STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1235

In re the Guardianship of Ahmed Elfatih-Ahmed Tawil.

Filed March 31, 2025
Affirmed
Connolly, Judge

Scott County District Court
File No. 70-PR-23-16755

Jason L. Schellack, Autism Advocacy & Law Center, Minneapolis, Minnesota (for appellant Rand Aliebeid)

Gregory P. Seamon, Gregory D. Dittrich, Oakdale, Minnesota (for respondent Elfatih Tawil)

Christopher Morris, Wornson Goggins, New Prague, Minnesota (for respondent Ahmed Tawil)

Considered and decided by Connolly, Presiding Judge; Worke, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant-mother challenges the appointment of herself and respondent-father as joint guardians of their son, arguing that the district court abused its discretion in not appointing appellant as sole guardian because respondent's procedural errors made him ineligible to be a guardian and it is not in their son's best interests for the parents to be appointed as co-guardians. We affirm.

FACTS

Appellant Rand Aliebeid and respondent Elfatih Tawil are respectively the mother and father of Ahmed Tawil, now 19. They are currently engaged in divorce proceedings. Ahmed was diagnosed as autistic when he was three years old, and he was determined to need a guardianship upon turning 18 years old and becoming an adult. Recently, Ahmed has also been determined to be incapacitated; to have a diagnosis of autism spectrum disorder, seizure disorder, and developmental disorder; to have limited communications skills; to require assistance to meet his daily needs; to have self-injurious behaviors; to lack understanding of his personal safety and the safety of others; to be unable to make decisions regarding appropriate medical treatment; to be in the severe range for persons with adult cognitive disabilities; and to be unable to give informed consent. The district court noted that, until Ahmed turned 18, the "[p]arties were certainly able to raise [him] together and cooperate in [his] best interest."

Until July 25, 2025, an Order for Protection (OFP) on behalf of appellant against respondent will be in effect. The OFP, which includes no admission or finding of domestic abuse, was issued with Stipulated Findings of Fact. It permits the parties to text each other to discuss Ahmed and respondent's work schedule as it relates to Ahmed's care and to communicate in person only for mediation of their divorce.[1] It also provided for a period of supervised visitation for respondent with Ahmed, and the parties selected L.F., who was

[1] In a criminal matter involving an alleged incident of domestic abuse by respondent, the criminal court filed a Domestic Abuse No Contact Order (DANCO). That DANCO was in effect when the OFP was filed, but expired in November 2024.

an alternative-dispute-resolution neutral and a parenting-time supervisor, to supervise that visitation.

About two months before Ahmed turned 18, appellant petitioned for appointment as his sole guardian. Respondent objected and petitioned for appointment of co-guardians, but later withdrew the petition and petitioned to be appointed as sole guardian himself. At a contested two-day evidentiary hearing in February 2024, both parents testified. Appellant also called as witnesses her sister and a teacher who had not had Ahmed in class for six years; respondent called L.F.

Following the hearing, the district court issued an order appointing both parents as Ahmed's co-guardians. Appellant challenges that order, arguing that the district court abused its discretion in disregarding respondent's procedural errors and appointing him as a co-guardian and in concluding that having the parties as co-guardians is in Ahmed's best interests.[2]

DECISION

"The appointment of a guardian is a matter within the discretion of the district court and will not be disturbed absent a clear abuse of that discretion" and "[t]he best interests of the [person subject to guardianship] should be the decisive factor in making any choice on his behalf." *In re Guardianship of Autio*, 747 N.W.2d 600, 603 (Minn. App. 2008) (quotation omitted). "A reviewing court is limited to determining whether the district

[2] Appellant also challenges the district court's determination that the DANCO then in effect did not preclude respondent's appointment as co-guardian. Because the DANCO has expired, that issue is now moot.

court's findings are clearly erroneous, giving due regard to the district court's determinations regarding witness credibility." *In re Guardianship of Wells*, 733 N.W.2d 506, 510 (Minn. App. 2007), *rev. denied* (Minn. Sept. 18, 2007).

