STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1680

In the Matter of the Welfare of the Children of:
M. L. S., C. V. R., and P. H.,
Commissioner of Human Services, Legal Custodian.

Filed May 23, 2022
Reversed and remanded
Gaïtas, Judge

Olmsted County District Court
File No. 55-JV-19-6526

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Vicki Duncan, Rochester, Minnesota (guardian ad litem)

Considered and decided by Cochran, Presiding Judge; Bryan, Judge; and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant B.R.-H. (aunt)—the paternal aunt of X, an eight-year-old child under the guardianship of the commissioner of human services—challenges the district court's dismissal of her motions for adoptive placement and visitation. Because we conclude that

the district court erred in dismissing the motion for adoptive placement without holding an evidentiary hearing, we reverse and remand for an evidentiary hearing and for the district court to readdress aunt's visitation motion.

FACTS

In July 2019, respondent Olmsted County Health, Housing, and Human Services (the county) filed a petition alleging that X and her half-siblings (the twins) were in need of protection or services (CHIPS). The petition alleged that the children, while in the sole care of their mother, had been exposed to episodes of physical abuse, domestic violence, and controlled-substance use, and that their mother had been consistently unable to meet their basic and mental-health needs. X's father, C.R., is a registered predatory offender who was convicted of sexually assaulting a three-year-old relative.

The children were subsequently removed from their mother's care. Though X and the twins have different fathers, they were initially placed together with the twins' then-presumed father, P.H., and P.H.'s mother. However, a county social worker became concerned with the children's safety in this placement, and they were subsequently moved. Following five different foster-family placements and a sibling-separation order, X was ultimately placed with her current foster family in October 2019. X had previously spent time with this foster family in 2017 when they provided care and assistance to X and her mother through a volunteer organization.

Aunt is the sister of C.R. but asserts that she is estranged from him. According to aunt, she attempted to contact the county multiple times beginning in October 2019 to express her interest in fostering or adopting X. On December 6, 2019, the county held a

family group conference, which aunt attended. X's foster family, the guardian ad litem (GAL), X's social worker, the county adoption worker, another relative, and other county workers also attended. During the family group conference, aunt advised that she was interested in fostering and adopting X. The county social worker told aunt that the county was not interested in moving X at that time because X had been placed in multiple foster homes since the beginning of the child-protection proceedings. But aunt was assured that she would be considered as an adoptive placement in the event of a termination of parental rights (TPR).

According to aunt, she requested visitation with X during the family group conference. Aunt contends that the social worker said she would speak to X's therapist about visitation, but she heard nothing from the social worker for months.

On February 6, 2020, the social worker contacted aunt to inquire about her interest in adopting X. Aunt confirmed her continued interest, and a meeting was scheduled for March 13, 2020. At that meeting, which was held in aunt's home, aunt was assured that she and her husband would be considered as a placement option. One month later, however, aunt was informed that the child-protection proceedings had been "shut down" because of the COVID-19 pandemic.

In April 2020, the county updated its out-of-home placement plan for X. It stated that the family conference had occurred, "a family option was identified for [X]," and the county "is making progress on this decision."

Apparently unbeknownst to aunt, the district court presided over a termination trial in June 2020. The district court issued a lengthy order on June 26, 2020, terminating the

parental rights of X's parents. In its order, the district court stated that the county was "relieved of further relative search efforts as relatives were not and should not be with the children. There have been no relatives that have provided support to the children or family." The district court further stated that the county had attempted to identify relatives as possible placement options, "but there are no options at this time."

According to aunt, the county never notified her that the district court had terminated parental rights to X. Aunt later learned of the TPR from C.R.

In September 2020, the county adoption worker notified the district court by letter that the county had been in touch with a paternal aunt who had "expressed some interest in adopting [X]." But the letter stated that moving X from her placement with the foster family "would be detrimental" and noted a concern that aunt may "not fully understand[] the implications of her brother being a sex offender and how to monitor that situation." Additionally, the letter stated that X felt the foster family was her "forever family."

On October 19, 2020, aunt wrote a letter to the county detailing her prior contacts with county employees about her interest in adopting X and the county's lack of responsiveness. Aunt's letter asked the county to reconsider her as an adoptive placement.

Nine days later, the county social worker filed a letter in the district court asking the court to rule out aunt as a permanency option because "it is in [X's] best interest to be adopted by her current foster parents." On November 2, 2020, the county filed aunt's October 19 letter in the district court.

