STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0090

In the Matter of the Welfare of the Child(ren) of:
T.L.C., Parent.

Filed August 12, 2008
Affirmed; motion denied
Shumaker, Judge

Cass County District Court
File No. 11-JV-07-761

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Considered and decided by Johnson, Presiding Judge; Kalitowski, Judge; and Shumaker, Judge.

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

SHUMAKER, Judge

Appellant challenges the district court's termination of her parental rights, arguing that the evidence does not support the three statutory bases upon which the court relied. Appellant also argues that the evidence is insufficient to support the court's conclusion of law that the termination is in the best interests of the child. She further challenges certain evidentiary rulings, and argues that the court erred in its application of the guardian ad litem statute. Because we find that the evidence is sufficient to support the termination of appellant's parental rights, that the court made adequate findings to support its conclusion that termination is in the child's best interests, and that the court did not err in its evidentiary rulings or statutory application, we affirm. Respondents, guardian ad litems, also brought a motion to strike, which we deny.

FACTS

In September 2006, appellant-mother T.L.C. left C.G.C., then 14 months old, alone in the bathtub with the shower head spraying hot water at the child. C.G.C. suffered second-degree and third-degree burns on 35% to 45% of her body after being scalded by the hot water. The temperature of the water was estimated at nearly 140 degrees, and, according to medical estimates, a 14-month-old child could sustain such burns with only one to five seconds of exposure to the scalding water.

After hearing her child screaming, T.L.C. did not call 911, nor did she try to cool the burns. She did, however, towel the little girl off and then noticed that her skin was peeling and flaky to the touch. T.L.C. called a friend for help but the friend did not arrive

immediately. Rather than take further immediate action, T.L.C. waited with her severely burned daughter for a ride to a hospital. Once at the Staples hospital, Dr. Arden Beachy diagnosed severe burns on C.G.C.'s face, head, shoulders, abdomen, back, genitalia, rectal area, and thighs. C.G.C. was transferred by air ambulance to the Regions Hospital burn unit, where she stayed for nearly two months.

After this incident, T.L.C. was charged with felony neglect of a child in violation of Minn. Stat. § 609.378, subd. 1(a)(1) (2006), to which she pleaded guilty. The county filed a CHIPS (child in need of protection or services) petition regarding C.G.C. and D.O., T.L.C.'s other child, who was then placed in foster care with M.C., T.L.C.'s mother.

The county filed a petition to terminate T.L.C.'s parental rights to both children. However, the county attorney reached an agreement with T.L.C and her counsel that so long as T.L.C. admitted the allegations of the CHIPS petition, the county would dismiss the termination petition. T.L.C. gave birth to another child, A.T.W., on February 1, 2007; a CHIPS petition was filed for A.T.W. the next day. On February 5, T.L.C. admitted the allegations of the CHIPS petition, and the termination petition was dismissed. Subsequently Vicky Pavlacky, the guardian ad litem coordinator, who was guardian ad litem Teresa Trujillo's supervisor, filed initial and amended termination-of-parental-rights petitions. The parties reached an agreement as to D.O. and A.T.W., and a trial was held on the termination petition for C.G.C. Several social workers, doctors, other medical personnel, and the parties testified at trial.

Dr. William Mohr was C.G.C.'s burn doctor at Regions, and at trial he testified to the extent of her burns, the painful skin grafting, and the extensive and debilitating scarring she will have to deal with for the rest of her life. Dr. Mohr also testified that C.G.C.'s burns were life-threatening and her medical condition was grave for nearly a month after entering the burn unit. He stated that the little girl's "injuries were a direct result of significant neglect, if not outright abuse." Particularly, he noted T.L.C.'s lack of emotion when he described the nature and extent of her daughter's injuries, his surprise when she had no questions for him, and her failure to express any remorse. He also testified that T.L.C. did not appear to understand or appreciate the gravity of her daughter's problems.

C.G.C. was in the burn unit at Regions Hospital for 58 days, during which she underwent several skin graft surgeries. She also has undergone and will continue to require extensive physical therapy for her burns. C.G.C. has to wear a compression shirt and face mask to minimize scar formation. Her occupational therapist, Lisa Rindal, testified that C.G.C. must be careful to keep the mask clean and can only remove it for bathing and meals. C.G.C.'s compression garments must be fitted often at appointments with the therapist, and if they are not worn as prescribed, C.G.C.'s skin becomes thick and raised as new scar tissue forms.

