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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1483**

State of Minnesota,
Respondent,

vs.

S.D.S.,
Appellant.

**Filed May 13, 2013
Affirmed
Hudson, Judge**

Ramsey County District Court
File Nos. 62-JV-11-2099, JV-10-2079

Lori Swanson, Attorney General, St. Paul, Minnesota; and

John Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Susan Andrews, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hudson, Presiding Judge; Kirk, Judge; and Klaphake,
Judge.*

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

UNPUBLISHED OPINION

HUDSON, Judge

On appeal from the order revoking his probation and placing him in a juvenile correctional facility for up to one year as a consequence for running away from his new foster home, appellant argues that the district court's order was not supported by sufficient written findings. Because the written findings, combined with testimony incorporated into the order by reference, properly addressed the five factors to be considered for an out-of-home placement, we affirm.

FACTS

After being unsuccessfully discharged from the short-term program at Minnesota Correctional Facility (MCF)-Red Wing because he had been detained for the maximum 120 days, appellant S.D.S. was placed in a foster home on July 5, 2012. He fled the foster home on July 8, and on July 12, appellant's probation officer filed a violation report alleging that appellant, who was on probation for terroristic threats and disorderly conduct, had violated his probation by running away from home. Appellant was arrested on July 15 and held in juvenile detention pending his probation revocation hearing, which took place July 18.

Prior to the hearing, appellant's probation officer prepared a report recommending placement in the 9- to 12-month program at MCF-Red Wing, stating that the structured environment would help provide the stability for appellant to address his coping skills and behavioral issues, while providing him the opportunity to receive a high-school education and vocational training before he turns 18 on July 28, 2013. The report

considered two other placement alternatives, but rejected them, given that each placement had previously been used.

At appellant's probation revocation hearing, appellant admitted the alleged violation, after which the probation officer gave his recommendation. Appellant's counsel argued that, while appellant was foolish to leave his foster home, he realized his mistake and wanted to give the foster home another chance. Appellant's foster father then spoke, asking the district court to give appellant another chance at foster care. A Ramsey County employee testified that he agreed with the probation officer's recommendation because appellant had failed in every previous placement and it was difficult to locate appellant after he fled those placements. He also testified that appellant could only be placed at MCF-Red Wing or returned to his foster father, because no other facility would accept appellant given his past behaviors, which included starting a riot at a prior placement. The district court concluded that because appellant had failed in, and fled from, several consecutive placements, a long-term placement at MCF-Red Wing was appropriate.

The district court issued a written order placing appellant in the 9- to 12-month program at MCF-Red Wing. The district court determined that if appellant were released, he would pose a danger to himself and others and would not remain in the care of his lawful custodian. The reasons for the placement at MCF-Red Wing contained in the probation officer's report were repeated word-for-word in the written order. The order also incorporated those portions of the transcript regarding the best interests of the child and why alternative placements were rejected. This appeal follows.

DECISION

Appellant argues that the district court's disposition order placing appellant in the long-term program in MCF-Red Wing was not supported by sufficient written findings. The district court "has broad discretion to order dispositions authorized by statute in delinquency cases." *In re Welfare of M.A.C.*, 455 N.W.2d 494, 498 (Minn. App. 1990). A dispositional order will not be disturbed absent an abuse of discretion. *In re Welfare of J.A.J.*, 545 N.W.2d 412, 414 (Minn. App. 1996).

A district court disposition for out-of-home placement must be supported by findings that address five subjects: (1) why the disposition serves public safety; (2) why the disposition serves the best interests of the child; (3) the alternative dispositions that were proposed to the district court and why they were not ordered; (4) why the child's present custody is unacceptable; and (5) how the child's needs are met by the correctional placement. *In re Welfare of J.S.S.*, 610 N.W.2d 364, 366–67 (Minn. App. 2000); *see* Minn. Stat. § 260B.198, subd. 4 (2010) (addressing factors in context of placement in secure facilities); Minn. R. Juv. Delinq. P. 15.05, subd. 2.

"Written findings are essential to meaningful appellate review." *In re Welfare of N.T.K.*, 619 N.W.2d 209, 211 (Minn. App. 2000). Failure to make adequate written findings constitutes reversible error. *Id.* at 211–12. However, if the transcript from a disposition hearing contains "the requisite particularized findings" addressing the five relevant factors, "it is appropriate for the district court to incorporate those findings by reference into that order." *In re Welfare of D.T.P.*, 685 N.W.2d 709, 713 (Minn. App. 2004).

The written order itself addresses four of the five required subjects. The order stated that appellant's history of aggressive behavior and fleeing from custody constituted a threat to public safety and that the disposition was necessary to protect appellant's health and welfare. The district court found that appellant's present custody was unacceptable because he was unlikely to remain in the care or control of the person who has lawful custody of him. The district court stated that appellant's needs were best met by the proposed correctional placement, because the structured environment of MCF-Red Wing would provide needed counseling while also offering appellant the opportunity to receive a high school education and vocational training.

What may have been lacking within the disposition order is compensated for by the hearing transcript. The testimony of appellant's probation officer demonstrated his concern for appellant as well as a thoughtful consideration of appellant's best interests. The county employee's testimony reflected a similar level of empathy and thoughtfulness. Both concluded that appellant's consistent failure at short-term placements rendered those placements inappropriate for appellant. The best interests of the child were also considered; because appellant was only a year away from turning 18, a long-term placement at MCF-Red Wing appeared to be the best opportunity for appellant to receive needed education and vocational training. These findings were specifically incorporated within the disposition order by reference. *See D.T.P.*, 685 N.W.2d at 713. Given that the disposition order and the incorporated testimony properly addressed the five subjects to be considered for an out-of-home placement, the district court's disposition order did not constitute an abuse of its discretion.

Affirmed.