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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1105**

In the Matter of the Welfare of the Child of: D.L.P. and J.A.P.,

Commissioner of Human Services,
Legal Custodian

**Filed January 26, 2026
Reversed and remanded
Kirk, Judge***

Chippewa County District Court
File No. 12-JV-22-341

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Considered and decided by Wheelock, Presiding Judge; Reyes, Judge; and Kirk, Judge.

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

NONPRECEDENTIAL OPINION

KIRK, Judge

Appellant-foster parents challenge the district court's determinations that (1) the county was reasonable in failing to make an adoptive placement of a child with them and (2) that the best interests of the child favor placement with a maternal uncle. We reverse and remand for the district court to reassess whether the county acted reasonably when it denied appellants' request for an adoptive placement. Because the district court's reassessment of the reasonableness of the child's placement could impact its analysis of the child's best interests, we decline to address the parties' disputes about the district court's analysis of the child's best interests.

FACTS

B.P. (child) was born in June 2022. D.L.P. (mother) and J.A.P. (father) are the biological parents of child. Chippewa County Family Services (the county) learned mother had not been willing to engage in services and had prior involuntary and voluntary terminations of her parental rights to three other children. Shortly after child's birth, the county petitioned the district court for emergency protective care of child, which the district court granted. The county was informed both that no biological relatives had come forward for the prior terminations and that the family that had adopted child's siblings was unable to accept placement of child.¹ Appellants (the foster parents) were identified as a potential

¹ If the family that had adopted child's siblings had been able to accept child, child likely would have been placed with the adoptive family. *See* Minn. Stat. § 260C.212, subd. 2(d) (2024) (stating "[s]iblings should be placed together for foster care and adoption at the earliest possible time unless it is documented that a joint placement would be contrary to

foster-care placement for child, and following child's birth, child was placed with them.² Child remained in the foster parents' custody for approximately the first three years of his life.

In approximately July 2022, T.R., child's maternal uncle, received a relative search letter from the county. T.R. then came forward as an interested relative, moved for adoptive placement of child, and requested visitation. However, in September 2022, mother sent a letter to the district court alleging that T.R. was not fit to have custody of child because T.R. had sexually abused her. The county was not aware of mother's letter when it sent T.R. the relative-search letter.

In March 2023, the county sent a letter to the district court stating that the county and the guardian ad litem (GAL) supported permanent placement of child with the foster parents. The letter first assessed how placement with T.R. would meet child's best interests and then assessed how placement with the foster parents would meet child's best interests under Minnesota Statutes section 260C.212, subd. 2 (2024). After considering child's best interests, the county noted mother's letter requesting that child not be placed with T.R.

the safety or well-being of any of the siblings or unless it is not possible after reasonable efforts by the responsible social services agency").

² The county filed a petition to terminate the parental rights (TPR) of mother and father immediately after child was born. The district court granted the county's TPR petition, and child was placed under guardianship of the Commissioner of Human Services for adoptive placement by the county. *See In re Welfare of Child of D.L.P.*, No. A22-1594, 2023 WL 2847355 (Minn. App. Apr. 10, 2023) (*D.L.P. I*) (remanding the TPR); *In re Welfare of Child of D.L.P.*, No. A23-1347, 2024 WL 688447 (Minn. App. Feb. 14, 2024) (*D.L.P. II*), *rev. denied* (Mar. 22, 2024) (affirming the TPR after remand).

In February 2024, the GAL asked the district court to rule out T.R. as a placement option for child. The GAL reported that, after visits with T.R., child “shows increased agitation, tearfulness, and that he will cling to the foster mother’s leg, body, and pull her hair in order to stay close to her.” The district court ordered an attachment study for child, a parental-capacity assessment for T.R., and observed visitation for T.R.

In May 2024, the district court denied T.R.’s motion for adoptive placement, determining that he failed to make a prima facie showing that the county acted unreasonably in not placing child with him. The district court also denied T.R.’s request for an evidentiary hearing on that point and ruled that visitation with T.R. should cease.

In June 2024, the county entered into an adoptive placement agreement (APA) with the foster parents.³ In July 2024, the APA with the foster parents was submitted to the Department of Children, Youth, and Families (the department).

In August 2024, the department denied approval of the APA with the foster parents stating that its decision was due to “non-compliance information regarding consideration of relatives.” The department noted that (1) the county indicated an analysis of the best interests of the child indicated placement of child with T.R. or with the foster parents was equally appropriate; but (2) the county’s consideration of placement with the relatives did not occur in the order specified under Minnesota Statutes section 260C.212, subd. 2. The department further noted that, after an investigation into maltreatment by T.R. based on

³ The district court noted that the delay between the determination to move forward with the foster parents and the signed APA was due to pending appeals of the underlying termination matter that had been filed with this court, and petitions for review of our decisions that had been filed in the supreme court.

mother's allegations of sexual abuse, there was no determination of maltreatment; that T.R. was licensed as a child foster-care provider; and that the district court had not made a determination that mother's request that child not be placed with T.R. was in child's best interests.

In September 2024, mother informed T.R.'s attorney that she was no longer objecting to child's placement with T.R. In October 2024, the county sent a letter to the district court that explained mother's change of position, and stated that in its March 2023 letter it indicated child's best interests would be served "virtually equal[ly]" by placement with T.R. or the foster parents, and that the only factor that led to the foster parents being the identified placement option was mother's objection. The county now determined that, in accordance with Minnesota Statutes section 260C.221, child should be placed with T.R. instead of the foster parents because T.R. is a tier 1 relative under that statute.

T.R. then asserted to the district court that the county acted unreasonably when it refused to place child with him. The district court—without holding an evidentiary hearing—rejected T.R.'s assertion, and T.R. appealed. In December 2024, this court reversed the district court's decision denying adoptive placement to T.R. because the district court did so without holding an evidentiary hearing on T.R.'s motion. *In re Welfare of Child of D.L.P.*, No. A24-0918, 2024 WL 4927651, at *1, 6 (Minn. App. Dec. 2, 2024) (*D.L.P. III*). This court concluded that, because T.R. had made a prima facie showing but the district court did not hold an evidentiary hearing on his motion, the county's placement decision was unreasonable, and we remanded the case for an evidentiary hearing to "compare the competing placement options and determine" the child's best interests. *Id.*

at *5-6 (emphasis added). In issuing the remand, this court did not express any opinion on how the district court should weigh the best-interest factors, and any interpretation to that effect is incorrect.

In December 2024, after we filed *D.L.P. III*, the county moved the district court for permission to transition adoptive placement from the foster parents to T.R. The foster parents then filed a notice of motion and motion for adoptive placement. In February 2025, the district court granted an evidentiary hearing on the foster parents' motion for adoptive placement.

Also in February 2025, the county submitted an updated best-interests assessment. After weighing the ten relevant best-interests factors under Minnesota Statutes section 260C.212, subd. 2, the county determined that "both families can equally meet [child's] needs." The county then recommended "placement with [T.R.'s] family, who [is] a Tier 1 relative, as described in [Minn. Stat. § 260C.212, subd. 2 (a)(1)]."

The district court conducted an evidentiary hearing over six days. At the conclusion of the hearing, the district court determined that the foster parents did not prove by a preponderance of evidence that the county was unreasonable in failing to approve the adoptive placement with them. The district court further found that "the [foster parents] are not the most suitable adoptive home to meet the child's needs and the adoption with [T.R.'s family] is in the child's best interest."

The foster parents appeal.

DECISION

The foster parents argue first that the record does not support the district court's determination that it was reasonable for the county to deny the foster parent's request for adoptive placement; and second that the record does not support the district court's determination that child's best interests favor placement with T.R.

Minnesota Statutes section 260C.607, subd. 6 (2024), governs motions for adoptive placement. The party who unsuccessfully sought adoptive placement bears the burden of proving by a preponderance of the evidence that the agency was unreasonable in failing to make the requested placement. Minn. Stat. § 260C.607, subd. 6(d). This court reviews a district court's decision of whether a county agency unreasonably failed to make an adoptive placement for an abuse of discretion. *See* Minn. Stat. § 260C.607, subd. 6(f) (stating that the district court "may" order adoptive placement with the moving party if the agency unreasonably fails to make requested placement); *see also In re Welfare of Child. of L.L.P.*, 836 N.W.2d 563, 570 (Minn. App. 2013) (reviewing for an abuse of discretion a district court's decision that movants had not met their burden to obtain an evidentiary hearing on their motion for adoptive placement). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is 'against logic and the facts on record.'" *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quoting *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997)).

The district court's determination that the county acted reasonably appears to be based in part on its reliance on *RDNT, LLC. v. City of Bloomington*, 861 N.W.2d 71, 75-

76 (Minn. 2015). *RDNT* involved a petition for a writ of mandamus to compel a city to grant an application for a conditional-use-permit (CUP). *See* 861 N.W.2d at 73-75. The part of *RDNT* on which the district court relied involved the district court’s assessment of whether the city’s denial of the CUP was “unreasonable, arbitrary, or capricious.” *Id.* at 75. Thus, the *RDNT* analysis arose in a much different context to address considerations quite different from those at issue in the current case (land-use concerns vs. a child’s best interests).⁴ *Id.* at 72. Prior decisions by this court have alluded to the significant differences between the contexts for *RDNT* and adoption-placement proceedings. *See In re Welfare of Child. of C.F.*, No. A19-2099, 2020 WL 4433117, at *7 (Minn. App. Aug. 3, 2020) (stating “we are mindful that the context of adoptive-placement proceedings obviously differs from the denial of a conditional use permit at issue in *RDNT*”). If the district court’s use of *RDNT* was a misapplication of the law, the district court’s decision resulting from that misapplication of the law was an abuse of its discretion. *Bender*, 971 N.W.2d at 262 (quoting *Dobrin*, 569 N.W.2d at 202).

Alternatively, if the *RDNT* analysis is properly applied in the adoption-placement context, we have two concerns about how the district court applied that analysis in this

⁴ While we have previously cited the *RDNT* analysis in adoption-placement proceedings, we note that the parties in those cases did not raise any challenge to the standard’s applicability. *Cf. In re Rollins*, 738 N.W.2d 798, 802 (Minn. App. 2007) (stating that “[o]pinions must be read in light of the issue presented for decision. And assumptions underlying an opinion that are not the subject of a court’s analysis are not precedential on the point that is assumed.” (citing *Skelly Oil Co. v. Comm’r of Taxation*, 131 N.W.2d 632, 645 (Minn. 1964); *Chapman v. Dorsey*, 41 N.W.2d 438, 443 (Minn. 1950))).

case.⁵ First, we are not convinced that the district court adequately tailored its use of the *RDNT* analysis to account for the differences between the land-use questions at the crux of the *RDNT* dispute and the best interests of this child that are at the crux of this dispute. Stated another way, the district court's reliance on the *RDNT* analysis was defective because the district court failed to adequately tailor its application of the use of *RDNT*'s conditional-use permit analysis to the best-interests-of-the-child context.

Second, and more importantly, our review of this record suggests that *D.L.P. III*'s remand to the district court was misread to suggest child should actually be placed with T.R. Any such reading of *D.L.P. III* is incorrect. If a party who unsuccessfully seeks a placement of a child challenges the county's actual placement of that child, the challenging party is entitled to an evidentiary hearing on their challenge if the party makes a prima facie showing that the county's failure to make the requested placement was unreasonable. Minn. Stat. § 260C.607, subd. 6(b), (c). Whether a prima facie showing has been made is a separate determination from the determinations of the best interests of the child and the permanent placement of the child. Compare Minn. Stat. § 260C.607, with Minn. Stat. § 260C.212, subd. 2. The district court is required to dismiss the challenge if the challenger fails to make the required prima facie showing, but the district court must grant an evidentiary hearing if the challenger successfully makes the required prima facie showing. See *D.L.P. III*, 2024 WL 4927651, at *4-5 (explaining the process required when

⁵ Because the parties did not raise the question and did not provide argument about whether the *RDNT* analysis is appropriate in the adoptive-placement context, we do not address the unbriefed question of whether the *RDNT* analysis is, in fact, proper in the adoptive-placement context.

challenger makes a prima facie showing). In *D.L.P. III*, this court addressed *only* the question of whether T.R. made a prima facie showing such that T.R. was entitled to an evidentiary hearing on his motion; this court did not reach the merits of any separate determinations of the best interests of child or the decision on permanent placement of child.

Because it appears that the district court also made a legal error in explaining how Minnesota Statutes section 260C.212, subd. 2, is applied, we offer clarification on the statute. The district court misread the statute when it stated that it “creates a preference for relative placement.” The error appears to be triggered by situations in which the county is considering multiple potential permanency placements, which is the case here. We therefore seek to clarify how the district court, on remand, should evaluate the county’s reasonableness in light of the multiple placement options for permanency that are available under Minnesota Statutes section 260C.212, subd. 2. The statute provides:

(a) The policy of the state of Minnesota is to ensure that the child’s best interests are met by requiring an individualized determination of the needs of the child in consideration of paragraphs (a) to (f), and of how the selected placement will serve the current and future needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption, including the legal parent, guardian, or custodian of the child’s sibling; or

(2) with an individual who is an important friend of the child or of the child’s parent or custodian, including an individual with whom the child has resided

or had significant contact or who has a significant relationship to the child or the child's parent or custodian.

Minn. Stat. § 260C.212, subd. 2(a). The Minnesota Supreme Court has provided express guidance on how to interpret language that is nearly identical to the following language of this statute: the “authorized child-placing agency shall place a child . . . in a family foster home *selected by considering placement with relatives in the following order.*” (Emphasis added.)