C.G.C.'s treatment will continue throughout her life. Her medical prognosis is complex. Dr. Mohr testified that C.G.C. will need interrelated emotional, physical, and psychological treatments. He indicated that her physical scarring will likely have a significant impact on her emotional and physical development. Dr. Mohr testified to all

the special needs C.G.C. will have and explained that her development will likely be impaired because of her burns.

The district court also heard testimony that centered on the extra care a severely burned child needs and that indicated that a nurturing and stable home life is imperative. Licensed clinical professional counselor Carol Starr Carpenter testified that, in a situation such as C.G.C.'s, when a child is a trauma victim, the child requires "extraordinary parenting" and that family support is vital. Deena McMahon, a licensed independent clinical social worker, has expertise in trauma and attachment issues, the impact of abuse and neglect on brain development, and child sexual abuse and treatment. She performed an attachment assessment of T.L.C.'s relationship with C.G.C. She testified that T.L.C. was 45 minutes late to the assessment, during which time she observed C.G.C. with her grandmother, M.C. She testified that while M.C. had a genuine and loving relationship with her granddaughter, she did not observe the same type of relationship between C.G.C. and T.L.C.

Various other social services professionals testified. Philip Tange, a licensed independent clinical social worker, testified to T.L.C.'s psychological assessment, noting her lack of stability and her difficulty in trying to care for a child as severely injured as C.G.C. Caseworkers Edward Franckowiak and Deanna Johnson testified to the details of the enormous amount of services provided to T.L.C. by the county, including the reunification plan.

T.L.C. also testified. She stated that she was not aware of the effects of sun on C.G.C.'s fragile skin, and she acknowledged that she was "not doing a very good job of"

parenting and could not think of anything she had learned to improve her parenting skills in the time that the county social workers had been working with her.

T.L.C.'s mother, M.C., who is a foster parent to D.O., testified about her daughter's shortcomings as a parent, specifically noting T.L.C.'s habit of leaving her children in the care of others. She testified, "I want to help [T.L.C.] and I want to help my grandkids. I don't want them to go to strangers, and I don't feel that [T.L.C.] can adequately care for them."

The district court also heard testimony from Teresa Trujillo, the guardian ad litem, who with her superior, Vicky Pavlacky, initiated the termination proceeding.

The district court found by clear and convincing evidence that termination was proper in accordance with three statutory bases under Minn. Stat. § 260C.301, subd. 1(b) (2006). The court concluded that (1) C.G.C. experienced egregious harm in T.L.C.'s care; (2) that T.L.C. is palpably unfit to be a parent to C.G.C.; and (3) that T.L.C. failed to comply with parental duties despite the county's reasonable efforts. The court also concluded that termination was in the child's best interests.

T.L.C. moved for amended findings, but the court denied the motion. This appeal followed. Respondents Pavlacky and Trujillo also filed a motion to strike portions of T.L.C.'s brief and appendix.

D E C I S I O N

"There is perhaps no more grave matter that comes before the court than the termination of a parent's relationship with a child." *In re Welfare of A.D.*, 535 N.W.2d 643, 647 (Minn. 1995). Nonetheless, courts may order termination of parental rights on

the basis of one or more of the nine criteria listed in Minn. Stat. § 260C.301, subd. 1(b) (2006). Because a child's best interests are the paramount consideration in termination of parental rights proceedings, the district court cannot terminate parental rights unless it is in the child's best interests. *In re Welfare of Children of S.W.*, 727 N.W.2d 144, 149 (Minn. App. 2007), *review denied* (Minn. Mar. 28, 2007).

On appeal, decisions to terminate parental rights are reviewed to determine whether the district court's findings address the statutory criteria, whether its findings are supported by substantial evidence, and whether its conclusions are clearly erroneous. *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996). This court must "closely inquire[] into the sufficiency of the evidence to determine whether the evidence is clear and convincing." *In re Welfare of S.Z.*, 547 N.W.2d 886, 893 (Minn. 1996). But "[c]onsiderable deference is due to the district court's decision because a district court is in a superior position to assess the credibility of witnesses." *L.A.F.*, 554 N.W.2d at 396. We will affirm the district court's decision to terminate as long as at least one statutory ground is supported by clear and convincing evidence and termination is in the child's best interests. *In re Welfare of Children of R.W.*, 678 N.W.2d 49, 55 (Minn. 2004).

