin visitations with her children. The district court cited Minnesota Statutes section 260C.317, subdivision 1, which provides that, “[u]pon the termination of parental rights[,] all rights . . . including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceeding concerning the child.” Minn. Stat. § 260C.317, subd. 1. A.R.J. advances two arguments why, despite this statute, her request for an order compelling visitation should be granted.

First, A.R.J. argues that, even though section 260C.317, subdivision 1, deprives a parent of standing to appear at further legal proceedings once their parent rights have been terminated, this effect is abrogated by section 260C.329, which allows parents to petition to reestablish parental rights. The argument is unpersuasive. Section 260C.329 nowhere mentions or confers a right to visitation for parents whose petition to reestablish parental rights has been denied, and A.R.J. cites no case law to support this reading.

Second, A.R.J. argues that visitation is in L.J.’s best interests and that courts, including this court, have the authority to order visitation either under Minnesota Statutes section 260C.001, subdivision 2(a) (2020), which generically requires courts to act in a child’s best interests, or under the judicial branch’s inherent authority. This argument, too,

failed to submit a petition satisfying a critical provision of section 260C.328, we need not address A.R.J.’s best-interest argument.

is unpersuasive. Because section 260C.317 deprived A.R.J. of standing to participate in proceedings involving the child, how A.R.J. could even make a best-interests or an inherent-authority argument to a court is unclear. Nor does A.R.J. cite authority or otherwise identify how she could make this argument to a court. Further, regardless of any inability to make this argument to a court, A.R.J. cites no authority for the idea that a child's best interests are an independently sufficient basis for a court to compel visitation between a natural parent and a child to whom that parent's parental rights are terminated. *See Schoepke v. Alexander Smith & Sons Co.*, 187 N.W.2d 133, 135 (Minn. 1971); *In re Welfare of Child of J.H.*, 968 N.W.2d 593, 602 n.7 (Minn. App. 2021), *rev. denied* (Dec. 6, 2021); *see also State Dep't of Lab. & Indus. By the Special Comp. Fund v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997); *In re P.T.*, 657 N.W.2d 577, 586 n.1 (Minn. App. 2003). Finally, even if the district court had denied A.R.J. visitation on the merits, on this record, we would see no reversible erroring the district court's denial. *Cf. Suleski v. Rupe*, 855 N.W.2d 330, 334 (Minn. App. 2014) (noting, in the context of a parent whose parental rights had not been terminated, that "[a]ppellate courts recognize that a district court has broad discretion to decide parenting-time questions").

In sum, the district court did not misconstrue Minnesota Statutes section 260C.329, did not error in denying A.R.J.'s petition to reestablish parental rights, and did not err or abuse its discretion in denying A.R.J.'s motion to compel the county to initiate visitation.

Affirmed.