STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1104

In the Matter of the Welfare of: C. R. M., Child.

Filed August 16, 2021
Affirmed
Slieter, Judge

Rice County District Court
File No. 66-JV-18-2783

Bradford Colbert, Cresston Gackle, St. Paul, Minnesota (for appellant C.R.M.)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John L. Fossum, Rice County Attorney, Terence Swihart, Assistant County Attorney, Faribault, Minnesota (for respondent State of Minnesota)

Considered and decided by Slieter, Presiding Judge; Johnson, Judge; and Hooten, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

This appeal derives from the district court's delinquency adjudication of appellant C.R.M. for one count of third-degree criminal sexual conduct and one count of fifth-degree possession of a controlled substance. Appellant argues that the district court erred by adjudicating him delinquent without a best-interest finding. Appellant also argues that adjudication of delinquency was a violation of his constitutional right to due process because it resulted in mandatory predatory-offender registration. Because the district court

was not required to make a best-interest finding in order to adjudicate appellant delinquent, and because mandatory predatory-offender registration did not implicate appellant's procedural due-process rights, we affirm.

FACTS

In November 2018, respondent State of Minnesota filed a juvenile petition charging 17-year old appellant C.R.M. with one count of third-degree criminal sexual conduct, in violation of Minn. Stat. § 609.344, subd. 1(b) (2018); one count of third-degree sale of a controlled substance, in violation of Minn. Stat. § 152.023, subd. 1(1) (2018); and one count of fifth-degree possession of a controlled substance, in violation of Minn. Stat. § 152.025, subd. 2(1) (2018). Upon agreement by the parties the delinquency proceeding was continued for dismissal pursuant to Minn. R. Juv. Delinq. P. 14.01 and appellant was placed on juvenile probation. The continuance was revoked following multiple controlled-substance-related probation violations. This matter proceeded to trial and the district court found appellant guilty of third-degree criminal sexual conduct and fifth-degree possession of a controlled substance.

Counsel for appellant requested that the district court continue the proceeding without adjudication pursuant to Minn. Stat. § 260B.198, subd. 7 (2018) and Minn. R. Juv. Del. P. 15.05, subd. 1. However, the district court adjudicated appellant delinquent of both charges, which resulted in a mandatory ten-year period of predatory-offender registration, and again placed appellant on juvenile probation until 12:01 a.m. the following day, which was his 19th birthday. This appeal follows.

DECISION

Appellant argues that the district court erred by adjudicating him delinquent when the result was predatory-offender registration and the district court did not find adjudication to be in his best interests. Appellant also argues that the result following adjudication of delinquency—mandatory predatory-offender registration—was a violation of his constitutional right to procedural due process. Each argument is analyzed below.

I. Adjudication of Delinquency

When deciding whether to adjudicate delinquency or continue the case without adjudication of delinquency, the district court is not required to issue findings of fact. Though a written order with "particularized findings" is required when the court imposes a juvenile *disposition*, no such written findings are required when deciding *whether to adjudicate*. *In re Welfare of J.L.Y.*, 596 N.W.2d 692, 695 (Minn. App. 1999), *review dismissed* (Minn. Feb. 5, 2000) ("[P]articularized findings . . . are required in determining a disposition, but not when deciding whether to adjudicate or stay adjudication."); *see also In re Welfare of C.A.R.*, 941 N.W.2d 420, 422 (Minn. App. 2020), *review denied* (Minn. May 19, 2020) (reiterating the difference between "the standard for staying *adjudication* with the standard for ordering a particular *disposition*") (emphasis in original) (quotation omitted). The juvenile rules confirm that no findings are required to support a decision regarding adjudication. *Compare* Minn. R. Juv. P. 15.05, subd. 2(A) (requiring written findings for disposition), *with* Minn. R. Juv. P. 15.05, subd. 1 (stating no written findings required for continuing adjudication). Because no findings are required prior to

adjudication of delinquency, appellant's argument that the district court erred by failing to make best-interest findings fails.

Additionally, whether the district court decides to continue the matter without adjudication is permissive. Minn. Stat. § 260B.198, subd. 7, states that if "it is in the best interests of the child to do so and not inimical to public safety . . . the court *may* continue the case for a period not to exceed 180 days." (emphasis added).

Turning our attention to the district court's decision to adjudicate delinquency, we observe that the district court—despite having no legal obligation to do so—made detailed written factual findings to support its decision:

> The Court finds no persuasive argument to continue this matter without adjudication, given the various interventions and services already offered to the Juvenile through probation, and the Juvenile's history of probation violations . . . The Juvenile has been brought before this Court several times because of his continued use of controlled substances, his continued failure to cooperate with his placement and with the probation department, and his continued failure to remain at home and follow the rules of the home when ordered to do so. Were the Court to continue the matter without adjudication, the Court would essentially be dismissing the matter. The Court finds that it is not in the best interests of the Juvenile and would be inimical to public safety to continue this matter without adjudication.

The court carefully considered its options, considered appellant's failure to succeed while on juvenile probation, and determined that it would not continue adjudication, a decision explicitly permitted by law. The district court did not abuse the "broad discretion" granted to it in declining to continue adjudication. *C.A.R.*, 941 N.W.2d at 422; *see also J.L.Y.*, 596

N.W.2d at 695 ("Imposing an adjudication within the limits prescribed by the legislature is not an abuse of discretion.").

II. Procedural Due Process[1]

Because appellant was adjudicated delinquent for criminal sexual conduct pursuant to section 609.344, appellant's registration as a predatory offender was mandatory. Minn. Stat. § 243.166, subd. 1b(a)(iii) (2018). To establish that the imposition of mandatory registration results in a procedural due-process violation, appellant must first demonstrate that he possesses "a protectable liberty interest [that] is at stake." *Boutin v. LaFleur*, 591 N.W.2d 711, 718 (Minn. 1999).

In *Boutin*, the Minnesota Supreme Court expressly adopted the so-called "stigma-plus" procedural due-process test from the United States Supreme Court. *Id.* By that test, "a liberty interest is implicated [only] when a loss of reputation is coupled with the loss of some other tangible interest." *Id.* The Minnesota Supreme Court acknowledged that "[b]eing labeled a 'predatory offender' is injurious to one's reputation." *Id.* However, the court found that the predatory-offender registration statute did not fulfill the test "because

[1] In district court as well as in his initial briefing to this court, appellant argued solely that a procedural due-process violation occurred upon the adjudication of delinquency. In response to the opinion of the Minnesota Supreme Court in *Werlich v. Schnell*, 958 N.W.2d 354 (Minn. 2021), in which the supreme court expanded upon the holding of *Boutin*, this court requested supplemental briefing from the parties. In his supplemental brief, appellant argued—for the first time—that his *substantive* due-process rights were violated by his adjudication as a predatory offender. We do not consider that argument. This court specifically requested supplemental briefing only regarding "the impact of the *Werlich* decision on this case." Moreover, we will not examine this issue for the first time on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (holding appellate courts "generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it" (quotation omitted)).

there is no recognizable interest in being free from having to update address information," as required by the predatory-offender-registration statute. *Id.* The court held that "[s]uch a requirement is a minimal burden and is clearly not the sufficiently important interest the 'stigma-plus' test requires." *Id.* The Minnesota Supreme Court, in *Werlich v. Schnell*, reaffirmed *Boutin*'s use of the "stigma-plus" test to determine whether procedural due-process rights are implicated. *Werlich*, 958 N.W.2d at 362.

Appellant argues that the holding of *Boutin* is no longer applicable because the requirements of the registration statutes have increased substantially since *Boutin* was decided in 1999. Appellant believes that these increased registration requirements, especially for a juvenile, satisfy the "stigma-plus" test such that his procedural due-process rights are implicated.[2] Appellant's argument finds some support in *Werlich* as to the importance to consider these increased statutory requirements. However, appellant has not identified a liberty interest he has lost as a result of these increased statutory requirements.

Werlich acknowledged that "[s]ince *Boutin*, the Legislature has repeatedly amended" the predatory-offender statute, imposing "additional consequences of registration [that] are more substantial than the reputational stigma that *Boutin* discussed." As such, *Werlich* held that it was not bound to draw the same conclusion—that mandatory predatory offender registration cannot result in a "loss of a recognizable interest." *Id.* at 362 (quotation omitted). Regardless, the only such liberty interest explicitly recognized by

[2] Pursuant to Minn. Stat. § 243.166, subd. 1b(a)(iii), predatory-offender registration is mandatory both for adults convicted of certain offenses as well as juveniles adjudicated delinquent for those same offenses.

Werlich to be implicated by the expanded predatory-offender-registration statute involves an individual's "fundamental right to parent." *Id.* at 371.[3] No fundamental right to parent is alleged to have been implicated here.

Furthermore, the new post-*Boutin* registration requirements identified by appellant, including being required to provide "place of employment, education, and other data," are—for the purposes of the "stigma-plus" analysis—functionally the same as the requirement found by the court in *Boutin* to implicate no recognizable liberty interest. Though *Werlich* found an individual's right to parent was such a recognized and fundamental right, *Boutin* explicitly held that "there is no recognizable interest in being free from having to update address information." *Boutin*, 591 N.W.2d at 718. Similarly, there is no recognizable interest in being free from having to update employment location information, education location information, vehicle information, or telephone number information, as now required under the expanded predatory-offender registration requirements. Minn. Stat. § 243.166, subd. 4a (2010). Though the requirements of registration have been expanded, none have been identified by appellant to implicate "the sufficiently important interest the 'stigma-plus' test requires." *Boutin*, 591 N.W.2d at 718.

Affirmed.

[3] Specifically, the court held that mandatory predatory-offender registration implicated an individual's fundamental right to parent because a registered predatory offender living with their child constituted "'threatened sexual abuse' that requires investigation," which "implicate[d] the presumption that [they are] a fit parent." *Werlich*, 958 N.W.2d at 371.