STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2197

In the Matter of the Welfare of the Child of: S.L.S. and P.E.J., Parents.

Filed June 3, 2008
Affirmed
Peterson, Judge

Anoka County District Court
File Nos. 02-JV-07-585;02-JV-07-675;02-J8-06-052439

Betsy Jane Schollmeier, 433 Jackson Street, Suite 120, Anoka, MN 55303-2265 (for respondent S.L.S.)

Michael C. Hager, 301 Fourth Avenue South, Suite 270, Minneapolis, MN 55415 (for appellant P.E.J.)

Robert M.A. Johnson, Anoka County Attorney, Kathryn M. Timm, Assistant County Attorney, Anoka County Government Center, 2100 Third Avenue, Suite 720, Anoka, MN 55303-5025 (for respondent Anoka County Human Services)

Kathleen Cater, P.O. Box 859, Anoka, MN 55303 (guardian ad litem)

Considered and decided by Kalitowski, Presiding Judge; Peterson, Judge; and Harten, Judge.*

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

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

PETERSON, Judge

This appeal is from an order terminating appellant-father's parental rights. We affirm.

FACTS

N.E.S.-J. was born August 26, 2006, and was immediately placed in foster care. Appellant P.E.J. was incarcerated when the child was born and was released from prison on October 18, 2006. He established paternity and sought custody of the child. In March 2007, respondent Anoka County Human Services suspended appellant's visitation with the child after appellant was late to a court-ordered drug test and submitted a diluted sample. At that point, appellant stopped working on his case plan without having completed many of its requirements. On October 12, 2007, the district court granted the county's petition to terminate appellant's parental rights to the child, concluding that appellant is palpably unfit, reasonable efforts have failed to correct the conditions that caused the child's out-of-home placement, the child is neglected and in foster care, and it is in the child's best interests that parental rights be terminated. This appeal followed.

D E C I S I O N

This court's review of the district court's decision to terminate parental rights is "limited to determining whether the findings address the statutory criteria, whether those findings are supported by substantial evidence, and whether they are clearly erroneous." *In re Welfare of D.D.G.*, 558 N.W.2d 481, 484 (Minn. 1997). The "evidence must relate to conditions that exist at the time of termination and it must appear that the conditions

giving rise to the termination will continue for a prolonged, indeterminate period." *In re Welfare of P.R.L.*, 622 N.W.2d 538, 543 (Minn. 2001). "Considerable deference is due to the district court's decision because a district court is in a superior position to assess the credibility of witnesses." *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996). However, "parental rights may be terminated only for grave and weighty reasons." *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 709 (Minn. App. 2004). Thus, this court will "closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing." *In re Welfare of J.M.*, 574 N.W.2d 717, 724 (Minn. 1998).

A district court may, upon petition, terminate all rights of a parent to a child on one or more statutory grounds and a finding that termination of parental rights is in the child's best interests. Minn. Stat. § 260C.301, subds. 1(b), 7 (2006). If a single statutory basis for terminating parental rights is affirmable, this court need not address any other statutory basis that the district court may have found to exist. *In re Children of T.A.A.*, 702 N.W.2d 703, 708 n.3 (Minn. 2005).

I.

A court may terminate parental rights upon finding

> that a 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 directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.

Minn. Stat. § 260C.301, subd. 1(b)(4) (2006). Generally, a natural parent is presumed to be a "fit and suitable person to be entrusted with the care of his or her child," and the petitioner must prove by clear and convincing evidence that a parent is palpably unfit. *In re Welfare of A.D.*, 535 N.W.2d 643, 647 (Minn. 1995).

At trial, appellant testified that he was unable to care for the child's needs, but believed he would be in a position to care for the child in three months to a year. The record contains evidence that appellant has a history of chemical use and dependency that goes back many years. Although appellant completed one inpatient treatment program, he failed to successfully complete recommended halfway-house programming and admitted to using methamphetamine, marijuana, and alcohol while the child was in foster care. Appellant has accepted job placements from a temporary agency, but has failed to maintain steady employment or to avail himself of employment resources provided through the halfway-house program. Appellant failed to secure stable housing. At the time of trial, he testified that he was living with his mother, but admitted that she had kicked him out for two weeks last summer, and he was homeless during that time. While appellant's belief that he will be able to care for this child in the reasonably foreseeable future may be genuine, the evidence supports the district court's finding that it is not realistic. Appellant submitted to various evaluations as required by his case plan, but failed to follow through on the recommendations of the evaluators and failed to make discernible progress at improving his ability to care for the child. Because appellant admitted that he is currently unable to care for the child and the record contains clear and convincing evidence that this inability will continue for the reasonably foreseeable future,

the district court did not err in concluding that appellant is palpably unfit to be a party to the parent-and-child relationship.

Because we affirm the district court's conclusion that appellant is palpably unfit, we decline to consider the other statutory grounds that the district court found were met.

II.

Even if there is a statutory ground for termination, this step may not be taken unless it is in the child's best interests. *In re Welfare of D.J.N.*, 568 N.W.2d 170, 177 (Minn. App. 1997). A best-interests analysis "balance[s] three factors: (1) the child's interest in preserving the parent-child relationship; (2) the parent's interest in preserving the parent-child relationship; and (3) any competing interest of the child." *W.L.P.*, 678 N.W.2d at 711 (quotation omitted). A child's need for stability, other needs, and preferences may constitute competing interests. *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992). In most cases, it is presumed that the child's best interests are served by being with the parent. *A.D.*, 535 N.W.2d at 647.

The guardian ad litem testified that appellant and the child do not have a parent-child relationship, and the district court found this testimony to be credible. There is evidence in the record that visitation with appellant was distressing for the child, and the guardian ad litem, child psychologist, and parenting evaluator expressed concerns about the effects of this distress on the child's long-term well-being. Although appellant loves the child and has consistently expressed his desire to gain custody, at the time of trial he had not seen her in seven months and had not taken steps to remedy the conditions that led to the suspension of visitation. At the time of trial, the child was 13 months old, and

had lived in foster care her entire life. The evidence supports the district court's findings that the child needs permanency, a stable home, and nurturing, drug-free caretakers and that appellant would be unable to provide for these needs in the reasonably foreseeable future. Both the social worker and the guardian ad litem testified that termination of appellant's parental rights is in the child's best interests. When asked at trial about the child's best interests, appellant candidly answered: "I am not saying it is in [her] best interest to be parented by me." The district court did not err in concluding that termination of appellant's parental rights is in the child's best interests

Affirmed.