Egregious Harm

The district court found that termination was proper under Minn. Stat. § 260C.301, subd. 1(b)(6), which provides that parental rights may be terminated where the evidence shows, clearly and convincingly,

> that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a

> reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care.

"Egregious harm" is defined as the "the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care," and includes felony neglect or endangerment under section 609.378. Minn. Stat. § 260C.007, subds. 14, 14(5) (2006).

C.G.C. suffered egregious harm while under T.L.C.'s care. The record conclusively shows that she has second- and third-degree burns on 35% to 45% of her body. Further, T.L.C. pleaded guilty to criminal neglect and endangerment of a child in violation of Minn. Stat. § 609.378, subd. 1(a)(1) (2006), which comports with the statutory definition of "egregious harm" set forth in Minn. Stat. § 260C.007, subd. 14(5). Furthermore, this court has held that burns can be reason enough to terminate parental rights on the basis of egregious harm. *See In re Children of M.B.*, No. A04-1494, 2005 WL 757896, at *6 (Minn. App. Apr. 1, 2005) (finding termination based on egregious harm appropriate where children's sibling died of burns suffered when mother left candelabrum burning).

T.L.C. asserts that even though harm occurred, C.G.C.'s burns were an accident and therefore cannot be a basis for termination. However, the district court heard the overwhelming evidence presented, weighed such evidence, and found that the accident and subsequent actions and inactions of T.L.C. "were in fact neglectful and resulted in egregious harm to [C.G.C.]." We agree that the evidence detailing the enormous amount of special care, therapy, and medical treatment that C.G.C. will need in the future attests

to the egregiousness of the harm caused to the child. The egregious harm that C.G.C. suffered while in T.L.C.'s care will require lifelong attention and management. The district court's determination that C.G.C. suffered egregious harm while in T.L.C.'s care is amply supported by the record.

Palpable Unfitness and Failure to Comply with Parental Duties

Although we need not address the other grounds for termination, *In re Children of T.A.A.*, 702 N.W.2d 703, 708 n.3 (Minn. 2005), we also note that the record supports the district court's conclusion that termination is proper under the palpable-unfitness standard, Minn. Stat. § 260C.301, subd. 1(b)(4), and under Minn. Stat. § 260C.301, subd. (1)(b)(2), the standard applying when a parent refuses to comply with parental duties in a parent-child relationship.

A court may terminate parental rights if the court finds "that a parent is palpably unfit to be a party to the parent and child relationship." Minn. Stat. § 260C.301, subd. 1(b)(4). A parent is palpably unfit when the court finds a consistent pattern of specific conduct before the child or specific conditions directly pertaining to the parent and child relationship that are "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." *Id.* "If a parent's behavior is likely to be detrimental to the children's physical or mental health or morals, the parent can be found palpably unfit and have his parental rights terminated." *In re Children of Vasquez*, 658 N.W.2d 249, 255 (Minn. App. 2003).

T.L.C. specifically contends that the termination is unwarranted because the evidence does not support the district court's findings that she lacks personal and emotional skills to care for C.G.C. and is unable to provide stability for her daughter. We disagree.

The district court made specific findings regarding T.L.C.'s acts and omissions that show her unfitness to parent C.G.C. The court noted that T.L.C. apparently thought C.G.C.'s screams when being scalded by 140-degree water were the normal cry of a child, and "did not appear overly concerned or emotional" at the hospital. The district court also noted that T.L.C. did not appropriately understand the nature or severity of her daughter's burns.

The court accepted Dr. Mohr's opinions regarding the amount, intensity, and sensitivity of the care needed to provide for C.G.C.'s "extraordinary medical and emotional needs" and noted that C.G.C. will have incredibly high needs and will require "a stable and safe home environment with strong emotional support and stability." But the court did not find that T.L.C. has the ability to provide the extraordinary care required for C.G.C.

