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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2110**

In the Matter of the Petition of V. P. to Adopt H. A. P.

**Filed August 12, 2008
Affirmed
Minge, Judge**

Hennepin County District Court
File No. 27-JV-FA-07-54

Valerie Penilton, 5416 46th Avenue South, Minneapolis, MN 55417 (pro se appellant Grandmother)

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Considered and decided by Minge, Presiding Judge; Huspeni, Judge; * Muehlberg, Judge.**

UNPUBLISHED OPINION

MINGE, Judge

Appellant challenges the decision of the district court affirming respondent Commissioner of Human Services' denial of her petition to adopt her grandchild, H.A.P.

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

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

Appellant argues that denial of her petition was not in H.A.P.'s best interests, that the district court failed to independently consider the evidence, and that the district court considered improper evidence. We affirm.

FACTS

N.B. (mother) and M.P., Sr. (father) have four children together: A.P., born March 20, 2002; M.P. Jr., born October 19, 2003; H.A.P., born November 22, 2005; and M.B., born March 21, 2007. Appellant V.P. is the paternal grandmother of these children.

The oldest child of mother and father, A.P., was determined to be a Child in Need of Protection or Services (CHIPS) after she suffered extreme, life threatening injuries to her liver while in mother and father's care. After A.P. suffered non-accidental fractures to both collar bones and the bones in both of her upper arms while in her parents' care, mother's and father's parental rights to A.P. and M.P., Jr., were terminated. This termination occurred in 2005 and both A.P. and M.P., Jr., were adopted by their foster parents.

Respondent Hennepin County Human Services (human services) moved for termination of mother and father's parental rights to H.A.P. seven days after she was born. H.A.P. was placed with the same family that had adopted her older siblings. In October 2006, father voluntarily terminated his parental rights to H.A.P.; mother's parental rights were involuntarily terminated at the same time.¹

¹ Mother and father's parental rights to their fourth child, M.B., have also since been terminated, and he is in foster care with his siblings.

In January 2007, appellant V.P., H.A.P.'s paternal grandmother, filed a petition to adopt H.A.P. Mother requested that H.A.P. be adopted by H.A.P.'s foster family, the family that had adopted her older siblings. The foster family had already begun the proceedings necessary to adopt H.A.P. Human services refused to consent to V.P.'s adoption of H.A.P., and V.P. challenged the refusal in district court. After a hearing, the district court held that human service's refusal of V.P.'s adoption was reasonable and that adoption by V.P. was not in H.A.P.'s best interests and rejected V.P.'s challenge. This appeal follows.

D E C I S I O N

I.

The first issue is whether denial of V.P.'s adoption petition was in H.A.P.'s best interests. The district court's authority in matters relating to adoption is governed by statute. *In re Adoption of C.H.*, 554 N.W.2d 737, 740 (Minn. 1996). Adoption in Minnesota is governed by Minn. Stat. §§ 259.20-.89 (2006) and the Minnesota Rules of Adoption Procedure. Typically, a child's parents must consent to the adoption of the child. Minn. Stat. § 259.24, subd. 1. But when the parents' parental rights to a child have been terminated, the responsibility for consenting to adoption is given by the Commissioner of Human Services. *Id.*, subd. 1(c), (d). The commissioner shall not withhold consent unreasonably. *Id.*, subd. 7.

“The policy of the state of Minnesota is to ensure that the best interests of the child are met by requiring individualized determination of the needs of the child and of how the adoptive placement will serve the needs of the child.” Minn. Stat. § 259.29, subd.

1(a). While a preference for placement with a relative does exist, *see* Minn. Stat. § 259.29, subd. 2, this preference remains secondary to the best interests of the child. *See In re T.L.A.*, 677 N.W.2d 428, 431-32 (Minn. App. 2004) (summarizing caselaw stating that the best interests of the child are an overriding consideration); *In re S.T.*, 512 N.W.2d 894, 898 (Minn. 1994) (stating that the entire statutory adoption scheme is focused on the best interests of the child, not the preference for a relative); *In re Welfare of D.L.*, 486 N.W.2d 375, 379-80 (Minn. 1992) (considering a previous adoption statute that created a preference for relative adoption and concluding that because of the best interests standard relative adoption petitions need not be granted automatically). If a district court determines that a proposed adoption is not in the best interests of the child, it shall deny the adoption petition. Minn. R. Adoption P. 45.01.