Aunt filed a motion for permissive intervention in the adoption phase of the child-protection proceedings on November 6, 2020. Several days later, the district court issued

a notice of judicial determination stating, "[X] shall remain in her current placement and this shall be the permanency option, not [aunt]."

At the hearing on aunt's motion to intervene on December 3, 2020, the district court noted that aunt's family seemed like "wonderful people," but stated that it was not in X's best interest "to have her placement disrupted or her life disrupted any further than it is." With the district court's permission, aunt addressed the district court, explaining that the county had never given her an opportunity to see X, had failed to notify her of the termination proceedings, and had delayed referring her for a home study. Aunt assured the district court that she was no longer in contact with C.R.

On December 15, 2020, in a written order, the district court denied aunt's motion for permissive intervention. The district court determined that the county "has not been unreasonable in declining to consider [aunt and her husband] as a permanency option" and ordered aunt and her husband not to contact the foster family.

Aunt appealed to this court, and we reversed the district court's denial of aunt's motion to intervene. *See In re Welfare of Children of M.L.S.*, 964 N.W.2d 441 (Minn. App. 2021). We noted that we were "genuinely disturbed by what [the] record suggests was the county's apparent failure to communicate with the district court about the county's ongoing contacts with aunt and her interest in adopting X." *Id.* at 456. For example, we noted that the GAL told the district court at the December 3, 2020 hearing on intervention—which was held a year after the family group conference where aunt officially declared her interest in adopting X to county employees and the GAL—that she "wish[ed] we would have known about [aunt] at the beginning." *Id.* And we observed that the district court's June

2020 termination order stated that no relative placement options existed even though aunt had made it known to the county months earlier that she wished to be considered as an adoptive placement. *Id.* We instructed the district court to allow aunt to intervene on remand. *Id.* at 459. And we concluded that the district court had abused its discretion by failing to consider X's best interests in the motion to intervene, "ruling out aunt as a placement option for X, determining that the county was not unreasonable in failing to place X with aunt, and relieving the county of relative-search efforts." *Id.* On remand, we urged "the district court and the parties to follow the express direction of the legislature: when making permanent-placement decisions, the county shall place a child in a home selected by *first* considering placement with relatives *and then* considering placement with important friends, such as X's current foster family." *Id.* at 458.

On remand, the district court granted aunt's motion to intervene. Aunt then moved for visitation with X and for adoptive placement, seeking an evidentiary hearing on her adoptive-placement motion. In support of the adoptive-placement motion, aunt filed an affidavit. According to aunt's affidavit:

- She is married to her partner of 11 years, and they have a daughter who is X's age.
- She has a master's degree in mental health psychology and works as a mental health practitioner.
- She has over 12 years of experience working with challenging behaviors and individuals with mental health concerns.

- She and her husband lived in the same home for seven years, and then moved to a bigger home in 2020 because they wanted to adopt X.
- She went through a lengthy process to get a foster-care license in Hennepin County, where she resides, in order to foster X.
- She has participated in an adoption home study.
- As a Black woman, she can help X, who is also Black, understand her cultural identity.
- She has long wanted to adopt X, and even suggested to X's mother before the termination that she was willing to adopt X.
- She contacted the county multiple times in October 2019, after learning that X was in out-of-home placement, to express her interest in fostering or adopting X.
- She again declared her interest in fostering or adopting X at the family conference on December 6, 2019. X's social worker told her that they did not want to move X again given the many disruptions X had experienced. But the social worker assured aunt that she would be considered as an adoptive placement if the parents' rights were terminated.
- She asked to visit with X, and the social worker said she would look into it but did not follow up.
- She reiterated her interest in adopting during a February 6, 2020 phone call with the social worker and a March 13, 2020 meeting at her home.

- She received a text from the social worker in April 2020 assuring her that she was still considered to be a placement option.
- She was told by the county that the courts were closed due to the pandemic, but she was never notified that the courts had reopened or that the termination trial had occurred.
- She learned about the termination in mid-July 2020 from C.R.
- She made numerous phone calls to the county after learning of the termination but received no response.
- She received a text from X's social worker on August 10, 2020, which stated that X was doing well, that the parents' rights had been terminated, and that X was placed in a home that the county supported.
- She received a phone call from the social worker informing her that she should communicate with X's adoption worker going forward.
- She left numerous messages for the social worker's supervisor, to no avail.
- She independently researched adoption, learned that a home study was required, and discovered that she needed a referral from the county, which then took weeks to obtain.
- She met with individuals from the county on October 15, 2020. They told her that she would receive a placement letter 30 days before X's adoption hearing. She received no such letter.