The court detailed T.L.C.'s cancellation of psychological testing, so that the test was administered over five months after it was ordered. Those tests showed that T.L.C. has compulsive, histrionic, and narcissistic traits, and that she is much more likely to be concerned with her own needs than those of her daughter.

The court found that T.L.C. "does not have the intellectual, personal or emotional skills to care for a child with the special needs and conditions" that C.G.C. currently has

and which will continue. The court concluded that T.L.C. was unfit to parent C.G.C. and her lack of fitness would prevent her from being able to parent her child in the foreseeable future. That conclusion is not clearly erroneous and is supported by substantial evidence.

Likewise, the court identified specific conditions directly relating to the parent-child relationship which made T.L.C. unfit to parent in the foreseeable future. Specifically, the court observed that testing showed that T.L.C. would place her own needs ahead of C.G.C.'s. Also noting the expert testimony as to the ongoing need to fit and maintain the compression garments and mask C.G.C. must wear, the court found that T.L.C. "does not have the capacity for performing the tasks necessary for the appropriate medical care relating to the mask and compression garments on a consistent basis."

T.L.C.'s own testimony lends support to the court's determination because, when asked, T.L.C. was unable to specifically explain when the compression mask needed to be cleaned, was not aware of the risk sun exposure would cause C.G.C., and had only seen C.G.C.'s doctor one time. In light of C.G.C.'s needs and T.L.C.'s own limitations as a parent, the district court did not err in ordering termination. *Cf. In re Welfare of M.M.D.*, 410 N.W.2d 72, 75 (Minn. App. 1987) (concluding that termination was justified where evidence indicated that mother's emotional and psychological issues were sufficiently serious to render effective parenting improbable, and mother had a low probability of learning effective parenting skills); *In re Welfare of J.L.L.*, 396 N.W.2d 647, 652 (Minn. App. 1986) (concluding that termination was justified given the child's immediate need for a stable and permanent home and given the father's history of

chemical abuse, violent behavior, lack of parenting skills, and relatively few steps he had taken to address these problems). The district court's determination that T.L.C. is palpably unfit to be a party to the parent-child relationship is supported by clear and convincing evidence.

Parental rights may also be terminated if a "parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship . . . and reasonable efforts . . . have failed to correct the conditions [leading to] the petition." Minn. Stat. § 260C.301, subd. 1(b)(2). It is important to carefully examine the efforts provided to parents "because public agencies may transform the assistance into a test to demonstrate parental failure." *In re Welfare of J.H.D.*, 416 N.W.2d 194, 198 (Minn. App. 1987), *review denied* (Minn. Feb. 12, 1988). In determining whether reasonable efforts have been made, the district court must consider whether the services were "(1) relevant to the safety and protection of the child; (2) adequate to meet the needs of the child and family; (3) culturally appropriate; (4) available and accessible; (5) consistent and timely; and (6) realistic under the circumstances." Minn. Stat. § 260.012(h) (Supp. 2007). The assistance "must go beyond mere matters of form so as to include real, genuine assistance." *In re Welfare of H.K.*, 455 N.W.2d 529, 532 (Minn. App. 1990), *review denied* (Minn. July 6, 1990). Such help must focus on the parent's specific needs. *See In re Welfare of M.A.*, 408 N.W.2d 227, 235-36 (Minn. App. 1987) (explaining that the efforts of the social services agency should be directed at "alleviating the conditions leading to the determination of dependency"), *review denied* (Minn. Sept. 18, 1987).

T.L.C. contends that the district court erred in finding that she continuously neglected her parental duties despite the county's reasonable efforts to reunify her with C.G.C. The court found that, despite reasonable efforts of the county, T.L.C. "lack of capability . . . to understand and comprehend the nature and extent of the injuries" rendered "any further efforts to reunite the parent with the child . . . futile."

The court further explained that "the testimony . . . demonstrated that extensive services have been offered and made available to T.L.C. including transportation, parenting assessments, information on medical care, counseling and therapy." While T.L.C. maintains that her failure to be reunified with her daughter was due to lack of reasonable and timely efforts on the part of the county, the record does not support her contention. Based on the clear and convincing evidence in the record, the district court did not err in terminating T.L.C.'s parental rights.

Best Interests

T.L.C. also challenges the district court's findings on the best interests of C.G.C., arguing that the court did not properly address the best-interests factors. She suggests that it is contradictory that it is in her other children's best interest for her to parent them, but for her parental rights to be terminated as to C.G.C.

