STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1742

In the Matter of the Welfare of the Children of: S. E. T. and S. L. S., Parents

Filed July 14, 2009
Affirmed
Collins, Judge*

Kandiyohi County District Court
File No. 34-JV-08-164

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Considered and decided by Chief Judge Toussaint, Presiding Judge; Kalitowski, Judge; and Collins, Judge.

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals 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

COLLINS, Judge

Appellant challenges the termination of his parental rights, arguing that the district court abused its discretion by collaterally estopping him from relitigating a previous finding of sexual abuse of his daughter and excluding polygraph evidence that supports his denial of sexual abuse. Because the district court did not abuse its discretion by applying the available doctrine of collateral estoppel and Minnesota courts may not admit polygraph evidence, we affirm.

D E C I S I O N

I.

Appellant S.E.T. (father) challenges the district court's application of the doctrine of collateral estoppel to preclude him from relitigating the question of whether he sexually abused his minor daughter (daughter). Whether collateral estoppel can be applied is a mixed question of law and fact, which we review de novo. *In re Trusts Created by Hormel*, 504 N.W.2d 505, 509 (Minn. App. 1993), *review denied* (Minn. Oct. 19, 1993). If the doctrine can be applied, whether to actually apply collateral estoppel is left to the district court's discretion and will not be reversed absent an abuse of that discretion. *Pope County Bd. of Comm'rs v. Pryzmus*, 682 N.W.2d 666, 669 (Minn. App. 2004), *review denied* (Minn. Sept. 29, 2004).

The doctrine of "[c]ollateral estoppel, also known as issue preclusion, prohibits a party from relitigating issues that have been previously adjudicated." *Barth v. Stenwick*, 761 N.W.2d 502, 507 (Minn. App. 2009). The doctrine's purpose is to prevent needless

consideration of issues that have already been decided in earlier litigation. *Deli v. Hasselmo*, 542 N.W.2d 649, 656 (Minn. App. 1996), *review denied* (Minn. Apr. 16, 1996). And while the availability and application of collateral estoppel in family court matters are more limited, the doctrine's underlying principle—that an adjudication on the merits of an issue is conclusive and should not be relitigated—nonetheless applies. *See Maschoff v. Leiding*, 696 N.W.2d 834, 838 (Minn. App. 2005) (applying collateral estoppel in a child-support context).

Collateral estoppel is available when the following four conditions are met: (1) the issue to be litigated is identical to one in prior litigation; (2) the prior litigation resulted in a final judgment on the merits; (3) the estopped party was a party or in privity with a party to the prior litigation; and (4) the estopped party was given a full and fair opportunity to be heard on the litigated issue. *Barth*, 761 N.W.2d at 508. Because collateral estoppel is an essentially equitable doctrine, however, the district court should not apply it rigidly even if all four conditions are satisfied. *Id.* Rather, the district court must also consider whether applying it would be fair to the party estopped. *Id.*

Here, father had been a party to a children-in-need-of-protective-services (CHIPS) action based on allegations that father had committed acts of sexual abuse against daughter. Father denied these allegations at trial, but the district court found that father had indeed committed the acts alleged, and daughter was therefore in need of protective services. The termination-of-parental-rights (TPR) petition was based on the same allegations of sexual abuse. Over father's objection, the district court adopted the CHIPS-trial finding that father had sexually abused daughter and applied the doctrine of

collateral estoppel to preclude him from relitigating the issue at the TPR trial. The district court reasoned that all four conditions were met because (1) the factual issue of whether father sexually abused daughter was identical in both proceedings; (2) the CHIPS proceeding resulted in a final judgment on the merits—that daughter was in need of protective services because of the finding of sexual abuse; (3) father was a party to the CHIPS proceeding; and (4) father had a full and fair opportunity to contest the issue at the CHIPS trial. And the district court concluded that estopping father from relitigating the issue was not unfair because the only new evidence father sought to introduce was derived from a polygraph test, which was inadmissible.

Father, however, argues for a per se rule against applying collateral estoppel between CHIPS and TPR proceedings in light of the "fundamentally different" nature of the two proceedings. Notwithstanding the existence of a final judgment on an issue, a party is not necessarily precluded from relitigating that issue when the nature of the procedure resulting in that judgment is so different from that of the second proceeding that a new determination is warranted. *See* Restatement (Second) of Judgments § 28(3) (1982) (providing exception when "[a] new determination of the issue is warranted by differences in the quality or extensiveness of the procedures followed in the two courts"). But father dramatically overstates the distinction between a CHIPS proceeding and a TPR proceeding; the statutes specifically require that the hearings in both proceedings follow identical procedures, including the application of identical burdens of proof. Minn. Stat. §§ 260C.163, subd. 1(a) (CHIPS procedure), .307, subd. 2 (2006) ("The termination of parental rights . . . shall be made only after a hearing before the court, in the manner

provided in section 260C.163."). The primary difference between a CHIPS proceeding and a TPR proceeding is the remedy—the permanency of the parent-child separation. *Cf.* Minn. Stat. § 260C.001, subd. 3 (2006) (stating that purpose of CHIPS and TPR laws is to reunite parent and child when possible and to ensure that child is permanently placed in safe home when reunification is not reasonably foreseeable). Father's argument that the more temporary nature of a CHIPS placement means that "a parent may not particularly care about the CHIPS finding or may not vigorously contest it" is without merit. We find it incredible that in an action of any consequence a parent would lack the utmost incentive to fully litigate the question of whether he or she committed acts of sexual abuse against his or her own child.

Whether father had committed the alleged acts of sexual abuse against daughter was a central factual issue at both proceedings. And the determination of this issue was "necessary and essential" to the district court's conclusion in the CHIPS proceeding that daughter was in need of protective services. *See Falgren v. Bd. of Teaching*, 545 N.W.2d 901, 905 (Minn. 1996) (stating that collateral estoppel applies to issues "which were necessary and essential to the former resulting judgment"). Father had unfettered opportunity to contest this allegation at the CHIPS trial. And he took advantage of that opportunity. Father, represented by counsel, testified at the trial and presented witnesses on his own behalf. And other than inadmissible polygraph evidence, discussed below, father does not offer anything new to add beyond perhaps a more emphatic denial of the abuse. Thus, we conclude that the district court did not abuse its discretion by estopping father from relitigating this factual issue at the TPR trial.

II.

Father challenges the district court's decision to exclude the results of a polygraph test purporting to demonstrate that he was truthful when he denied sexually abusing his daughter. Evidentiary rulings are matters within the district court's sound discretion, and we will not disturb such rulings absent a clear abuse of that discretion. *Pedersen v. United Servs. Auto. Ass'n*, 383 N.W.2d 427, 430 (Minn. App. 1986).

Father advances several arguments as to why the district court should have admitted his polygraph evidence. In Minnesota, however, it is well-established that polygraph tests are inadmissible at trial. *State v. Litzau*, 377 N.W.2d 53, 55 (Minn. App. 1985). Indeed, we have explicitly stated that "Minnesota courts may not admit polygraph evidence under *any* circumstances." *Id.* (emphasis added) (holding that polygraph evidence is inadmissible even if the parties stipulate to its admissibility). Consequently, the district court did not abuse its discretion by excluding father's proffered polygraph evidence because there was no legal basis to admit it.

Affirmed.