- She hired a lawyer to assist her in intervening in X's adoption matter. In mid-November 2020, she learned from her lawyer that X had already had a placement hearing.[1]

In response to aunt's motion for visitation and for adoptive placement, X's ongoing social worker, two other county social workers, and the GAL—all of whom opposed aunt's motions—filed affidavits. Additionally, the foster family filed a motion to intervene and an affidavit explaining their concerns about disrupting X's placement with them. The foster family's affidavit emphasized how well X was doing in their care, including the dramatic improvements they have observed in her mental health and development.

The district court held a nonevidentiary hearing on aunt's motions. Following the arguments of counsel, the district court issued an oral ruling on aunt's motion for visitation, stating:

> [A]s I consider this little girl and her fragility, that anything kind of new in her life, if not carefully monitored, particularly the introduction of people that, as far as I can tell, she doesn't -- she has no familiarity with, and that's [aunt and her husband], and I'm not saying that that's something of their doing but, I mean, that's just the reality of it, I'm deeply concerned about anything that may cause a trigger to result in [X] regressing to behaviors that this Court has rarely heard testimony about in eight years or nine years doing this kind of work. And I'm not suggesting that anything would be done intentionally. I don't think that's the case.
>
> It's clear that [aunt and her husband], you know, care about this little girl. But I'm just not going to allow contact at this time because I don't think it's in this little girl's best interest. And I realize that that's, you know, difficult for

[1] Aunt's motion also included two exhibits—a copy of text messages exchanged with X's social worker and aunt's October 2020 letter to the county.

> people to understand, who are family members, biological family members, but I don't know that there's any other way to deliver it. I just -- this is -- this little girl doesn't need any -- anything that may be disruptive in her life.

The district court subsequently issued a written order addressing aunt's motion for adoptive placement. In the order, the district court focused on X's best interests, including how X's interests were being served by her current placement. The district court concluded:

> The gravamen of [aunt's] position is that they were essentially not kept apprised and "in the loop" during the course of the CHIPS/TPR foster care/permanent placement proceedings as they related to [X]. The Court accepts this, as it is required to do so, as true. While [aunt's] affidavits outline how she is suited to meet [X]'s needs, it does not allege facts showing that [the county's] decision to place the child for adoption with the [foster parents] was unreasonable, irrational, or capricious. [X] has been in the [foster parents'] exclusive care for over two (2) years and during that time has developed a strong attachment to the family, as delineated supra. Removing her from the foster parents' care would unnecessarily hinder [X]'s development and cause additional trauma.
>
> [X]'s delicate and turbulent life required a familiar and consistent environment that the [foster parents] have unhesitatingly provided. [The county] was not unreasonable in their assessment. When considering the course of [X]'s life and the paramount consideration of her health, safety and best interests – including the importance of permanency – [the county] was not unreasonable in not considering [aunt and her husband] for adoptive placement. What would have been unreasonable, patently unreasonable, would have been to transition this fragile soul at any stage of these proceedings to a family unfamiliar to her.

The district court denied and dismissed, without an evidentiary hearing, aunt's motion for adoptive placement.

Aunt appeals.

DECISION

I. The district court erred in dismissing, without an evidentiary hearing, aunt's motion for adoptive placement of X.

Aunt challenges the district court's dismissal, without an evidentiary hearing, of her motion for adoptive placement of X.

When a child is under the guardianship of the commissioner of human services after the termination of the biological parents' parental rights, an agency acting on behalf of the commissioner must make "reasonable efforts" to finalize an adoption. Minn. Stat. §§ 260C.601, subd. 2 (2020), .605, subd. 1 (Supp. 2021). Reasonable efforts include identifying an appropriate prospective adoptive parent in accord with the child's best interests, *see* Minn. Stat. § 260C.212, subd. 2 (Supp. 2021), performing an up-to-date relative search, and ultimately finalizing the child's adoption, Minn. Stat. § 260C.605, subd. 1(d)(3)(i), (10).

A relative or foster parent seeking to adopt the child who is not the placement selected by the county may, within the statutory period, move for adoptive placement of the child. Minn. Stat. § 260C.607, subd. 6(a) (Supp. 2021). "A motion for adoptive placement is analogous to a motion to modify custody." *In re Welfare of L.L.P.*, 836 N.W.2d 563, 570 (Minn. App. 2013). The procedure for a motion to modify custody, and hence the procedure for a motion for adoptive placement, is divided into several stages. *See id.* at 570-72 (discussing the process for modifying custody and applying that process to a motion for an adoptive placement).