Even if the statutory criteria for termination are satisfied, parental rights may not be terminated unless termination is in the child's best interests. *In re Welfare of D.J.N.*, 568 N.W.2d 170, 177 (Minn. App. 1997). A district court "must consider a child's best interests and explain its rationale in its findings and conclusions." *In re Tanghe*, 672 N.W.2d 623, 626 (Minn. App. 2003). "Determination of a child's 'best interests' . . . is

generally not susceptible to an appellate court's global review of a record." *Id.* at 625. And "an appellate court's combing through the record to determine best interests is inappropriate because it involves credibility determinations." *Id.*

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." *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 711 (Minn. App. 2004) (quotation omitted). A child's need for stability, health considerations, 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 a parent. *A.D.*, 535 N.W.2d at 647.

The record, discussed above, shows that the interests of T.L.C. and C.G.C. are best served by severing the parent-child relationship. T.L.C. cannot provide for C.G.C.'s extraordinary special needs, which are markedly different from those of her other children.

Contrary to T.L.C.'s assertion, the court considered the child's best interests. Although the court's ultimate finding did not explicitly balance T.L.C. and C.G.C.'s best interests, the court reflected its consideration of the best interests of C.G.C. throughout its order. The court made numerous findings on T.L.C.'s parenting deficiencies, the amount of specialized care C.G.C. will need, and social workers' and doctors' opinions that T.L.C. was unable to appropriately care for C.G.C., and the guardian ad litem's opinion that T.L.C.'s parental rights should be terminated. Based on this record, the substantial

evidence supports the district court's conclusion, and the district court made adequate findings on the best interests of C.G.C.

Expert Testimony

T.L.C. argues that the district abused its discretion by allowing McMahon and Dr. Mohr to testify as experts.

Deciding whether to admit or exclude expert-witness testimony is an evidentiary ruling that this court reviews for an abuse of discretion. *Gross v. Victoria Station Farms, Inc.*, 578 N.W.2d 757, 760 (Minn. 1998). When expert testimony is not based on novel scientific evidence, it must be shown to "be relevant, be given by a witness qualified as an expert, and be helpful to the trier of fact" before it is admitted. *Goeb v. Tharaldson*, 615 N.W.2d 800, 814 (Minn. 2000). An expert's opinion is helpful if it provides "scientific, technical, or other specialized knowledge [that] will assist the trier of fact to understand the evidence or to determine a fact in issue." Minn. R. Evid. 702.

T.L.C. argues that McMahon was erroneously allowed to testify to the ultimate issue. But the ultimate issue at trial was whether T.L.C.'s parental rights to C.G.C. should be terminated. McMahon did not testify to that issue but rather stated that she had "grave concerns" about T.L.C.'s ability to parent C.G.C.

McMahon's testimony clearly informed the court that she was apprehensive of T.L.C.'s abilities to care for a child as severely injured as C.G.C. She did not give an opinion as to whether T.L.C.'s parental rights should be severed. McMahon has a long history of working with neglected children and troubled families. She detailed her résumé at length, explaining that is she a licensed independent clinical social worker, and

an expert in trauma and attachment and the impact of abuse and neglect on brain development. She testified that she is also a child sexual abuse and treatment expert. The court's admission of McMahon's expert testimony was not an abuse of its discretion.

T.L.C. also contends that Dr. Mohr should not have been allowed to testify to his belief that C.G.C.'s "injuries were a direct result of significant neglect, if not outright abuse." T.L.C. contends that Dr. Mohr concluded that C.G.C. suffered egregious harm.

Dr. Mohr testified to his expert qualifications and to his role as C.G.C.'s treating physician at the burn unit at Regions Hospital. He testified about facts and statistics regarding burn injuries in general, as well as C.G.C.'s specific injuries. He was properly accepted as an expert by the court, and as an expert, he was qualified to testify to his opinion as to the cause of the horrific injuries C.G.C. suffered. Additionally, since T.L.C. had already pleaded guilty to criminal neglect, Dr. Mohr's opinion was not unduly prejudicial. Even if Dr. Mohr's causation opinion was improper, it is unlikely that it influenced the court to the extent necessary to warrant a reversal. *See Chris/Rob Realty v. Chrysler Realty Corp.*, 260 N.W.2d 456, 459 (Minn. 1977) (expressing "confidence in the ability of a court in a trial without jury to be objective and to disregard evidence improperly admitted"). The court did not abuse its discretion in receiving expert evidence.

