STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1670

In the Matter of the Welfare of the Child of:
M. K. B., aka M. K. L. B., aka M. K. B. L., aka M. K. L.,
C. A. C., B. J. N., Parents.

Filed March 24, 2025
Reversed and remanded
Larson, Judge

St. Louis County District Court
File No. 69HI-JV-23-61

Delmar V. Flynn, Rachel L. Osband, Fiddler Osband Flynn, LLC, Minnetonka, Minnesota (for appellants S.L. and R.M.L.)

Kimberly Maki, St. Louis County Attorney, Jessica G. Foschi, Assistant County Attorney, Hibbing, Minnesota (for respondent St. Louis County Public Health and Human Services)

Karen Olson, Hibbing, Minnesota (guardian ad litem)

Considered and decided by Slieter, Presiding Judge; Cochran, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

This case involves the permanent placement of K.M.C. (the child). The child's grandparents, appellants S.L. (grandmother) and R.L. (grandfather),[1] challenge the district

[1] S.L. and R.L. adopted the child's mother, as an adult, in March 2023. Because they are the child's legal grandparents under the statutes applicable to this case, we refer to them as grandparents throughout. *See* Minn. Stat. § 260C.007, subd. 27 (2024) (defining "relative" to include "a person related to the child by . . . adoption").

court's decision to deny their motion for adoptive placement. They argue that the district court improperly weighed the evidence and used an incorrect legal standard when denying their motion at the prima facie stage. Because we agree with grandparents, we reverse and remand.

FACTS

The following summarizes the record on grandparents' motion for adoptive placement, which includes the district court's order appointing the commissioner of human services as the child's guardian and terminating parental rights to the child. Because grandparents' motion pertained only to the child's adoption proceedings, this opinion focuses on the child, but we also refer to the child's siblings to provide context.

Mother's child-protection history

Respondent St. Louis County Public Health and Human Services (the county) has been aware of the child's mother, M.K.B. (mother), since October 2017. Mother's three older children (the siblings) were removed from her care and placed in foster care in October 2021. The removal followed investigations into "allegations of neglect and truancy . . . , drug use and domestic violence in the home, drug sales in front of siblings, [and] statements about [mother's] threats to kill her children and commit suicide." Due to mother's inability to comply with the case plans and district court orders, the county filed a permanency petition for the siblings on July 14, 2022.

A few months later, mother gave birth to the child. Before the child was released from the hospital in November 2022, the child was removed from mother's care pursuant to a law-enforcement hold, and the county filed a child in need of protection or services

(CHIPS) petition. The district court held an emergency protective case hearing and granted the county temporary custody of the child. After the county placed the child in foster care, mother lived with grandparents from November 2022 to September 2023. Grandparents legally adopted mother—as an adult—in March 2023. Mother completed a period of in-patient treatment in June 2023 and moved into her own apartment in September 2023. Mother then engaged in trial home visits with the child and siblings. During those visits, the child and siblings spent time with grandparents.

On March 12, 2024, the county received concerning information about mother and decided to return the child and siblings to foster care. The child and siblings were located at grandparents' house. When county employees arrived to transport the child and siblings, grandmother became upset in the presence of the child and siblings, and an altercation ensued. The child has remained in foster-care placement since that time.

Grandmother's childcare-licensing history

Grandmother once operated an in-home daycare. She provided childcare to the siblings before they were placed in foster care. The Department of Human Services (DHS) investigated grandmother's in-home daycare in December 2021, which revealed issues of child maltreatment by neglect, endangerment, and improper supervision. Specific issues included "dirt, clutter, biting dogs, and a lack of designated sleeping areas in the home." In September 2022, grandmother, DHS, and the county reached an agreement regarding grandmother's childcare license (the settlement agreement). The settlement agreement provided that grandmother would "surrender her family childcare license"; "not reapply for a license . . . prior to ten years of the date of the settlement"; and refrain "from providing

legally unlicensed childcare." Under the terms of the settlement agreement, grandmother cannot apply for any DHS-issued license until 2032. But the settlement agreement does not "limit DHS' authority to take further licensing action" under "applicable licensing laws and rules should circumstances so warrant."

The child's CHIPS and termination proceedings

Following the district court's decision to grant the county temporary custody over the child, the county completed "relative searches" as part of the child's alternative permanency plan. The county completed the first relative search on February 28, 2023, and the second on May 18, 2023. The county found no relatives for permanency placement and recommended that the child remain in her out-of-home placement. Neither search identified grandparents as potential relatives and, accordingly, the county did not send grandparents a placement-notification letter.

On June 1, 2023, the county petitioned to terminate all parental rights to the child. In May 2024, mother and the biological father voluntarily terminated their parental rights, and the legal father's parental rights were involuntarily terminated.[2] The district court placed the child in the custody of the commissioner of human services for adoptive placement. At this time, grandparents began the process of obtaining an adoption home study. Before they could begin that process, grandmother needed to receive permission for the adoptive home study from DHS because of the terms of the settlement agreement. DHS

[2] Genetic testing confirmed that C.C. is the biological father of the child. But mother and B.N. were married at the time of the child's birth and currently have an unresolved open dissolution file, meaning they remain married, and B.N. was the child's legal father and joint custodial parent.

allowed grandparents to obtain an adoption home study, and the first home visit occurred on August 5, 2024.

At a post-permanency review hearing on August 1, 2024, grandparents notified the district court of their forthcoming motion for adoptive placement, requested that they receive notices in the matter, and provided the county with a copy of mother's adoption decree. Grandparents formally filed their motion for adoptive placement and permissive intervention on September 10, 2024. To support their motion, grandparents asserted that the county unreasonably failed to include them in the relative search or consider them as a permanency option for the child because they had relative status and were highly involved in mother's and the child's life. Grandparents included a copy of mother's adoption decree and the relative-search lists that excluded grandparents and other extended family members. Grandparents also provided evidence that they started working to obtain an adoption-only home study in May and proceeded with the application after receiving permission from DHS. An affidavit from an adoption-agency employee specified that: grandparents' application for an adoption-only "home study was deemed completed on August 26, 2024"; the adoption agency had "120 days to complete the process from that application date"; and "there [were] concerns that will need to be addressed, which [would] likely make the process take longer than 120 days."

The district court held a post-permanency review hearing on September 12, 2024, where it set a motion hearing for September 19, 2024, to address grandparents' motion. On September 18, 2024, the county filed a responsive motion to dismiss. The county argued that grandparents failed to make a prima facie showing that the county was unreasonable

in failing to place the child with grandparents because grandmother cannot apply for a foster-care license. The county attached the settlement agreement to the motion.

After the motion hearing, the district court granted the county's motion to dismiss and denied grandparents' motion in its entirety. The district court stated that it "accept[ed] all arguments of the [grandparents] as true," but also noted that grandparents referenced the settlement agreement and licensing issues in their pleadings and supporting documents. As relevant here, the district court determined that, even taking grandparents' statements as true, the petition was insufficient to overcome the fact that grandmother could not obtain a foster-care license under the settlement agreement. Thus, the district court concluded that the county's placement actions were reasonable.

Grandparents appeal.

DECISION

Grandparents challenge the district court's decision to deny their motion for adoptive placement.[3] To analyze grandparents' arguments, we first provide an overview of the relevant child-protection laws and then address the merits of their claims.

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[3] Grandparents also challenge the district court's decision to deny their motion for permissive intervention. Under Minn. Stat. § 260C.605, subd. 1(d)(4)(i) (2024), grandparents were entitled to notice of the adoption proceeding involving the child because they are the child's legal grandparents. As such, because grandparents have "informed the court of their whereabouts and willingness to adopt" the child, and they have not been ruled out as a potential placement because we reverse and remand for an evidentiary hearing, grandparents are parties in the permanent-placement matter. *In re Welfare of Child. of M.L.S.*, 964 N.W.2d 441, 450 (Minn. App. 2021); Minn. R. Juv. Prot. P. 32.01, subd. 3(b); Minn. Stat. § 260C.605, subd. 1(d)(4)(i)(A). If, at some point during these proceedings, grandparents are "ruled out" as a potential placement, we note that "they may regain party status if the district court grants" a motion for permissive intervention. *See M.L.S.*, 964 N.W.2d at 451. If such a circumstance were to occur, the district court should focus its

I.

"The paramount consideration in all juvenile protection proceedings is the health, safety, and best interests of the child." Minn. Stat. § 260C.001, subd. 2(a) (2024). When a child is adjudicated CHIPS, "a two-tracked process begins." *In re Welfare of Child. of M.L.S.*, 964 N.W.2d 441, 449 (Minn. App. 2021). The first aims at reunifying the child with the parents. *Id.*; *see also* Minn. Stat. § 260.012(a) (2024). The second, "called concurrent permanency planning," seeks to identify an alternative potential permanent home for the child if reunification efforts fail. *M.L.S.*, 964 N.W.2d at 449; *see also* Minn. Stat. §§ 260C.223, subd. 1(b) (describing and setting goals for concurrent permanency planning), 260.012(k) (stating that counties may pursue permanent placement concurrently with reasonable efforts to reunify a child with a parent) (2024).

Under the second track, Minnesota law directs the county to prioritize "relatives," including "important friend[s],"[4] when considering placement options for the child. Minn. Stat. § 260C.212, subd. 2(a) (2024) (regarding selection of a family foster home). To involve such individuals in the process, counties must "exercise due diligence to identify and notify adult relatives." Minn. Stat. § 260C.221, subd. 1(a) (2024). The relative search must "be comprehensive in scope." *Id.* The county "has a *continuing responsibility* to

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analysis on whether it is in the child's best interest for grandparents to be a party to the case. *See id.* at 455.

[4] Under the relevant statutes, a "relative" includes "a person related to the child by blood, marriage, or adoption; . . . or *an individual who is an important friend of the child or of the child's parent or custodian*, including an individual . . . who has a significant relationship to the child or the child's parent or custodian." Minn. Stat. § 260C.007, subd. 27 (emphasis added).

search for and identify relatives of a child," and must "send the [required] notice to relatives . . . under subdivision 2." *Id.*, subd. 1(c) (2024) (emphasis added). All relative-search findings must be reported to the district court. Minn. R. Juv. Prot. P. 27.04, subds. 1(a), 2.

Where, as here, the first track fails and parental rights to the child are terminated, the district court may appoint the commissioner of human services as the child's guardian. Minn. Stat. § 260C.325, subd. 1(a) (2022).[5] Then, returning to the second track, the county—acting on behalf of the commissioner—must make "reasonable efforts to finalize [an] adoption." *See* Minn. Stat. § 260C.601, subd. 2 (2024); *see also* Minn. Stat. §§ 260.012(e)(6) (defining "[r]easonable efforts to finalize a permanent plan" to include "when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child"), 260C.605, subd. 1 (providing the requirements for using reasonable efforts to finalize an adoption) (2024). "Reasonable efforts" include, among other things, identifying an appropriate prospective adoptive parent based on an updated assessment of child's needs, Minn. Stat. § 260C.212, subd. 2(b) (2024), and performing an up-to-date relative search, Minn. Stat. § 260C.605, subd. 1(d)(3)-(4)(i). Throughout this process, relatives continue to receive priority consideration for placement. *See* Minn. Stat. § 260C.605, subd. 1(b).

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[5] In accordance with the then-applicable statute, the district court appointed the commissioner of human services as the child's guardian. *See* Minn. Stat. § 260C.325, subd. 1(a) (2022). A few weeks later, a revision to the relevant statute took effect that created the Department of Children, Youth, and Families. *See* 2024 Minn. Laws ch. 80, art. 8, § 70 (effective July 1, 2024). Under the revisions, when a parent's rights to a child are terminated, the district court may now appoint "the commissioner of children, youth, and families," rather than "the commissioner of human services" as a child's guardian. *See id.*; Minn. Stat. § 260C.325, subd. 1(a) (2024).

For a relative to be an adoptive-placement option for "any child under the guardianship of the commissioner," the relative must complete "[a]n adoption study under section 259.41 approving placement of the child in the home of the prospective adoptive parent." Minn. Stat. § 260C.611(a) (2024). As part of the approval process, the relative "is subject to a background study." Minn. Stat. § 259.41, subds. 1(b), 2(a)(1), 3 (2024). The report completed at the end of the study then "contain[s] recommendations regarding the suitability of the [relative] to be an adoptive parent." *Id.*, subd. 2(b) (2024).

When the county does not select a relative for adoptive placement, the relative may, within the statutory time period, move the district court for adoptive placement of the child. Minn. Stat. § 260C.607, subd. 6(a) (2024). If, at this time, the relative does not have the required adoption home study approving the relative as an adoptive placement, "an affidavit attesting to efforts to complete an adoption home study may be filed with the motion instead." *Id.*, subd. 6(a)(2).

The procedure for an adoptive placement motion is divided into several stages. *In re Welfare of L.L.P.*, 836 N.W.2d 563, 570-71 (Minn. App. 2013); *see also* Minn. Stat. § 260C.607, subd. 6 (2024) (setting out statutory process for the motion). First, "[t]he [relative's] motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement [with the relative]." Minn. Stat. § 260C.607, subd. 6(b). The supreme court has stated that a relative makes a prima facie showing "by *alleging* facts that, if true, would provide sufficient grounds for [the relief sought]." *Woolsey v. Woolsey*, 975 N.W.2d 502, 507 (Minn. 2022) (emphasis added); *see also Tousignant v. St. Louis County*, 615 N.W.2d 53,

59 (Minn. 2000) (stating that a prima facie case "means one that prevails in the absence of evidence invalidating it" (quotation omitted)). As a result, to make a prima facie showing, the relative "need not *establish* anything. [The relative] need only make allegations which, if true, would allow the district court to grant the relief [the relative] seeks." *Amarreh v. Amarreh*, 918 N.W.2d 228, 231 (Minn. App. 2018), *rev. denied* (Minn. Oct. 24, 2018).[6] If the district court concludes that the relative failed to make a prima facie showing, "the court shall dismiss the motion." Minn. Stat. § 260C.607, subd. 6(c). But if the district court concludes that "a prima facie basis is made," then "the court shall set the matter for evidentiary hearing." *Id.*

If there is an evidentiary hearing, the county presents evidence to support its decision not to make an adoptive placement with the relative. *Id.*, subd. 6(d). Thereafter, the relative "has the burden of proving by a preponderance of the evidence that the [county] has been unreasonable in failing to make the adoptive placement." *Id.* The district court may order the county to make an adoptive placement with the relative if, at the conclusion of the hearing, the district court finds that: (1) "the [county] has been unreasonable in failing to make the adoptive placement" sought by the relative; and (2) the relative provides "the most suitable adoptive home to meet the child's needs using the factors in section 260C.212, subdivision 2, paragraph (b)." *Id.*, subd. 6(f).

[6] We note that conclusory, vague, or unsupported allegations are insufficient to demonstrate a prima facie showing. *See Szarzynski v. Szarzynski*, 732 N.W.2d 285, 292 (Minn. App. 2007); *cf. Miller v. Miller*, 953 N.W.2d 489, 494 (Minn. 2021) (stating, in the context of a motion to intervene, that "the court must accept the allegations in the pleadings as true, unless they are frivolous on their face").

With this legal context in mind, we proceed to analyze the merits of grandparents' claims.

II.

Grandparents challenge the district court's decision to deny their motion for adoptive placement at the prima facie stage, without an evidentiary hearing. We review this decision in three steps. *See L.L.P.*, 836 N.W.2d at 570. First, we "review de novo whether the district court properly treated [grandparents'] supporting documents." *Id.* Second, we review for an abuse of discretion the district court's determination that grandparents failed to make a prima facie showing. *Id.* And third, we review de novo the district court's denial of an evidentiary hearing. *Id.* Whether grandparents made a prima facie showing is dispositive of the need for an evidentiary hearing. *Id.* We consider each step in turn.