At the outset, "[t]he motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement." Minn. Stat. § 260C.607, subd. 6(b) (Supp. 2021).[2] "At the prima-facie-case stage of the proceeding, [the movant] need not *establish* anything. [The movant] need only make allegations which, if true, would allow the district court to grant the relief [the movant] seeks." *Amarreh v. Amarreh*, 918 N.W.2d 228, 231 (Minn. App. 2018), *rev. denied* (Minn. Oct. 24, 2018); *see Tousignant v. St. Louis County*, 615 N.W.2d 53, 59 (Minn. 2000) (stating that a prima facie case is "one that prevails in the absence of evidence invalidating it" (quotation omitted)). If the district court concludes that the movant has failed to make a prima facie case, "the court shall dismiss the motion." Minn. Stat. § 260C.607, subd. 6(c) (Supp. 2021). But if the district court concludes that "a prima facie basis is made," then "the court shall set the matter for evidentiary hearing." *Id.* Thus, whether the movant's motion and supporting documents make a prima facie case that the agency acted unreasonably in failing to make the adoptive placement requested by the movant is dispositive of whether the district court must set an evidentiary hearing on the movant's motion. *See* Minn. Stat. § 645.44, subd. 16 (2020) (stating that "'[s]hall' is mandatory").

[2] We understand section 260C.607's reference to a "prima facie showing" to be synonymous with what caselaw calls a "prima facie case." *See L.L.P.*, 836 N.W.2d at 570 (repeatedly referencing a "prima facie case" in an appeal reviewing a district court's dismissal, without an evidentiary hearing, of a motion for an adoptive placement of a child under Minnesota Statutes section 260C.607 (2012)).

If there is an evidentiary hearing on the movant's motion, the county presents evidence to support its decision not to make an adoptive placement with the movant. Minn. Stat. § 260C.607, subd. 6(d) (Supp. 2021). Thereafter, "[t]he moving party . . . has the burden of proving by a preponderance of the evidence that the [county] has been unreasonable in failing to make the adoptive placement" sought by the movant. *Id.* The district court "*may*" order the county to make an adoptive placement of the child with the movant if, at the conclusion of the hearing, the district court "finds" both that (a) "the [county] has been unreasonable in failing to make the adoptive placement" sought by the movant and (b) the movant provides "the most suitable adoptive home to meet the child's needs using the factors in section 260C.212, subdivision 2, paragraph (b)." *Id.*, subd. 6(e) (Supp. 2021) (emphasis added); *see* Minn. Stat. § 645.44, subd. 15 (2020) (stating that "'[m]ay' is permissive").

Here, the district court dismissed, without an evidentiary hearing, aunt's motion for adoptive placement of X, concluding that aunt had "fail[ed] to make a prima facie showing that [the county] has been unreasonable in failing to make her the adoptive placement." A district court's dismissal of an adoptive-placement motion is an appealable order. *L.L.P.*, 836 N.W.2d at 568-69. We review in three parts the dismissal, without an evidentiary hearing, of an adoptive placement motion. *See id.* at 570. First, we review de novo whether the district court "treated" the parties' supporting documents "properly." *Id.* (citing *Boland v. Murtha*, 800 N.W.2d 179, 185 (Minn. App. 2011)). Second, we consider whether the district court abused its discretion in determining that the movant failed to make a prima facie showing. *Id.* And third, we apply de novo review in considering the district court's

denial of an evidentiary hearing. *Id.* (noting that the failure to make a prima facie showing is dispositive of the need for an evidentiary hearing).

A. The district court erred in its treatment of aunt's motion and supporting documents.

We first review de novo whether the district court "treated" aunt's motion and supporting documents "properly." *Id.* When addressing whether a movant made a prima facie showing that the county acted unreasonably in failing to make the movant's requested adoptive placement, "[t]he district court must accept facts in [the movant's] supporting documents as true, disregard contrary allegations, and consider the non-moving party's supporting documents only to the extent that they explain or provide context." *Id.* The district court is not allowed to weigh the allegations of the moving party against those of the nonmoving party or agency; the moving party's allegations must be accepted as true. *Id.* at 570-71. Here, for at least three reasons, we conclude that the district court did not treat aunt's motion and supporting documents properly.

First, rather than accepting aunt's allegations as true, the district court largely ignored them. Aunt alleged that she made persistent efforts to foster or adopt X and repeated attempts to contact and communicate with the county, but the county failed to respond. Additionally, aunt asserted that she moved into a larger home so that she could be a placement for X, participated in an adoption home study, has a long-term relationship with her husband, has her master's degree in mental health psychology, and is a suitable adoptive placement for X because, among other things, she shares X's race. The district court's order, however, addresses aunt's factual assertions about her dealings with the

county in just one sentence: "The gravamen of [aunt's] position is that they were essentially not kept apprised and 'in the loop' during the course of the CHIPS/TPR foster care/permanent placement proceedings as they related to [X]." And this sentence is not entirely accurate. Aunt's allegations were not simply that the county failed to communicate with her. The real gravamen of the assertions is that the county never genuinely considered her as a placement for X despite what she asserts were her timely, repeated, and otherwise (allegedly) well-supported requests. Because the district court did not acknowledge and accept aunt's allegations as true, it did not treat her submissions properly.

Second, to the extent that the district court did acknowledge aunt's allegations, it weighed those allegations against the reasonableness of X's current placement with the foster family. The district court devoted several pages of its order to the responsive allegations of the foster parents, social workers, and the GAL, which explained how X would be best served by remaining with the foster family. Then, the district court weighed what it perceived to be "[t]he gravamen of [aunt]'s position" against (1) the reasonableness of X's current placement, (2) the bond between X and the foster family, and (3) the potential dangers of moving X from her current placement. Although a district court may refer to a nonmoving party's allegations for context, it must not weigh competing allegations when addressing whether a movant has made the required prima facie showing that the county acted unreasonably in declining to place the child with the movant. *See L.L.P.*, 836 N.W.2d at 570-71 (ruling that the district court erred when it denied an evidentiary hearing on a movant's motion for adoptive placement under section 260C.607 based, in part, on the district court's weighing of the county's allegations against the

movant's allegations). Thus, the district court erred as a matter of law by weighing aunt's allegations against the county's counter-allegations.[3]

Third, to the extent the district court's analysis suggests that, at the prima-facie-showing stage of the proceeding, aunt had to show, demonstrate, establish, or otherwise prove—or that the district court had to find as a matter of fact—that the placement of X in the foster home was unreasonable, the district court's analysis is incorrect. In *Amarreh*, the district court denied, without an evidentiary hearing, a father's motion to modify custody based on its determination that "[f]ather ha[d] not *established* the four elements required to establish a prima facie case [to modify custody.]" 918 N.W.2d at 231 (emphasis added). We rejected that analysis, stating, among other things, that "[a]t the prima-facie-case stage of the proceeding, father need not *establish* anything. Father need only make allegations which, if true, would allow the district court to grant the relief he seeks." *Id.* Thus, at the prima-facie-showing stage of the proceeding, the movant need not prove, or disprove, *anything*; the district court's inquiry is limited to evaluating whether the movant

[3] Relatedly, the district court's order states that "[w]hile [aunt's] affidavits outline how she is suited to meet [X]'s needs, it does not allege facts showing that [the county's] decision to place the child for adoption with the [foster parents] was unreasonable, irrational, or capricious. [X] has been in the [foster parents'] exclusive care for over two (2) years and during that time has developed a strong attachment to the family, as delineated supra." At the prima-facie-showing stage of the proceeding, however, the district court does not weigh the propriety of child's actual placement against the propriety of the movant's requested placement. *L.L.P.*, 836 N.W.2d at 570-71. Rather, at the prima-facie-showing stage of the proceeding, the question before the district court is limited to whether the movant made allegations which, if true, would allow the district court to rule that the department acted unreasonably in not making the placement requested by the movant. *See* Minn. Stat. § 260C.607, subd. 6(b), (c). Thus, at the prima-facie-showing stage of the proceeding, any focus on whether the county acted reasonably in placing, or retaining a placement of, X with the foster family was improper.

made allegations which, if true, would allow the district court to rule that the county acted unreasonably in declining to make the placement requested by the movant.

B. The district court abused its discretion by concluding that aunt failed to make a prima facie showing of unreasonableness.

