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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0395**

In the Matter of the Welfare of the Child of:
T. L., Parent.

**Filed August 26, 2013
Affirmed
Harten, Judge***

Ramsey County District Court
File No. 62-JV-12-2255

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Considered and decided by Kalitowski, Presiding Judge; Chutich, Judge; and
Harten, Judge.

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

UNPUBLISHED OPINION

HARTEN, Judge

Appellant challenges the district court denial of his motion to vacate the order dismissing his petition to have himself declared a child in need of protection or services (CHIPS). Because respondent Ramsey County Child Protection Services (RCCPS) has removed appellant from an allegedly abusive situation into out-of-home placement and is providing him with services, we affirm the denial.

FACTS

In 2010, respondent T.L., a member of the Omaha Tribe of Nebraska, adopted her nephew, appellant I.F., now age 14 and a member of the Omaha tribe, after the parental rights of I.F.'s biological parents had been terminated. In March 2012, appellant had run away from respondent's home and did not return.

In April 2012, respondent entered into a voluntary foster care agreement with RCCPS whereby she retains legal custody of appellant but RCCPS supervises his out-of-home placement. Although either party may terminate the agreement, the agreement enables RCCPS to timely intervene and oppose appellant's return to respondent by "fil[ing] a petition with the court alleging that return would not be in the best interests of the child."

Since March 2012, appellant has been placed in a shelter, then hospitalized for eight days in an adolescent psychiatric unit, then placed at various residential treatment facilities, all under RCCPS's supervision. He has not returned to respondent's home, and respondent has made no effort to seek his return.

In June 2012, appellant petitioned the district court to have himself declared CHIPS, claiming that respondent, with whom he no longer lived, abused him. Respondent, RCCPS, and the tribe asked that the petition be dismissed. The district court dismissed the petition as invalid because appellant was then in a safe placement and was receiving services from RCCPS. Accordingly, the petition facially alleged no facts to compel a CHIPS finding and was therefore inadequate to compel a CHIPS adjudication.

In September 2012, appellant moved to vacate the order, asserting that the April 2012 voluntary agreement between respondent and RCCPS did not provide appellant with sufficient protection against the possibility that respondent would seek to have him live with her again. Respondent and the tribe filed separate motions to dismiss appellant's motion to vacate the order.

At a hearing, RCCPS joined respondent and the tribe in seeking to have appellant's motion to vacate dismissed because appellant was receiving both services and protection from RCCPS. The district court denied appellant's motion to vacate the order dismissing the CHIPS petition and granted respondents' and the tribe's motions to dismiss appellant's motion to vacate.

Appellant challenges the denial of his motion and the grant of respondents' motions to dismiss.

DECISION

We review de novo the interpretation and application of the CHIPS statute. *In re Welfare of Child of T.P.*, 747 N.W.2d 356, 360 (Minn. 2008).

A CHIPS petition must include “a statement that petitioner has reported the circumstances underlying the petition to the responsible social services agency, and protection or services were not provided to the child.” Minn. Stat. § 260C.141, subd. 1(b)(2) (2012). The district court found that: (1) appellant was “in voluntary placement at [a residential treatment facility]”; (2) “[the CHIPS] petition fails to identify the fact that [appellant] is in placement and that [RCCPS] is providing services pursuant to a voluntary agreement by [respondent]”; and (3) “the services being provided to [appellant] by [RCCPS] are not insufficient.” The district court dismissed the CHIPS petition because “[appellant] is in a safe placement and receiving services under the supervision of [RCCPS].”

Appellant does not dispute that he is in a safe placement or that RCCPS has been providing him with services. But he argues that he is not being provided with protection from respondent, notwithstanding the fact that, at the time appellant filed the CHIPS petition, he had been out of her home and under RCCPS’s supervision for three months and, by the time he filed the motion to vacate the dismissal of the CHIPS petition, he had been out of her home for almost six months. He has now been out of her home for 17 months; respondent has expressed no interest in his returning.

Appellant recognizes that “[his] out-of-home placement has precluded [respondent’s] ability to continue to physically abuse [him] at the current time,” but he argues respondent could cancel her agreement with RCCPS and so regain custody of him. The agreement limits respondent’s right to demand appellant’s return by giving RCCPS the right to “file a petition with the court alleging that return would not be in the best

interest of the child.” Thus, even if respondent were to express a desire for his return, appellant has adequate protection.

Appellant argues that RCCPS has not provided protective services because respondent retains legal custody of him. But one purpose of placing a child in voluntary foster care under the supervision of a county for treatment is “to ensure the child’s parent retains legal custody of the child and associated decision-making authority unless the child’s parent willfully fails or is unable to make decisions that meet the child’s safety, health, and best interests.” Minn. Stat. § 260D.01(e)(3) (2012).

Finally, appellant argues that the dismissal of his CHIPS petition should be vacated because “the current voluntary arrangement has failed to provide [appellant] and [respondent] with services *to adequately investigate or appropriately address the underlying abuse allegations.*” But the purpose of a CHIPS petition is to provide needed protection and services for children whose needs have not been met by the county; its purpose is not to investigate or address allegations of abuse alleged to have occurred 16 months ago and unable to occur in the present arrangement.

We affirm the district court’s determinations that (1) appellant’s CHIPS petition did not meet the statutory criteria by not identifying the services that RCCPS had allegedly failed to provide, and (2) appellant’s motion to vacate the order dismissing his CHIPS petition is without merit.

Affirmed.