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STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0179

In the Matter of the Welfare of the Children of B. L. S. and S. L. S., Parents.

Filed June 22, 2020
Affirmed
Connolly, Judge

Isanti County District Court
File No. 30-JV-19-139

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Jeff Edblad, Isanti County Attorney, Robert C. Bieniek, Assistant County Attorney, Cambridge, Minnesota (for respondent Isanti County Family Services)

Laura Moore, Isanti, Minnesota (guardian ad litem)

Considered and decided by Reilly, Presiding Judge; Connolly, Judge; and Florey, Judge.

U N P U B L I S H E D O P I N I O N

CONNOLLY, Judge

Appellant challenges the termination of his parental rights to his children, arguing that the district court abused its discretion in concluding that appellant is palpably unfit to be a party to the parent-child relationship. Because there was no abuse of discretion in the conclusion that appellant is palpably unfit to be a party to the parent-child relationship and that conclusion is an adequate basis for the termination of appellant's parental rights, we affirm.

FACTS

The marriage of appellant S.L.S. and B.L.S. was dissolved in 2015. They are the parents of two sons, A., now 14, and B., now six (collectively, the children). From June 2017 to June 2018, the children spent 345 days in out-of-home care; they were then returned to appellant. In January 2019, B.L.S. obtained an Order for Protection (OFP) for the children and herself against appellant. It provided alternate weeks of parenting time for each parent, and it prohibited appellant from going into or near B.L.S.'s residence.

In April 2019, respondent Isanti County Family Services (ICFS) filed a petition to have A. and B. declared Children in Need of Protection or Services (CHIPS). After an emergency protective-care hearing, they were placed in out-of-home care with appellant's sister, where they remain. A. has expressed a wish to remain in that placement; B. was too young to express a preference, but seems happy there. All agree the children are thriving.

Appellant was given 12 conditions he needed to meet before having further contact with the children. The conditions were that he: (1) attend individual counseling; (2) comply

with random drug screens; (3) if a screen is positive, complete a chemical-dependency evaluation and follow recommendations; (4) maintain a safe and sober home; (5) comply with ICFS case management plans; (6) participate in the children's counseling; (7) follow therapists' recommendations for the children, as requested; (8) refrain from speaking negatively about B.L.S.; (9) follow all recommendations from his 2017 neuro-psychological evaluation; (10) complete an evaluation with a psychiatrist to determine if medication is recommended; (11) comply with psychiatrist's recommendations; and (12) register for domestic-violence programming and complete at least four classes.

Appellant admitted to the allegations in the CHIPS petition. An Out of Home Placement Plan (OHPP) was developed for appellant and for B.L.S., and the January 2019 OFP was modified to provide that appellant would have to strictly comply with the 12 conditions before beginning family therapy or having parenting time.

In August 2019, when the children had been in out-of-home placement for 461 days, ICFS filed termination of parental rights (TPR) petitions against both appellant and B.L.S. In December 2019, B.L.S. executed a "Consent of Parent for the Adoption" of the children, and a trial was held on the TPR of appellant. The district court then issued Findings of Fact, Conclusions of Law, and Order terminating appellant's parental rights.

He challenges the termination.

D E C I S I O N

"[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 Children of*

S.E.P., 744 N.W.2d 381, 385 (Minn. 2008) (citation omitted). Termination of parental rights is governed by Minn. Stat. § 260C.301 (2018). "In any proceeding under this section the best interests of the child must be the paramount consideration . . . . Where the interests of parent and child conflict, the interests of the child are paramount." Minn. Stat. § 260C.301, subd. 7.