We next consider whether the district court abused its discretion by concluding that aunt's allegations, properly treated, failed to make a prima facie showing that the county acted unreasonably in the requested placement. *See L.L.P.*, 836 N.W.2d at 570. Generally, a district court abuses its discretion if it makes findings of fact that are unsupported by the record, it improperly applies the law, or it otherwise resolves the discretionary question in a manner that is contrary to logic and facts on the record. *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022); *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997); *see In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010) (applying this aspect of *Dobrin* in an adoption appeal). When addressing whether a movant makes a prima facie case, however, the district court accepts the movant's assertions as true and disregards contrary assertions of the nonmoving party. *L.L.P.*, 836 N.W.2d 570-71. Therefore, at the prima-facie-case stage of the proceedings, the district court does not find facts, and the district court's assessment of whether the movant's motion and supporting documents make a prima facie case is based on the movant's allegations. Additionally, as emphasized in our prior decision in this case, Minnesota law clearly requires a county to prioritize relatives when making placement decisions. *M.L.S.*, 964 N.W.2d at 449-50; *see* Minn. Stat. § 260C.212, subd. 2(a) (requiring consideration of relative placement before consideration of other important friends, such as foster families); *see also* Minn. Stat.

§ 260C.221(a) (2020) (stating that a county "shall" consider placement with a relative without delay when a child is removed from a parent). Further, a court must notify relatives who have expressed a willingness to adopt of any review hearings concerning adoption. Minn. Stat. § 260C.607, subd. 2(5) (Supp. 2021).

Here, the district court abused its discretion when it ruled that aunt failed to make a prima facie showing that the county acted unreasonably in not making aunt's requested placement of X. Specifically, aunt's motion for adoptive placement alleges that she repeatedly expressed her desire to foster and adopt X beginning in October 2019—around the same time that the county placed X with the foster family. According to aunt, the county initially assured her that she would be considered as an adoptive placement. Aunt also alleges, however, that the county never responded to her requests for visitation with X, failed to contact her after the June 2020 TPR, proceeded with a plan to place X for adoption with the foster family, ignored her communications, and moved to rule her out as an adoptive placement in October 2020. Aunt also alleges that she obtained an adoption home study and is otherwise a suitable placement for X.

On this record, and assuming aunt's allegations to be true, ruling that aunt did not make a prima facie showing that the county was unreasonable in failing to place X with her for adoption would both misapply the law by failing to give aunt the statutory preference accorded relatives, and be contrary to logic and facts in the record. Accordingly, the district court's determination that aunt failed to make a prima face case was an abuse of discretion.

C. Because aunt made a prima facie showing that the county was unreasonable in failing to make her requested adoptive placement, she is entitled to an evidentiary hearing.

As noted, whether a movant makes a prima facie case that the county acted unreasonably in not making the requested adoptive placement is dispositive of whether the movant gets an evidentiary hearing on a motion for an adoptive placement. Minn. Stat. § 260C.607, subd. 6(c); *L.L.P.*, 836 N.W.2d at 570. Here, the district court's denial of an evidentiary hearing was consistent with its determination that aunt did not make the required prima facie showing. But because we conclude that aunt made a prima facie case, aunt was, necessarily, entitled to an evidentiary hearing on her motion. We therefore reverse and remand for an evidentiary hearing on aunt's motion for adoptive placement.

In conducting the evidentiary hearing and deciding aunt's motion, the district court should follow the process set forth by Minnesota Statutes section 260C.607, subdivision 6(d). But we express no opinion about how the district court should resolve the merits of aunt's motion following the evidentiary hearing.

II. On remand, the district court should readdress aunt's motion for visitation.

Aunt argues that the district court erred in denying her motion for visitation with X. The district court orally denied the visitation motion before ruling on aunt's motion for adoptive placement, stating that X "doesn't need any -- anything that may be disruptive in her life."

A district court's duty to review a county's progress in facilitating an adoption requires the district court to consider whether the child's out-of-home placement plan includes the services and supports necessary to, among other things, meet the child's needs

for visitation with relatives. Minn. Stat. § 260C.607, subd. 4 (a)(2)(iii) (2020). While the district court was admirably concerned with X's need for stability in her life, we have concluded that aunt is entitled to an evidentiary hearing on her motion for adoptive placement. Because it is conceivable that, after the evidentiary hearing, the district court may award aunt the placement she seeks, the district court's rationale for denying aunt's motion for visitation is now stale. Therefore, on remand, the district court shall readdress the propriety of awarding aunt visitation pending resolution of her motion for an adoptive placement. And after resolving aunt's motion for an adoptive placement, the district court shall, given its resolution of that motion, make any additional changes in visitation that may be appropriate. We express no opinion regarding how the district court should resolve the remanded visitation questions.

Reversed and remanded.