A. Treatment of Supporting Documents

Grandparents first argue the district court did not give the parties' supporting documents proper treatment. When evaluating an adoptive-placement motion at the prima facie stage, the district court cannot weigh the relative's allegations against the county's allegations; it must accept the relative's allegations as true. *Id.* at 570-71. And while the district court can consider documents the county submits in response to the motion, it can do so only to assist in explaining or providing context to the relative's allegations. *Id.* at 570.

Here, grandparents argue the district court improperly weighed the evidence in two respects. First, grandparents assert the district court ignored their allegations that the

county never considered them as a relative placement option for the child and disregarded their familial status. Second, grandparents argue the district court improperly weighed the evidence regarding the termination of grandmother's childcare license. We agree with grandparents on both accounts.

With respect to the unreasonableness of the county's treatment of grandparents in the adoptive-placement process, the district court's order demonstrates that it weighed the county's allegations against grandparents' allegations. For example, grandparents alleged that the county failed to include grandparents in their relative-search notifications despite knowing of grandparents' familial status and interest in being a placement option. In response, the county argued that: grandparents could not have been a placement option earlier in the process because mother was residing in grandparents' home; grandparents communicated with the county's employees, demonstrating that the county did not ignore their requests to be involved in the child's life; and grandparents failed to inform the county that they had adopted mother until August 1, 2024. Therefore, the county asserted that its failure to include grandparents as a relative placement option was reasonable.

The district court then found that grandparents

> assert that [the county] knew that [grandparents] legally adopted the mother; however, [they] do not allege when or how this notice occurred. [Grandparents] state that through their counsel, they provided a copy of the adoption decree to [the county] on August 1, 2024. [The county] agrees that the August 1, 2024, notice is the first verification of [grandparents'] adoption of the mother it has received. Adoption cases in the State of Minnesota are confidential and not open to the public or non-parties except by Court Order. [The county] could not access any adoption orders and was

> without ability to verify [grandparents'] legal standing until August 1, 2024, when [grandparents] provided said verification.

To make this determination, the district court accepted the county's allegation that it lacked knowledge that grandparents adopted mother until August 1, 2024, as a fact and weighed it against grandparents to determine that the county acted reasonably when it failed to include them in the relative search. This was plainly an improper weighing of the evidence, given that: (1) the statute defines "relative" broadly to include not only legal relatives, but also "important friend[s] . . . who ha[ve] a significant relationship to the child or the child's parent or custodian," Minn. Stat. § 260C.007, subd. 27; (2) grandparents made numerous allegations regarding their long-term relationship with the child; (3) grandparents made broad allegations regarding the county's knowledge of that relationship; and (4) the county acknowledged grandparents' significant relationship with mother and involvement in the child's life throughout the CHIPS proceedings. Therefore, we conclude that the district court did not accept grandparents' allegations as true, which it must at the prima facie stage. *See L.L.P.*, 836 N.W.2d at 570-71.

With respect to the prior termination of grandmother's childcare license, grandparents alleged that they were in the process of completing their adoption home study, with DHS's approval, and attached an affidavit from an adoption-agency employee attesting to their progress. In response, the county argued that grandparents made no efforts to remedy grandmother's inability to obtain a foster-care license, which it claimed was a determinative barrier to becoming a relative placement.

When reviewing this issue, we acknowledge that the district court explicitly stated that it reviewed the settlement agreement only for context. But a close reading of the district court's order demonstrates that it weighed the substance of the settlement agreement, and the county's interpretation of the settlement agreement, against the grandparents' interpretation. First, when analyzing the reasonableness of the county's actions, the district court specifically found the county's childcare-licensing arguments "conclusive as to the question of reasonableness in placement" and described grandmother's alleged inability to obtain a foster-care license as an "ultimate barrier to placement."[7] To make this decision, the district court used the language in the settlement agreement to justify the county's decision not to consider grandparents as an adoptive home placement. Second, the district court used the settlement agreement to contradict grandparents' assertions that DHS permitted the required adoption home study and that their approval process was underway. Specifically, the district court used the settlement agreement to support its finding that grandparents "show little regard for the bond the minor child has formed with her current pre-adoptive placement" because grandparents "were aware of the prohibition against foster care licensure and took no action to remedy this barrier to placement." Even further, the district court used the settlement agreement to support its decision that it was unlikely grandparents could ultimately obtain adoptive-placement approval "given their history." Therefore, we conclude that the district court