Here, mother and father's parental rights to their children have been terminated because of violence resulting in broken bones and life-threatening injuries to their first child. Mother and father also have a long history of domestic abuse toward one another. At times, the violence between the two occurred in V.P.'s home. Moreover, V.P. was involved in the violence and contentiousness of that parental relationship. V.P. harassed mother causing mother to obtain a restraining order against her. V.P., along with father and another relative, also harassed mother in a separate incident. The district court concluded that the weight of the evidence showed that father still lives in V.P.'s (his mother's) home. Furthermore, despite the evidence to the contrary, V.P. continued to claim that father was not violent towards his children and is not a violent person. Finally,

we note that the district court determined that V.P. was the victim of abuse at the hands of her husband.

In consideration of V.P.'s long history as a victim and participation in abuse, along with father's history of violence and continued presence at V.P.'s home, we conclude the district court did not abuse its discretion in determining that placement with V.P. is not in H.A.P.'s best interests, in determining that the commissioner acted reasonably in refusing to consent to V.P.'s adoption petition, and in rejecting V.P.'s challenge to the commissioner's action.

II.

The next issue is whether the district court simply adopted respondent's proposed findings and failed to independently examine the record. Wholesale adoption of a party's proposed findings is not automatically reversible error, but it is clearly preferable for a district court to make its own findings. *See, e.g., In re Children of T.A.A.*, 702 N.W.2d 703, 707 n.2 (Minn. 2005) (“[T]he district court’s findings should reflect the court’s independent assessment of the evidence and this is best accomplished by the district court exercising its own skill and judgment in drafting its findings.”); *Pederson v. State*, 649 N.W.2d 161, 163 (Minn. 2002) (“[T]he practice of the verbatim adoption of a party’s proposed findings and conclusions is hardly commendable. Our preference is for a court to independently develop its own findings”) (quotation omitted). In our review of a district court decision, we need not “discuss and review in detail the evidence for the purpose of demonstrating that it supports the [district] court’s findings,” and the district court’s “duty is performed when [it] consider[s] all the evidence . . . and determine[s] that

it reasonably supports the findings.” *Wilson v. Moline*, 234 Minn. 174, 182, 47 N.W.2d 865, 870 (1951); *see also Vangsness v. Vangsness*, 607 N.W.2d 468, 474-75 & n.1 (Minn. App. 2000) (applying *Wilson* in family case).

Here, the district court’s findings are entirely different and far more extensive than the proposed findings submitted by respondent human services. The proposed findings are eight pages in length, those of the district court comprise over 20 pages. Furthermore, the findings of the district court are supported by the record. The district court appropriately and independently addressed all matters before it. Based on our review of the record, the district court’s findings are not clearly erroneous.

III.

The last issue is whether the district court considered improper evidence in its decision. The Minnesota Rules of Evidence apply in adoption cases. Minn. R. Adoption P. 3.02. Under the rules of evidence, only relevant evidence is admissible at trial. Minn. R. Evid. 402. “‘Relevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401. Because the district court has broad discretion in evidentiary matters, we will not overturn a district court’s evidentiary rulings unless appellant shows a clear abuse of discretion and that this abuse was prejudicial. *New Market Twp. v. City of New Market*, 648 N.W.2d 749, 755 (Minn. App. 2002), *review denied* (Minn. Oct. 15, 2002).

At trial, V.P. objected to the admission of police reports regarding domestic abuse between mother and father on the grounds of relevancy. The district court determined

that the police reports were admissible because they showed that father still lived at V.P.'s house and that at times domestic violence or related activity occurred at the home. Because the violence of father and mother and V.P.'s involvement in that violence were all facts of consequence and the police reports had bearing upon those matters, we conclude that this evidence was properly admitted at trial.

Affirmed.

Dated: