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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0887**

In the Matter of the Welfare of the Child of: J. P. G., Parent.

**Filed December 23, 2024
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-JV-23-521

Brooke Beskau Warg, Hennepin County Adult Representation Services, Minneapolis, Minnesota (for appellant-mother J.P.G.)

Mary F. Moriarty, Hennepin County Attorney, Mary M. Lynch, Senior Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County Human Services)

Tracy Reid, Assistant Hennepin County Public Defender, Minneapolis, Minnesota (for child)

R.G., Plymouth, Minnesota (respondent-grandparent *pro se*)

R.C.W., Big Lake, Minnesota (respondent-father *pro se*)

David Allen Yates, Minneapolis, Minnesota (for respondent-guardian *ad litem* Randi Levine)

Considered and decided by Bjorkman, Presiding Judge; Johnson, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

In this child-protection matter, the district court transferred permanent legal and physical custody of a child from her mother to her father and maternal grandfather. We

conclude that the district court did not err by not making findings of fact pursuant to Minnesota Statutes section 260C.515, subdivision 4, paragraph 7 (2022). We also conclude that the district court did not err by denying the mother's post-trial motion, which challenged the district court's rulings on a discovery issue. Therefore, we affirm.

FACTS

J.P.G. gave birth to a child in July 2009. R.C.W. signed and filed a recognition-of-parentage form and was adjudicated the child's biological father. For the first five years of the child's life, she and her mother lived with the child's maternal grandfather, R.G. The child's parents maintained a relationship for the first year or two of the child's life, but R.C.W. had little to no contact with the child between 2011 and 2022.

In April 2022, when the child was 12 years old, she reported that J.P.G. had engaged in physical and mental abuse against her. Shortly thereafter, J.P.G. became angry with the child and slammed her head against the floor three times. At school the next day, the child said that she did not feel safe going home. The Hennepin County Human Services and Public Health Department removed the child from J.P.G.'s home and placed her in the home of her maternal grandfather. The county petitioned the district court for an order that the child was in need of protection or services, and the district court granted the petition in November 2022.

In March 2023, the county determined that J.P.G. had failed to comply with the requirements of her case plan. The county petitioned the district court for an order transferring permanent legal and physical custody of the child to the child's maternal grandfather. The matter was tried on seven days between September 2023 and March

2024. In mid-February 2024, between the fourth and fifth days of trial, J.P.G. petitioned the district court for an order transferring custody *only* to the child’s father (but not to the child’s maternal grandfather). Four days later, the county filed an amended petition seeking a transfer of custody to *both* the child’s maternal grandfather *and* the child’s father, as joint custodians. Before trial concluded, seven witnesses testified: J.P.G., the child’s father, the child’s maternal grandfather, two child-protection social workers, a visitation supervisor, and the child’s guardian *ad litem*.

In April 2024, the district court filed an order transferring permanent joint legal custody and permanent joint physical custody of the child to her father and her maternal grandfather. J.P.G. moved for amended findings or a new trial. The district court denied the post-trial motion. J.P.G. appeals.

DECISION

I. Applicability of Findings Requirement

J.P.G.’s primary argument is that the district court erred by not making certain findings of fact that usually are required for a transfer of permanent legal and physical custody. J.P.G. also argues that the evidence is insufficient to support findings of fact favorable to the county.

In ruling on a permanency petition, a juvenile court must order one of the permanency dispositions authorized by statute. Minn. Stat § 260C.515, subd. 1 (2022). Among the authorized dispositions is an order transferring permanent legal and physical custody “to a fit and willing relative.” Minn. Stat § 260C.515, subd. 4 (2022). The statute also provides:

[W]here a petition is for transfer of permanent legal and physical custody to *a relative who is not a parent*, the court must find that:

(i) transfer of permanent legal and physical custody and receipt of Northstar kinship assistance under chapter 256N, when requested and the child is eligible, are in the child’s best interests;

(ii) adoption is not in the child’s best interests based on the determinations in the kinship placement agreement required under section 256N.22, subdivision 2;

(iii) the agency made efforts to discuss adoption with the child’s parent or parents, or the agency did not make efforts to discuss adoption and the reasons why efforts were not made; and