I. Respondent's Procedural Errors

Appellant argues that the district court abused its discretion by appointing respondent as co-guardian because, as respondent admits, "procedural notice and petition requirements which led up to the initial hearing and following evidentiary hearing were not met by [r]espondent during the period that [r]espondent acted pro se." But appellant does not allege any harm caused by respondent's failure to meet the notice and other procedural requirements, and the district court responded to appellant's argument that respondent should be deprived of a hearing on his objection to appellant's petition by pointing out that respondent, despite the procedural flaws, had a legal right to file an objection to appellant's petition, saying, "That's what we're here for today." Appellant cites no legal support for her implied views that the appropriate remedy for procedural error is deprivation of a hearing and that it is an abuse of discretion to proceed with a hearing if one party has failed to meet all the procedural requirements. Inadequately briefed issues are not properly before an appellate court and are forfeited. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982).

II. Appointment of Co-guardians

The district court found that appellant and respondent "are both qualified to be Ahmed's guardian" because both have "knowledge and understanding of [their] son's condition and needs"; they "demonstrate an ability and willingness to provide the necessary

care for their son"; and "a co-guardianship remains in the best interest of Ahmed." Although appellant argues that respondent has not been actively involved in Ahmed's life or in making decisions about him, respondent's testimony supports the district court's finding that respondent knows and understands Ahmed's condition and needs. Respondent testified that Ahmed is not completely nonverbal and can read books out loud, that he likes to be outside and run, about a quarter of a mile, with respondent; that respondent can adapt his work schedule to care for Ahmed because he has a lot of seniority at his workplace, having been continuously employed there since 2005 as an airplane mechanic, which has been his job since 1993; that respondent was Ahmed's primary caregiver when appellant was training for her new job; that respondent has always been the primary wage earner for the family; that, when respondent and appellant had a dispute over Ahmed's medication, appellant told respondent that Ahmed's medication was "no longer any of [his, i.e., respondent's] business"; that respondent did not agree with appellant's testimony that she was not obliged to keep him informed about Ahmed's medication as a wife but might be obliged to do that as a guardian; that respondent would be willing to share all information with appellant if he were a co-guardian; and that respondent thinks Ahmed needs to spend more time with other children and more time outside, running, and playing.

Some of respondent's testimony concerned Ahmed's diet. Respondent testified that Ahmed doesn't like the food appellant allows him to eat, so during respondent's supervised visitation and, at L.F.'s suggestion, respondent went to a restaurant where he could get Ahmed's favorite food, and Ahmed ate almost all of it by himself; that appellant insists on an unnecessary gluten-free diet for Ahmed, who has had no testing for gluten or caffeine

or lactose intolerance; that respondent thinks Ahmed is often "hangry," or "hungry and angry," because Ahmed doesn't like or eat the food appellant gives him; that Ahmed likes pancakes but not the sugar-free syrup appellant permits, so respondent got him honey; and that Ahmed has experienced no ill effects from eating what respondent gives him.

Respondent also testified that, although appellant loves Ahmed, she restricts him too much, and that respondent's greatest fear if appellant were Ahmed's sole guardian is that she would restrict respondent's access to Ahmed, as happened after May 2023, when he did not see Ahmed until January 2024. He testified further that Ahmed now has a routine for being at respondent's apartment and is comfortable there; that because respondent understands that autistic people thrive on routine, he developed a routine that facilitates Ahmed's personal hygiene; that respondent bases everything he does with Ahmed on Ahmed's response or feedback; and that respondent's primary concern about who is awarded the homestead is Ahmed's comfort. As to the supervised visitation, respondent testified that he enjoyed his sessions with Ahmed, it was "[g]ood to see [Ahmed] smiling again" after a few supervised visits, and respondent thought L.F. would understand the needs of an autistic child after he met her on Zoom. Finally, respondent testified that he could not get information about Ahmed when he asked for it because respondent was not listed as one of those to whom information was supposed to be released and that respondent has looked into schools and thinks a different school would be better for Ahmed.