In re S.G. involved a contested adoption of two children with competing petitions filed by their foster parents and their paternal grandmother and step-grandfather. 828 N.W.2d 118, 119-20, 121 n.2 (Minn. 2013). The district court granted the adoption petition of the foster parents, and the grandparents appealed, arguing that the district court erred by not giving them statutory preference as relatives. *Id.* at 120. The relevant statute in that case, Minn. Stat. § 259.57, subd. 2(c) (2012), required the district court to “*consider placement, consistent with the child’s best interests and in the following order*, with (1) a relative or relatives of the child, or (2) an important friend with whom the child has resided or had significant contact.” *Id.* at 123 (emphasis added) (quotation omitted). The supreme court concluded that the statute’s language “[did] not require that the district court prefer a relative over a nonrelative in determining the best interests of the child, nor does it establish a preference for relatives in the same way that earlier versions of the statute did.” *Id.* at 124. The supreme court explained:

The current version of [the statute] requires that the district court first consider adoption by relatives before considering adoption by nonrelatives. The consideration requirement is not

meaningless, as the grandparents suggest. This is so because if both the relative and nonrelative petitioners are equally qualified to adopt and the best interests analysis renders an equivalent result as to each party, the relative would benefit from being considered first and could proceed with the adoption.

Id. at 125. Subsequently, this court applied the supreme court’s guidance from *S.G.* to the same statute at issue in this case.

In *In re Welfare of the Child. of M.L.S.*, this court interpreted the language in Minnesota Statutes section 260C.212, subd. 2, as it relates to relative placements. 964 N.W.2d 441, 449-50 (Minn. App. 2021) (citing *S.G.*, 828 N.W.2d at 125). We observed that the relative-placement option receives preference over the important-friend option when both placements are equally qualified to adopt the child based on the best-interests analysis. *Id.* Thus, we do not read this language to create a preference for tier 1 relative-placement options over tier 2 important-friend placement options *unless* both placements are equally qualified to adopt the child based on the best-interests analysis. This court explained that:

When making permanency placement decisions for a child who is the subject of a juvenile-protection proceeding, Minnesota law provides that the county “is to ensure that the child’s best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed.” Minn. Stat. § 260C.212, subd. 2(a) (2020). Minnesota law also directs that placement efforts shall prioritize consideration of relatives as placement options by stating that the county shall[:]

Consider[] placement with relatives and important friends in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption; or

(2) with an individual who is an important friend with whom the child has resided or had significant contact.

Minn. Stat. § 260C.212, subd. 2(a) (regarding selection of family foster home). *See [In re] S.G.*, 828 N.W.2d at 125 (“[I]f both the relative and nonrelative petitioners are equally qualified to adopt and the best interests analysis renders an equivalent result as to each party, the relative would benefit from being considered first.”).

Id. at 449-50 (emphasis added) (footnote omitted).⁶

Pursuant to this court’s analysis in *M.L.S.*, Minnesota Statute section 260C.212, subd. 2(a), recognizes the reality that a child-placing agency may consider more than one placement option at a time, and thus it allows for more than one placement to be considered and provides a mechanism for deciding between those multiple placement options. If multiple placements are equally in the child’s best interests, then placements should be made in the order of priority set forth in the statute: first considering placement with relatives and then considering placement with foster parents. *See id.* at 458. We therefore conclude that, to the extent the district court expressed its interpretation of this statute, it misapplied the law and therefore abused its discretion. *Bender*, 971 N.W.2d at 262.

Because the district court misapplied the law either in using the *RDNT* analysis or in the way it applied that analysis, the district court abused its discretion. *Id.* Therefore, we remand for the district court to reassess whether the county acted reasonably when it

⁶ While *M.L.S.* cites to the 2020 version of Minnesota Statutes section 260C.212, subd. 2, these versions are functionally equivalent in that both versions use the relevant language requiring the child-placement agency to “consider[] placement with relatives” by first considering a blood relative and then foster parents. *Compare* Minn. Stat. § 260C.212, subd. 2 (2020), *with* Minn. Stat. § 260C.212, subd. 2 (2024).

denied appellants' request for an adoptive placement.⁷ Because the district court's reassessment of the reasonableness of child's placement could impact its analysis of child's best interests, we decline, at this time, to address the parties' disputes about the district court's analysis of child's best interests. Instead, on remand, the district court shall also consider to what extent, if any, it is proper to alter its analysis of child's best interests.⁸ And because the relevant facts and the best interests of the child may have evolved since the district court made the decisions at issue in this appeal, on remand, the district court shall have the discretion to reopen the record to engage in a fulsome analysis of the best interests of child and the permanency placement decision. We express no opinion on how the district court should resolve any question it addresses on remand.

Reversed and remanded.

⁷ In remanding, we are keenly aware of the length of time of these proceedings and the need for child to achieve permanency, which is in the best interests of child, and thus, is a paramount consideration in child-protection cases. We acknowledge the difficult decision the district court must make, the desire of both placements to be a good home to child, and the balance that must occur to ensure the best decision possible consistent with the law.

⁸ Consideration of the Foster Care Sibling Bill of Rights could help inform this analysis as the statute gives children in foster care rights to maintain relationships with their biological siblings. *See* Minn. Stat. § 260C.008.