Appellant argues that the district court abused its discretion in concluding that appellant is palpably unfit to be a party to the parent-child relationship.[1] *See id.*, subd. 1(b)(4) (providing that parental rights may be terminated if the parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions determined by the court to be of a nature or duration that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the child's ongoing physical, mental, or emotional needs). To prove that appellant is palpably unfit to be a party to the parent-child relationship, ICFS must show a consistent pattern of specific conduct or specific conditions existing at the time of the hearing are likely to continue for a prolonged, indefinite period and that are permanently

[1] Appellant also argues that the district court abused its discretion in concluding that two other statutory conditions for termination were met because (1) appellant neglected his parental duties, *see* Minn. Stat. § 260C.301, subd. 1(b)(2), and (2) the reasonable efforts made by ICFS to rehabilitate appellant had failed to correct the conditions leading to the children's out-of-home placement. *See* Minn. Stat. § 260C.301, subd. 1(b)(5)(iii). Because we affirm the district court's conclusion that appellant is palpably unfit to be a party to the parent-child relationship under Minn. Stat. § 260C.301, subd. 1(b)(4), and because that conclusion independently provides a sufficient basis for termination, we do not address appellant's other arguments. *See* Minn. Stat. § 260C.301, subd. 1(b).

detrimental to the child's welfare. *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 661 (Minn. 2008).

The district court found that B. has experienced trauma including repeated changes of primary caregiver, unexpected changes in residence, witnessing chemical abuse and aggressive acts by adults, and potential neglect and physical harm. B.'s therapist does not recommend contact between B. and appellant and had a negative "visceral reaction" to the suggestion that B. be placed with appellant. The district court did not find appellant's explanation of B.'s reference to appellant's house as "Monster house" by saying that was the title of B.'s favorite movie to be credible.

The district court found that appellant did not follow through on a planned phone call to A., but did arrive unannounced at the clinic to speak with A.'s therapist, who said he was unable to converse about what would be best for A. because appellant "focused on how he has done nothing wrong, [and] how he has been falsely portrayed as a negative person by everyone." A. has stated, "I don't feel safe with [appellant] at all" and is worried about appellant getting custody. The district court also found that A. has come out as bisexual to his family and his therapist, who heard appellant's reaction: he told A., "[I]f you are gay I'll beat you half to death and then kill myself in front of you." Both the children themselves and their therapists have indicated that appellant is palpably unfit to be a party to the parent-child relationship.

The district court found that appellant has not engaged with his children's therapists, denies that the children have mental-health issues, and sees their therapists as responsible for his own situation or as barriers between himself and his children. The district court

also found that appellant, "during his own therapy sessions[,] . . . reverts to blaming [B.S.], Isanti County, and the Court for his plight" and concluded that he "will remain unable to parent the child[ren] for the reasonably foreseeable future because of his continued consistent failure to address his own mental health and unresolved chemical dependency issues."

Appellant challenges this conclusion, arguing that he addressed his mental-health issues by working with D.M., a doctor, on restorative parenting. His contact with D.M. began in April 2019, and they met weekly. Eight months later, about a week before trial, D.M. wrote to appellant's social worker:

> [Appellant] continues to be in that blaming place quite often. . . . I have been trying to reach out to [A.'s] therapist to see about possibly doing a phone call contact at least. [Appellant] does get easily unraveled and this is what we are working on as it relates to his parenting as well. He has made some progress when he has been in session [with D.M.] but he will need to be able to transfer this to real life situations.

The social worker noted in her reply that appellant had been told that A. wanted contact with him. Appellant had been given the phone number of A.'s therapist in October so this could be arranged, but appellant could not find a time to meet the therapist, then failed to return the therapist's phone calls, and finally hung up on the social worker when she asked whether he had called the therapist because he was "angry about the illegal things he believes the court is doing to him." The district court observed that, at trial, appellant testified that he stopped going to therapy because he was "too stressed" and wanted to make himself happy again first.

Appellant denies he has a chemical-abuse problem, although he tested positive for methamphetamine in November 2019, shortly before the trial. The district court found that appellant "has tried to evade his own chemical dependency issues through falsifying [urinalysis tests]." This finding is supported by the testimony of one of appellant's adult daughters, who testified that she was present when appellant arranged to use a friend's urine for a urinalysis because the friend was sober.

The district court's finding that appellant is palpably unfit to enter into the parent-child relationship with his children is supported by clear and convincing evidence. *See S.E.P.*, 744 N.W.2d at 385. Because one of the statutory conditions for termination of parental rights has been met, the district court did not abuse its discretion in terminating appellant's parental rights. *See* Minn. Stat. § 260C.301, subd. 1(b).

Affirmed.