[7] A foster-care license is not a legal prerequisite to being considered for adoptive placement. As described above, the statute requires an adoption home study, not a foster-care license. *See* Minn. Stat. § 260C.611(a).

did not accept grandparents' allegations that they complied with the requirements to be an adoptive placement as true.

For these reasons, we conclude the district court did not give the parties' documents appropriate consideration when deciding grandparents failed to make a prima facie showing. *See id.*

B. Prima Facie Showing

Grandparents next argue the district court abused its discretion when it determined grandparents did not make a prima facie showing that the county's decision not to place the child in their care was unreasonable. "A district court abuses its discretion by making findings of fact that are unsupported by evidence, misapplying the law, or delivering a decision that is against logic and the facts on the record." *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quotation omitted). Here, grandparents specifically challenge the district court's legal conclusion that they were ineligible for adoptive placement because grandmother could not obtain a foster-care license. Again, we agree with grandparents.

The district court determined that grandmother's inability to obtain a foster-care license was "conclusive as to the question of reasonableness in placement." But, as detailed above, the statute requires an adoption home study, not a foster-care license, to be considered for adoptive placement. *See* Minn. Stat. § 260C.611(a). And, as the county acknowledges on appeal, the county's inability to legally place a child in a relative's care throughout the CHIPS proceeding—which requires a foster-care license under Minn. Stat. § 245A.03, subd. 1(2) (2024)—is a separate and distinct requirement from the adoption-home-study process that is required before considering whether an adoptive placement with

a relative is reasonable and in the child's best interests. *See* Minn. Stat. § 260C.611(a) (stating requirement of adoption home study prior to placement, but also recognizing prospective adoptive parent with current foster-care license may qualify without adoption home study if certain factors are met).

Here, taking the allegations in grandparents' petition as true, DHS has specifically allowed grandparents to proceed with an adoption home study, and an affidavit from an adoption-agency employee attests that this study was underway. Under Minn. Stat. § 260C.607, subd. 6, this affidavit meets the requirements for bringing an adoptive-placement motion, and the district court's reliance on grandmother's inability to obtain a foster-care license as conclusive evidence that an adoptive placement was per se unreasonable is legally erroneous. Because this was the primary basis upon which the district court determined that grandparents failed to meet their burden to set forth a prima facie showing, we conclude that the district court abused its discretion.

C. Evidentiary Hearing

Grandparents finally assert the district court erred when it denied them an evidentiary hearing. Usually, the first two steps of our review are dispositive of whether an evidentiary hearing is warranted. *See* Minn. Stat. § 260C.607, subd. 6(c) ("If the court determines a prima facie basis is made, the court shall set the matter for evidentiary hearing."); *see also, e.g.*, *L.L.P.*, 836 N.W.2d at 570 (stating that whether a party makes a prima facie showing "is dispositive of whether an evidentiary hearing will occur" (quotation omitted)); *In re Welfare of Child. of B.L.W.*, No. A20-1426, 2021 WL 1525232,

at *7 (Minn. App. Apr. 19, 2021) (concluding first two elements are dispositive).[8] Here, we discern that the district court erred in its treatment of the parties' supporting documents and abused its discretion when it determined grandparents did not make a prima facie showing because of grandmother's inability to obtain a foster-care license. Accordingly, we reverse and remand to the district court with instructions to hold an evidentiary hearing on grandparents' motion for adoptive placement. We express no opinion on the merits or outcome of the evidentiary hearing.

Reversed and remanded.

[8] Because *B.L.W.* is nonprecedential and, therefore, not binding, we cite it as persuasive authority only. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).