(iv) there are reasons to separate siblings during placement, if applicable

Minn. Stat. § 260C.515, subd. 4(7) (emphasis added).¹

J.P.G. contends that the district court erred by not making any findings on the issues described in section 260C.515, subdivision 4, paragraph 7. She asserts that such findings are required because the county’s petition sought a transfer of custody to the child’s maternal grandfather, who is “a relative who is not a parent.” *See id.* In response, the county contends that the district court was not required to make any findings pursuant to

¹During its 2024 session, the legislature deleted the quoted language in subdivision 4, paragraph 7, and re-inserted substantially similar language in a new subdivision, numbered 4(b)(1)-(5). *See* 2024 Minn. Laws ch. 115, art. 18, § 39, at 1744-46. That amendment became effective on August 1, 2024, and applies “to pleadings and motions pending on or after that date.” 2024 Minn. Laws ch. 115, art. 18, at 1751. In this case, the district court’s orders were filed in April and May of 2024, and J.P.G. filed her notice of this appeal in June 2024. Thus, we apply the 2022 version of section 260C.515, subdivision 4, paragraph 7.

paragraph 7 because that paragraph does not apply in a case in which a petition seeks to transfer custody to *both* “a relative who is not a parent” *and* a parent.

The parties’ conflicting arguments require us to interpret the statute on which J.P.G.’s argument is based. A court should begin the task of statutory interpretation by seeking to determine whether the statutory language has a plain meaning based on “the common and ordinary meanings” of the words used. *State v. Thonesavanh*, 904 N.W.2d 432, 435-36 (Minn. 2017). If a statute has a plain meaning, we deem the statute unambiguous and apply its plain language. *State v. Irby*, 967 N.W.2d 389, 393-94 (Minn. 2021). But if a statute is ambiguous, “we may apply the canons of construction to resolve the ambiguity.” *Thonesavanh*, 904 N.W.2d at 435. A statute is ambiguous if it is “subject to more than one reasonable interpretation” with respect to the issue on appeal. *Id.* This court applies a *de novo* standard of review to a district court’s interpretation of a statute. *State v. Khalil*, 956 N.W.2d 627, 633-34 (Minn. 2021).

We first consider whether J.P.G.’s suggested interpretation of section 260C.515, subdivision 4, paragraph 7, is a reasonable interpretation. Paragraph 7 applies if a petition seeks a transfer of custody to “a relative who is not a parent.” Minn. Stat. § 260C.515, subd. 4(7). It is undisputed that the county’s amended petition sought a transfer of custody to R.G., who is the child’s maternal grandfather. It cannot be disputed that R.G. is “a relative” and that he is “not a parent” of the child. *See id.* It is true that the county’s amended petition also sought a transfer of custody to a relative who *is* a parent. But J.P.G. contends that the statute applies anytime a petition seeks a transfer of custody to “a relative who is not a parent of the child,” without regard for whether the petition also seeks a

transfer of custody to a relative who *is* a parent of the child. J.P.G.'s suggested interpretation is a reasonable interpretation of the plain language of the statute.

We next consider whether the county's suggested interpretation of section 260C.515, subdivision 4, paragraph 7, is a reasonable interpretation. The county contends that the statute applies if a petition seeks to transfer custody to *only* "a relative who is not a parent" of the child but not if a petition seeks to transfer custody to a relative who is not a parent *and* a relative who is a parent of the child. *See id.* (emphasis added). The county's suggested interpretation of the statute also is a reasonable interpretation of the plain language of the statute.

Because there are two reasonable interpretations of section 260C.515, subdivision 4, paragraph 7, the opening clause of paragraph 7 is ambiguous with respect to the issue raised in this appeal. To resolve the ambiguity, we must turn to the canons of statutory construction. *See State v. Nelson*, 842 N.W.2d 433, 436 (Minn. 2014). Because the statute at issue cross-references another statute, we apply the related-statutes canon, also known as the *in pari materia* canon, which "allows two statutes with common purposes and subject matter to be construed together to determine the meaning of ambiguous statutory language." *Thonesavanh*, 904 N.W.2d at 437 (quotation omitted).