Guardian Ad Litem

T.L.C. argues that the court erred by failing to remove Trujillo as C.G.C.'s guardian ad litem after her supervisor filed the termination petition. She contends that the district court erred in its interpretation of the applicable statute.

On review, this court will not overturn a district court's decision regarding the removal of a guardian ad litem absent an abuse of discretion. *In re Welfare of M.J.L.*, 582 N.W.2d 585, 589 (Minn. App. 1998). Minnesota law does not provide a procedure to remove a guardian ad litem. *In re Welfare of B.B.B.*, 393 N.W.2d 436, 437 (Minn. App. 1986). However, this court has borrowed the child's best interests standard used for removal of a guardian in probate proceedings and applied it to proceedings involving child neglect, *id.*, and custody determinations, *M.J.L.*, 582 N.W.2d at 588-89. District courts must make specific findings regarding the child's best interests before removing a guardian. *B.B.B.*, 393 N.W.2d at 437. A district court may use the best interests factors set out in Minn. Stat. § 518.17 (2006), but it is neither limited to those factors nor need it apply all of them. *M.J.L.*, 582 N.W.2d at 589.

T.L.C. suggests that Minn. Stat. § 260C.163, subd. 5(d) (2006), bars Trujillo from remaining as guardian after her supervisor commenced the termination-of-parental-rights action. The statute states: "In appointing a guardian ad litem . . . , the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260C.141 [CHIPS provision]." Minn. Stat. § 260C.163, subd. 5(d). "When interpreting a statute, we first look to see whether the statute's language, on its face, is clear or ambiguous." *Am. Family Ins. Group v. Schroedel*, 616 N.W.2d 273, 277 (Minn. 2000). "A statute is only ambiguous when the language therein is subject to more than one reasonable interpretation." *Id.* (quotation omitted).

We need not engage in a statutory examination because this court has already interpreted the nearly identical predecessor to the statute and concluded it did not apply to

a situation where a guardian, who is already appointed, subsequently files a termination-of-parental-rights petition. We stated in *In re Welfare of J.S.* that "[u]nder the Juvenile Court Act, a guardian ad litem is entitled to file a petition for termination of parental rights and remain as guardian ad litem thereafter." 470 N.W.2d 697, 698 (Minn. App. 1991), *review denied* (Minn. July 24, 1991). In *J.S.*, the court was interpreting Minn. Stat § 260.155, subd. 4 (1988), which contained language nearly identical to that in Minn. Stat. § 260C.163, subd. 5(d). *See* Minn. Stat. § 260.155, subd. 4(c) (1988) ("In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party or any agent or employee thereof filing a petition . . . ."). We noted that "'[t]he primary purpose of the Juvenile Court Act is to ensure the welfare of minor children.'" *J.S.*, 470 N.W.2d at 700 (quoting *In re Welfare of Solomon*, 291 N.W.2d 364, 369 (Minn. 1980)). "Under the act, the guardian ad litem has standing as a party to protect the best interests of the child." *Id.* The court interpreted a guardian ad litem's duty of protection as including "the duty to act within the judicial proceedings to further the best interests of the child, and to do so the guardian ad litem must be free 'to engage in a vigorous and autonomous representation of the child.'" *Id.* (quoting *Tindell v. Rogosheske*, 428 N.W.2d 386, 387 (Minn. 1988)).

We note that the guardian ad litem did not file the petition for termination; rather, her supervisor did so. But, even assuming the statute applies because the guardian's supervisor was the petitioner, an appointed guardian is not prohibited from filing a petition after the appointment.

Motion to Strike

Respondents Pavlacky and Trujillo have moved to strike portions of T.L.C.'s brief and appendix that refer to the confidential settlement agreement reached as to T.L.C.'s other children and certain deposition testimony that respondents contend was not received in evidence. We find no compelling reason to strike any of the matters referred to in the motion. Therefore, the motion is denied.

Affirmed; motion denied.