

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1222**

In the Matter of the Welfare of the Child(ren) of:
A. F. C. and H. B. K. M., Parents.

**Filed February 17, 2026
Affirmed
Connolly, Judge**

Dakota County District Court
File No. 19HA-JV-24-671

John E. Roach, Roach Law PLLC, Burnsville, Minnesota; and

Daniel B. McGuire, McGuire Law Offices PLLC, Roseville, Minnesota (for appellant HBKM)

Kathryn M. Keena, Dakota County Attorney, Todd P. Zettler, Assistant Dakota County Attorney, Hastings, Minnesota (for respondent County)

Scotty Ducharme, Rockpine Law, LLC, Minneapolis, Minnesota; and

Eric Anderson, Anderson Defense, Minnetonka, Minnesota (for respondent AFC)

Sydney Smoot, St. Paul, Minnesota (guardian ad litem)

Considered and decided by Connolly, Presiding Judge; Smith, Tracy M., Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant-father challenges the termination of his parental rights. Because his child suffered egregious harm while in appellant's care and the termination is in the child's best interests, we affirm.

FACTS

Z.M., the child of respondent-mother A.F.C. and appellant-father H.B.K.M., was born in 2024. A.F.C. went back to her job as a nurse when Z.M. was a month old, and appellant became his primary caregiver. He testified that, on May 2, 2024, he put Z.M. down to sleep in his swaddle, went to sleep himself, and woke because Z.M. was crying. Appellant found Z.M. with his right arm out of the swaddle and his left arm trapped under his body. Early the next morning, Z.M. began to cry and his parents took him to the emergency room. They were told he had a fractured shoulder, hemorrhaging in his eyes, and a suspected injury to his thigh. Law enforcement accused appellant of harming Z.M.¹ Respondent Dakota County Social Services (DCSS) received a physical-abuse report on Z.M. on May 3, 2024, and filed a child-in-need-of-protection-or-services (CHIPS) petition in Dakota County District Court on May 8, 2024.

In July 2024, after an emergency-care protective hearing, DCSS filed a petition to terminate appellant's parental rights (TPR) and the district court relieved DCSS of its

¹ Appellant faced criminal charges based on the allegations in this case, but was acquitted of those charges.

obligation to make reasonable efforts to reunite appellant and Z.M. Following a trial on the CHIPS petition and the TPR petition, at which appellant, A.F.C., and 11 others testified, the district court found that appellant had caused egregious harm to Z.M. and that a reasonable person would believe it contrary to the best interests of Z.M. to be in appellant's care then and for the foreseeable future and granted the petition to terminate his parental rights.²

Appellant challenges the termination, arguing that (1) the district court abused its discretion in granting the TPR petition because no statutory ground for termination was proved; (2) the district court failed to make sufficient findings as to the best interests of Z.M.; and (3) appellant is entitled to a new trial because the district court took too long to terminate his parental rights.³

DECISION

Appellate courts “affirm the district court’s termination of parental rights when at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the best interests of the child.” *In re Welfare of Child of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008).⁴ On appeal, “[c]onsiderable deference is due to the district

² The district court also found that appellant was a palpably unfit parent and failed to satisfy his parental duties. Because we are affirming the termination of parental rights on the ground of egregious harm, we decline to address these other grounds.

³ Appellant also argues that the district court erroneously admitted evidence that was unfairly prejudicial to appellant. Because appellant forfeited review of these issues by failing to move for a new trial although he had received no pretrial rulings on his evidentiary objections, the issues are not properly before us, and we decline to address them.

⁴ *S.E.P.* also states, “provided that the county has made reasonable efforts to reunite the family,” 744 N.W.2d at 385. But in this case, as the district court found, DCSS “filed a

court's decision because a district court is in a superior position to assess the credibility of witnesses." *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996).

1. Statutory Ground

One statutory ground for termination is:

that a child has experienced egregious harm in the parent's care that is of a nature, duration, or chronicity 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.

Minn. Stat. § 260C.301, subd. 1(b)(5) (2024). "Egregious harm" includes "substantial bodily harm" and is "the infliction of bodily harm to a child, . . . which demonstrates a grossly inadequate ability to provide minimally adequate parental care." Minn. Stat. § 260C.007, subd. 14(2) (2024). The district court found that Z.M. "experienced egregious harm in [appellant's] care" that was "of a nature . . . that indicate[d] a lack of regard for [Z.M.'s] well-being, such that a reasonable person would believe it contrary to the best interest of [Z.M.] . . . to be in [appellant's] care." *See* Minn. Stat. § 260C.301, subd. 1(b)(5). Clear and convincing evidence from three witnesses supported the finding that appellant was the only person with Z.M. when he was injured and that the injury could not have been accidental.

First, Dr. N.J., a pediatrician knowledgeable about child abuse who was called to the emergency room when Z.M. was there, examined Z.M and testified that the emergency-

petition for termination of [appellant]'s parental rights and the then presiding judge held that the petition established a prima facie case that [appellant] subjected [Z.M.] to egregious harm as defined in section 260C.007, subd. 14," and . . . "[t]herefore, reasonable efforts to reunify [Z.M.] and [appellant] were not required in this matter."

room doctor said Z.M. had a classic metaphyseal fracture (CML) of the proximal humerus on the left side by the shoulder, generally seen in infants at the ends of long bones. Dr. N.J. explained that in such fractures, a fragment of the bone is chipped at the end, and this is considered specific to inflicted injury, caused by a shearing force or tension to the end of the bone that does not result from routine care. Dr. N.J. testified that both Z.M.'s parents told her the CML could have occurred because Z.M.'s left arm was twisted behind him by his breaking free of the swaddle with his right arm. But her expert opinion was that Z.M.'s injuries were indicative of physical abuse, or non-accidental trauma. She also testified that (1) a yank of an infant's arm could result in a fracture to the humerus, with torsion or torque of a child's arm or shoulder, as could grabbing the shoulder of a three-month-old child; and (2) babies get their arms stuck and twist them but they do not experience fractures or arm pain and weakness. She concluded to a reasonable degree of medical certainty, that Z.M.'s injuries were indicative of child physical abuse. The district court found Dr. N.J.'s opinions and testimony, "as the physician who actually saw and cared for the child, persuasive and credible."

Second, Z.S., a child-protection investigator with Dakota County, testified that he received a report about injuries to Z.M., observed Z.M. in the emergency room, and consulted with Z.M.'s medical team. He testified that he interviewed appellant, who said he thought the swaddle might have been involved in Z.M.'s injury but was not sure and he did not know how the injury could have occurred otherwise. At a later interview, when Z.S. spoke on the phone with appellant, appellant said that while he was attempting to swaddle Z.M., he put Z.M. on his side on the dresser, and Z.M. was wiggling around while

appellant tried to get him swaddled. Appellant grabbed Z.M.'s left shoulder and pushed it into the dresser while he pulled his left arm down and back into the swaddle and "thought . . . he had done it too hard." Appellant thought the pressure he applied when putting Z.M. on the dresser, grabbing his shoulder, or pulling his hand to the side might have caused the fracture.

Z.S. decided that maltreatment of Z.M. by appellant had occurred, based on his egregious injuries, i.e., two fractures in the left humerus. Z.M.'s injuries had a severity level of "serious," and Z.S. determined that Z.M. was at high risk and ongoing services were needed. Z.S. testified that he believes it is in Z.M.'s best interests that appellant's parental rights be terminated because Z.M. would be at extreme risk if returned to appellant's care. The district court found that Z.S. "provided persuasive and credible testimony."

Third, S.G., another Dakota County child-protection worker, testified that this is an egregious-harm case and it is in Z.M.'s best interests for appellant's parental rights to be terminated. S.G. believes appellant's mental health has not stabilized enough for him to be a fit parent for the foreseeable future and has concerns about appellant's domestic-violence history and the fact that he has not been accountable or demonstrated remorse.

Thus, evidence supports the finding that Z.M. suffered egregious bodily harm while in appellant's care, and one statutory factor for termination has been satisfied.

2. Best-Interests Findings

Appellant also argues that the district court failed to make adequate findings as to Z.M.'s best interests and that appellant is therefore entitled to a new trial. It is undisputed

that the child’s best interests are “the paramount consideration” in every termination proceeding and, “[w]here the interests of parent and child conflict, the interests of the child are paramount.” Minn. Stat. § 260C.301, subd. 7 (2024). A best-interests analysis requires balancing the parent’s interest in preserving the parent-child relationship, the child’s interest in preserving the relationship, and any competing interest of the child. Minn. R. Juv. Prot. P. 58.04(c)(2)(ii). Competing interests include health considerations. *In re Welfare of J.K.T.*, 814 N.W.2d 76, 92 (Minn. App. 2012). “Because [this] analysis involves credibility determinations and is generally not susceptible to an appellate court’s global review of the record, we give considerable deference to the district court’s findings.” *Id.* (quotation omitted).

As a threshold matter, the remedy for insufficient findings is not reversal and a new trial but rather remand for additional findings. *See, e.g., In re Tanghe*, 672 N.W.2d 623, 626 (Minn. App. 2003) (remanding because of an absence of district court findings on the best interests of the children in a TPR case).

Here, the district court’s findings included the testimony of the two child-protection investigators, Z.S. and S.G., and of the guardian ad litem, C.S., all of which provided support for the best-interest finding. The district court found that Z.S. “determined maltreatment of physical abuse occurred by [appellant] to [Z.M.] based on his egregious injuries of substantial bodily harm”; . . . the severity level of the injuries was “Serious Injury,” which is the third highest below death and near fatality”; and Z.M. was unsafe and the risk was high.