The district court also relied on L.F.'s testimony. She testified that the district court ordered her to first observe Ahmed at his school without either parent present and that she spent about 80 minutes talking with staff, who explained that Ahmed had been expelled

because his behavior deteriorated after his parents' separation, and he had injured several employees. She also spent 20 minutes observing Ahmed, who had been reenrolled under maximum restriction and was in a very large room with no other children and two providers in body pads; he was withdrawn and silent—"absent"—while L.F. observed him.

L.F. testified further that the relationship between respondent and Ahmed was very "positive" and intimate. When she first saw Ahmed with respondent, Ahmed squeezed close to respondent and tears came to his eyes, which L.F. interpreted as Ahmed's being glad and a bit overwhelmed to see respondent after seven months. She said Ahmed's behavior "expanded" over the course of the visits; Ahmed's gestures and expressions of happiness increased, he used words much more frequently and would indicate agreement or make requests; he wanted to interact with respondent, and he was fully engaged with respondent and not with L.F.

One issue that affected Ahmed's mood and happiness concerned food. L.F. testified that respondent explained to her that appellant's preferences for Ahmed's diet are gluten free, dairy free, no red meat, and no variation from her limited menu, which Ahmed does not want to eat. In fact, during one of L.F.'s observations, Ahmed bolted from the restaurant table. L.F. testified that she asked respondent if a primary-care physician had ordered the restrictions; respondent said no, and L.F. suggested they buy a different lunch and see if that solved the problem. L.F. testified further that, because respondent was very reluctant to do anything that would upset appellant, L.F. told respondent that she would take responsibility for Ahmed trying a different meal. L.F. said that, when Ahmed ate it,

she realized that not liking the food appellant insists he eat is "what the [bolting] behavior was about."

L.F. testified that, although she had been told that Ahmed was nonverbal, she watched him read a children's book to his father and noticed "how he expressed himself more fully with each visit, that he really had a capacity to communicate some things. . . . [Respondent] had a better understanding of it than I did." L.F. also said she realized that Ahmed could read when they were waiting in a place where there was a Bud Lite ad on the table; Ahmed looked at it and said "light," although there was nothing in the ad to suggest that word. And respondent said, "yes, he can read." Ahmed later read the children's book to her, each word on each page.

L.F. chose the word "attunement" to describe respondent's relationship with Ahmed, saying respondent encouraged Ahmed to express himself but could quickly react to what Ahmed enjoyed or didn't enjoy and said there was "a very secure attachment between father and child." She also said the attachment of Ahmed to respondent "was something in existence prior to [her] involvement. It wasn't anything that [she] brought about. And in fact, [she] never had to intervene or redirect other than that one suggestion about [the restaurant]."

When asked if she had an opinion about who would be in the best position to serve Ahmed's needs as guardian, L.F. answered:

> My opinion is that if guardianship were to remain solely with [appellant], that Ahmed might never be allowed time with [respondent] in his residence, you know the usual kind of parenting time split plan with parents who are divorced. And I would be really afraid that he would deteriorate once again to

> the point where he . . . was at [the school], withdrawn and unable to have a bigger life.

L.F. was then asked whether Ahmed has a better chance at reaching his full potential with respondent or appellant as guardian and said, "I can't speak to what [appellant] would do" because, "during the nine weeks that we worked together, [appellant] never once greeted me, waved at me. . . . So . . . we didn't form any kind of exchange that involved communications." As to respondent, L.F. said she felt

> confident that [respondent] wants Ahmed to have as big a life and as big a world as he is capable of. And I concur [with respondent] that Ahmed has potential that could and should be explored, and I think [respondent] is able to move from the parent role to incorporate a guardian role where the job is to elicit and respect the choices that that individual is able to make. . . . [And] he may want to eat [the food at his favorite restaurant].

We believe this testimony supports the district court's decision that a co-guardianship was in the best interest of the parties' child. Our decision is governed by our standard of review; as previously stated, it is an abuse of discretion. We are not allowed to reweigh the evidence. *See In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021). Based on this record, we conclude that the district court did not abuse its discretion in appointing both parties as Ahmed's co-guardians.

Affirmed.