

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2024 ND 63

In the Matter of the Adoption of T.J.R. and B.L.R., minor children

C.A.R. and T.C.R., Petitioners and Appellees

v.

J.-J.E.W. Respondent and Appellant

and

J.T.W., and the North Dakota
Department of Human Services, Respondents

No. 20240056

Appeal from the District Court of Burke County, North Central Judicial
District, the Honorable Douglas L. Mattson, Judge.

AFFIRMED.

Opinion of the Court by Tufte, Justice.

Aften M. Grant, Minot, N.D., for petitioners and appellees; submitted on brief.

Eric P. Baumann, Minot, N.D., for respondent and appellant; submitted on
brief.

Adoption of T.J.R. and B.L.R.
No. 20240056

Tufte, Justice.

[¶1] J.W., a father, appeals from an order terminating his parental rights. On appeal, he argues the district court abused its discretion by bifurcating the issue of termination and holding in abeyance the motion to waive investigation and report. He also argues the district court's finding that he abandoned the children is clearly erroneous, and the court abused its discretion by terminating his parental rights. We affirm the order terminating his parental rights and the order bifurcating the issue of termination and holding in abeyance the motion to waive investigation and report.

I

[¶2] C.R. and T.C.R. filed a petition and amended petition for termination of parental rights and adoption of T.J.R. and B.L.R., their nephews. The Petitioners have been co-guardians of the children since 2018. J.W. is the father of T.J.R. and B.L.R. The mother voluntarily relinquished her parental rights.

[¶3] Petitioners filed a motion to waive investigation and report under N.D.C.C. § 14-15-11(5). J.W. opposed the motion. A hearing was held on the matter. The court held in abeyance the issue of waiver of the investigation and report and ordered an evidentiary hearing on the issue of termination.

[¶4] An evidentiary hearing was held. The district court granted the petition to terminate parental rights. J.W. appeals.

II

[¶5] J.W. argues the district court abused its discretion by bifurcating the issue of termination of parental rights and by holding in abeyance the motion to waive investigation and report.

[¶6] Petitioners filed a motion to waive investigation and report, arguing the conditions of N.D.C.C. § 14-15-11(5) are met because the petitioners are relatives of the children, the children have lived with them for more than nine

months, and no allegations of abuse or neglect have been filed against the Petitioners. J.W. opposed the motion, arguing if the conditions of N.D.C.C. § 14-15-11(5) are met, the waiver is discretionary by the court and is inappropriate because Petitioners' assertions are conclusory, and the investigation is an important safeguard that should not be waived here. The Petitioners responded and requested the issues of adoption and termination be bifurcated "so that the Court may hear and decide the issue of termination of parental rights *prior* to requiring the Petitioners to procure a costly investigation that may not ultimately be needed if termination is denied." A hearing was held on the matter. The court held the issue of waiver of the investigation report in abeyance and ordered an evidentiary hearing on the issue of termination be scheduled.

[¶7] "For convenience or to avoid prejudice, the court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims." N.D.R.Civ.P. 42(b). "Generally, a trial court's ruling on bifurcation of trials will not be overturned on appeal unless the complaining party demonstrates the court abused its discretion." *Ted J. Boutrous, L.L.C. v. Transform Operating Stores, LLC*, 2023 ND 35, ¶ 30, 987 N.W.2d 350 (cleaned up). A district court abuses its discretion when it acts in an arbitrary, unreasonable, or unconscionable manner; its decision is not the product of a rational mental process leading to a reasoned decision; or it misinterprets or misapplies the law. *Id.*

[¶8] "An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor." N.D.C.C. § 14-15-11(2). "A written report of the investigation must be filed with the court by the investigator before the petition is heard." N.D.C.C. § 14-15-11(3). The investigation and report may be waived:

If the petitioner is a court-appointed legal guardian or a relative other than a stepparent of the minor, the minor has lived with the

petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.

N.D.C.C. § 14-15-11(5).

[¶9] Section 14-15-19, N.D.C.C., provides: "The rights of a parent with reference to a child, including parental right to control the child or to withhold consent to an adoption, may be relinquished and the relationship of parent and child terminated *in or before an adoption action* as provided in this section." (Emphasis added.) "[A] decree terminating all rights of a parent with reference to a child . . . dispenses with the consent to adoption proceedings of a parent whose rights or parent and child relationship are terminated by the decree and with any required notice of an adoption action[.]" N.D.C.C. § 14-15-19(4). Under N.D.C.C. § 14-15-06(1)(e), consent of an adoption is not required from a "parent whose parental rights have been terminated by order of court under section 14-15-19."

[¶10] The district court held a hearing on the issue of waiver of the investigation and report and concluded:

After having reviewed the filings, along with the testimony of [Petitioner] in support of the motion, along with the arguments by all of the parties, this Court finds logic in [Petitioners'] motion to waive the investigation and report, yet perceives the motion is really putting the cart before the horse in that this Court has not yet ruled on the termination of parental rights portion of [the] petition. This conclusion is buttressed by [J.W.'s] opposition to the motion which could lead to additional time and money before this case would be resolved. So yes, taking judicial economy into account in small part, and to a greater part that issue of a home investigation and report is not ripe for consideration, this Court holds in abeyance [the] Motion to Waive Investigation and Report of Licensed Child-Placing Agency. The Court deems it appropriate and proper for it to will move forward and focus on the termination of parental rights portion of the [] Petition.

[¶11] J.W. does not dispute the Petitioners are relatives of the children and have been guardians of the children for at least nine months. J.W. testified the Petitioners should continue as guardians of the children. He does not dispute that the Petitioners' home is appropriate for the children. The district court deferred the time and expense of the investigation and report until it had determined those were necessary. Considering the long-term placement of the children in the Petitioners' home, the court's decision is the product of a rational mental process leading to a reasoned decision. The district court did not abuse its discretion by bifurcating the issue of termination of parental rights and holding in abeyance the motion to waive investigation and report.

III

[¶12] J.W. argues the district court's finding that he abandoned the children is clearly erroneous. He further argues the court abused its discretion by terminating his parental rights. After reviewing the record, we conclude the district court did not clearly err by finding J.W. abandoned the children, and did not abuse its discretion by terminating his parental rights under N.D.C.C. § 14-15-19. We summarily affirm under N.D.R.App.P. 35.1(a)(2) and (4).

IV

[¶13] We affirm the order terminating J.W.'s parental rights and order bifurcating the issue of termination and holding in abeyance the motion to waive investigation and report.

[¶14] Jon J. Jensen, C.J.
Daniel J. Crothers
Lisa Fair McEvers
Jerod E. Tufte
Douglas A. Bahr