The district court also found that S.G. “testified that she believed it was in [Z.M.’s] best interests for [appellant’s] parental rights to be terminated”; that she “stated that this is an egregious harm case”; that she “shares the Court’s concern that [A.F.C.] and [appellant] are both minimizing and/or lacking transparency”; and that she “believes that [appellant’s] mental health has not stabilized for a sufficient time for him to be a fit parent for the foreseeable future.”

Finally, the district court found that C.S. “recommended continued legal custody of [Z.M.] by DCSS and [that he] remain in his non-relative foster home”; “has safety concerns with [appellant’s] ability to care for [Z.M.]”; thought it plausible “that [appellant] was the abuser of [Z.M.]” and “disrupted [Z.M.’s] safety and stability”; had “ongoing concerns if [Z.M.] is placed in [appellant’s] care”; “continues to recommend no contact with appellant . . . based on [Z.M.] being a very young child with egregious harm”; and believes “there is no bond between [appellant] and [Z.M.] because the injuries occurred when [Z.M.] was very young.” The district court also observed that C.S. testified that appellant’s “desire to co-parent [Z.M.] does not override [Z.M.’s] right to be safe from harm.”

These findings adequately support the district court’s finding that termination of appellant’s parental rights is in Z.M.’s best interests.

3. The Timing of the Termination

Within 15 days of the conclusion of the testimony, during which time the court may require simultaneous written arguments to be filed and served, the court shall issue its findings and order regarding whether one or more statutory grounds set forth in the petition have been proved. The court may extend the period for issuing an order for an additional 15

days if the court finds that an extension of time is required in the interests of justice and the best interests of the child.

Minn R. Juv. Prot. P. 58.04(a). Appellant argues that, because testimony concluded on May 16, 2025, the district court’s order should have been issued by May 31, or June 15 with the additional “good cause” days, and the fact that the order was not filed until July 14, 2024, entitles appellant to a reversal, a remand, and a new trial.

As a threshold matter, appellant’s failure to make any objection to the date of the district court’s order prior to this appeal and to move for a new trial means that he has forfeited appellate review. *See Sauter v. WaseMiller*, 389 N.W.2d 200, 202 (Minn. 1986) (reaffirming “the general rule that in order to preserve for appellate review issues arising during the course of trial, counsel—in addition to taking the other requisite steps, including making timely objection—must move the [district] court for a new trial pursuant to Minn. R. Civ. App. P. 59.01”); *see also County of Hennepin v. Bhakta*, 922 N.W.2d 194, 199 (Minn. 2019) (holding that “[t]he *Sauter* rule continues to apply to motions brought or decided during trial” but not to pretrial orders on motions in limine). Thus, appellant’s objection to the timing of the order is not properly before the panel.

Moreover, appellant’s argument on appeal directly conflicts with his remarks to the district court at the end of the trial. After checking that there was no further testimony, the district court conversed with the attorneys.

Court: . . . Most attorneys prefer to send in the closings, in a written letter.
. . . . And, I would ask that you each send in a proposed Findings of Fact. . . .

And just be nice to yourselves about time, right? The holiday is coming up, etc. You know, the long weekend.

.....

How do you want to do it, simultaneously? What works for you guys?

Appellant's atty: Yes, I think that makes sense.

Court: Okay. What works for you guys? And I'm as flexible as—as you need me to be.

DCSS atty: Are you within a certain time frame, because, if the record is closing today—

Court: Yeah but – but, if—I can extend that –

DCSS atty: You have 16, plus 15, right?

Court: [F]or good cause, right? You know, if there is a good cause.

And good cause is everything that people may have going on in life; and a whole bunch of other trials, and a whole bunch of other stuff.

DCSS atty: I – I was going to say two weeks.

Court: I was going to give you more than that.

Appellant's atty: . . . I'm fine with that, too. I have a couple day trials coming up, in the next couple of weeks. Those always push everything out for me.

I would be fine with three weeks, if that works. So, the [sixth]. I think that would be June [sixth]. Does that work?

Court: That should—that should work fine.

Two things are obvious from this exchange. First, while the district court and the attorneys were familiar with Minn R. Juv. Prot. P. 58.04(a), none of them took the “[w]ithin 15 days of the conclusion of testimony” language literally. They assumed it meant within

15 days of closing argument, to which another 15 days could be added for good cause. Second, appellant's attorney, who asked the district court for three weeks to provide closing argument, i.e., until June 6, which brought the 15 days plus 15 additional good-cause-days deadline to July 7, now argues that appellant is entitled to reversal, remand, and a new trial because of the "extreme delay" in the district court's order. But appellant is bound by the district court record, which indicates that the district court and both attorneys agreed to a three-week interval between the end of testimony and the submission of written closing arguments. Having requested the three-week interval, appellant cannot argue that he is entitled to a new trial because the district court did not comply with Minn. R. Juv. Prot. P. 58.04(a) by granting his request. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

Affirmed.