Section 260C.515, subdivision 4, paragraph 7, expressly refers to chapter 256N, the Northstar Care for Children Act, and section 256N.22, which govern the Northstar Kinship Assistance program. Minn. Stat. § 260C.515, subd. 4(7)(i), (ii). Section 256N.22, subdivision 1(a), states that a transfer of custody to both a non-parent relative and a parent would make a child ineligible for the Northstar Kinship Assistance program: "A child

whose parent shares legal, physical, or legal and physical custody of the child with a relative custodian is not eligible for Northstar kinship assistance.” Minn. Stat. § 256N.22, subd. 1(a); *see also* Minn. Stat. § 256N.02, subd. 11 (2022).² In this case, the district court acknowledged that the child will not be eligible for Northstar Kinship Assistance, stating, “Grandfather fully understands that there will be no Northstar Kinship Assistance once this case closes because he will be sharing joint custody with [R.C.W.], who is [the child’s] parent.” In light of section 256N.22, subdivision 1(a), no purpose would be served by requiring findings pursuant to paragraph 7, subparagraph (i), which specifically refers to the Northstar Kinship Assistance program. Minn. Stat. § 260C.515, subd. 4(7)(i). That may explain why paragraph 7, subparagraph (i), includes the clause, “when . . . the child is eligible.” *See id.*

Similarly, no purpose would be served by requiring findings pursuant to paragraph 7, subparagraphs (ii) and (iii), which seek to determine whether adoption is in the child’s best interests and whether “the agency made efforts to discuss adoption with the child’s parent or parents” or “the reasons why efforts were not made.” Minn. Stat. § 260C.515, subd. 4(7)(ii), (iii). The Northstar Adoption Assistance program also provides financial benefits to certain children who were in foster care before a permanency order.

²During its 2024 session, the legislature renumbered sections 256N.22 and 256N.02. *See* 2024 Minn. Laws ch. 80, art. 1, § 96, at 189 (renumbering Minn. Stat. § 256N.22 (2022) as Minn. Stat. § 142A.605 (2024) and Minn. Stat. § 256N.02 (2022) as Minn. Stat. § 142A.602 (2024)).

See Minn. Stat. § 256N.23 (2022); *see also* Minn. Stat. § 256N.02, subd. 2.³ But Northstar Adoption Assistance is not possible if custody is being transferred to a parent: “The commissioner must not enter into an adoption assistance agreement with . . . a child’s biological parent or stepparent . . .” Minn. Stat. § 256N.23, subd. 6(1). In light of section 256N.23, subdivision 6(1), no purpose would be served by requiring findings pursuant to paragraph 7, subparagraphs (ii) and (iii), which relate to the Northstar Kinship Assistance program.

In sum, we must interpret section 260C.515, subdivision 4, paragraph 7, in light of sections 256N.22 and 256N.23, which are related statutes. The requirement of findings in paragraph 7 assumes that a child is eligible for the Northstar Kinship Assistance and Northstar Adoption Assistance programs, which provide financial benefits to certain children who were in foster care before a permanency order that does not transfer custody to a parent of the child. *See* Minn. Stat. § 256N.22 (2022). But if a non-parent shares custody of a child with a parent, the child is ineligible for the Northstar Kinship Assistance program. *See* Minn. Stat. §§ 256N.22, subd. 1(a), .23, subd. 6(1). Because sections 256N.22 and 256N.23 do not allow Northstar benefits upon the transfer of custody of a child to a parent, we interpret section 260C.515, subdivision 4, paragraph 7, to apply only if a petition seeks to transfer custody to a non-parent relative alone and, therefore, to not apply if a petition seeks to transfer custody to both a non-parent relative and a parent.

³During its 2024 session, the legislature renumbered section 256N.23. *See* 2024 Minn. Laws ch. 80, art. 1, § 96, at 189 (renumbering Minn. Stat. § 256N.23 (2022) as Minn. Stat. § 142A.606 (2024)).

Given that interpretation of section 260C.515, subdivision 4, paragraph 7, the district court did not err by not making the findings contemplated by the statute.

II. Discovery Issue

J.P.G.'s secondary argument is that the district court erred by denying her post-trial motion for amended findings or a new trial, in which she challenged the district court's rulings concerning a discovery violation by the county.

This issue arose on the third day of trial when a county social worker testified that she handwrote most of her notes regarding her interactions with J.P.G. and did not upload them to the county's electronic recordkeeping system. As a result, the handwritten notes were not produced to J.P.G. in discovery. The district court promptly ordered the county to produce all of the social worker's handwritten notes to J.P.G. and her attorney.

J.P.G.'s attorney moved for a mistrial or, in the alternative, a continuance. The district court denied the mistrial motion on the grounds that the violation was not purposeful and that there was no showing of prejudice. On the next day of trial three months later, the social worker was present and was made available for further examination. The county sought to introduce two exhibits consisting of all of the social worker's notes, including her handwritten notes and her corresponding *post hoc* entries into the county's electronic recordkeeping system. J.P.G.'s attorney objected to the introduction of the exhibits because of the discovery violation. The district court sustained the objection.

In her post-trial motion, J.P.G. argued that the district court erred by not ordering dismissal of the case as a remedy for the county's discovery violation. *See Minn. R. Juv.*

Prot. P. 17.06, subd. 4(c). The district court reiterated the reasons for its prior rulings and concluded that J.P.G. had not established any prejudice.

On appeal, J.P.G. has restyled her argument by asserting, “The district court abused its discretion when it determined the Department’s discovery violation did not result in a denial of Mother’s statutory right to effective assistance of counsel.” The district court made no such ruling. The district court analyzed J.P.G.’s post-trial motion under rule 17 of the rules of juvenile protection procedure, which was the legal basis of J.P.G.’s argument. J.P.G. included in her memorandum one sentence and one citation concerning her statutory right to the effective assistance of counsel. *See* Minn. Stat. § 260C.163, subd. 2(a) (2022). But that was not the gravamen of her argument. Accordingly, we will analyze J.P.G.’s appellate argument in the manner in which it was argued to the district court, decided by the district court, and argued by the county on appeal.

In a child-protection case, a petitioner is required to allow access to “all information, material, and items within the petitioner’s possession or control which relate to the case.” Minn. R. Juv. Prot. P. 17.01(a). The petitioner has a continuing duty to disclose additional material and information. Minn. R. Juv. Prot. P. 17.06, subd. 1. If a party fails to comply with a discovery rule, the district court may impose various forms of sanctions. Minn. R. Juv. Prot. P. 17.06, subd. 4. A district court has broad discretion in determining whether to impose a sanction for violations of discovery rules. *See State v. Patterson*, 587 N.W.2d 45, 50 (Minn. 1998). Accordingly, this court applies an abuse-of-discretion standard of review to a district court’s ruling on a discovery violation. *Id.*

The district court denied J.P.G.'s post-trial motion primarily on the ground that she had not established prejudice. The district court acknowledged J.P.G.'s general argument that she and her attorney did not have all available information during the pre-trial phase of the case. But the district court reasoned that J.P.G. did not specifically identify any way in which she was prejudiced.

On appeal, J.P.G. reiterates the same type of argument, with only slightly more specificity. She contends that her attorney in April 2023 was unaware of her progress in anger-management programming, which prevented the attorney from determining whether the county had failed to "request necessary information" and that, "if verified," the attorney could have argued that the county was not making reasonable efforts to reunite her with the child. But she does not argue, with the benefit of hindsight, that such a claim was verified or that the county failed to make reasonable efforts. J.P.G. also contends that she lacked information that might have been helpful in deciding whether to oppose the county's petition or to agree to a voluntary transfer. But, again, J.P.G. does not point to any particular untimely disclosed notes that should have and would have caused her and her attorney to adopt a different strategy. In short, J.P.G. cannot overcome the district court's determination that she failed to show that the county's discovery violation caused her prejudice.

Thus, the district court did not err by denying J.P.G.'s post-trial motion challenging the district court's rulings concerning the county's discovery violation.

Affirmed.