STATE OF MINNESOTA

IN SUPREME COURT

A18-1616

Court of Appeals

Gildea, C.J.
Concurring, Lillehaug, Chutich, JJ.

T. G. G.,

Appellant,

vs.

Filed: June 17, 2020
Office of Appellate Courts

H. E. S.,

Respondent,

A. F. K., et al.,

Respondents.

Kay Nord Hunt, Michelle K. Kuhl, Lommen Abdo, P.A., Minneapolis, Minnesota; and

John J. Neal, Willenbring, Dahl, Wocken & Zimmerman, PLLC, Cold Spring, Minnesota, for appellant.

Jody Ollyver DeSmidt, DeSmidt Rabuse PLLC, Minneapolis, Minnesota, for respondent H.E.S.

Mark D. Fiddler, Fiddler Osband, LLC, Edina, Minnesota, for respondents A.F.K. et al.

Keith Ellison, Attorney General, Michael N. Leonard, Assistant Attorney General, Saint Paul, Minnesota, for amicus curiae Minnesota Department of Human Services.

Brittany Shively, Vincent & Shively, P.A., Minneapolis, Minnesota; and

Barbara Thornell Ginn, Jeanne T. Tate, Jeanne T. Tate, P.A., Tampa, Florida, for amicus curiae Academy of Adoption & Assisted Reproduction Attorneys, Inc.

S Y L L A B U S

1. Because a "judicial hearing," within the meaning of Minn. Stat. § 257.75, subd. 2 (2018), took place when the district court considered appellant's ex parte motion for temporary relief and issued such relief, respondent's revocation of a recognition of parentage is invalid. Appellant is therefore entitled to notice of the adoption-petition hearing under Minn. Stat. § 259.49, subd. 1(b)(7) (2018), and Minn. Stat. § 259.52, subd. 8 (2018), does not bar his paternity action.

2. Because an adoption proceeding was not pending when the child's mother and father signed a recognition of parentage, Minn. Stat. § 259.52, subd. 8, did not bar appellant from signing the recognition of parentage.

Reversed and remanded.

O P I N I O N

GILDEA, Chief Justice.

The question presented in this case is whether, consistent with Minn. Stat. § 259.52, subd. 8 (2018), the failure of appellant T.G.G. ("Father") to register with the Minnesota Fathers' Adoption Registry within 30 days of the birth of his child bars Father's paternity action. The district court dismissed Father's paternity action, concluding that Minn. Stat. § 259.52, subd. 8, barred the action. The court of appeals affirmed. Because we conclude that Minn. Stat. § 259.52, subd. 8, does not bar Father's action, we reverse.

FACTS

Father and respondent H.E.S ("Mother") engaged in a sexual relationship in March 2017. Mother later learned that she was pregnant. Father did not believe that he was the

child's biological father. Mother had told him that she was using birth control during their relationship. She had also begun dating someone else after their relationship ended. Mother gave birth to the child on January 12, 2018.

Unbeknownst to Father, Mother placed the child for adoption through an agency. And, on January 14, the child was placed with respondents A.F.K. and N.D.K. ("Adoptive Parents").

On January 17, Mother informed Father that she had given birth to the child. After learning of the child's birth, Father attempted to contact Mother for about a month. Mother did not respond until mid-February, at which time she told Father that she was thinking of placing the child for adoption. Father then requested a paternity test to determine whether he was the child's biological father. Mother agreed to the paternity test and told Father that she had until March 21 to change her mind about the adoption. Although Mother asserts that Father did not express any interest in raising the child until he received the results of the paternity test, Father contends that he repeatedly requested and pleaded with Mother to stop the adoption and allow him to raise the child.

Father received the results of the paternity test on March 21, 68 days after the child's birth. The paternity test showed a 99.9999% probability that Father was the child's biological father. Father registered with the Fathers' Adoption Registry as the child's father that same day. Also on March 21, Mother and Father signed a recognition of parentage ("ROP"), recognizing Father as the child's biological father. *See* Minn. Stat. § 257.75, subd. 1 (2018) (describing an ROP as "a writing signed by" the mother and father of a child "before a notary public . . . acknowledg[ing] under oath that they are the

biological parents of the child and wish to be recognized as the biological parents"). The ROP was then filed with the Minnesota Department of Health, Office of Vital Records.

Two days later, on March 23, Father filed this paternity action in Isanti County, seeking to be adjudicated as the child's father. He also moved for injunctive relief to prohibit Mother and the adoption agency from proceeding with the adoption of the child, pending his paternity action. With his motion, Father submitted the child's birth certificate, the results of the paternity test, the adoption paperwork Mother provided for him to sign, communications between Mother and Father in which Father told Mother he wanted to raise the child, and the signed ROP.

Based on the documents Father submitted, the district court granted Father's motion for temporary relief on March 26. The court granted the motion without the presence of any party and without receiving any submissions from Mother. The court determined that "immediate and irreparable injury, loss, or damage will result if the relief requested is not granted."[1] The court also scheduled a hearing for April 23.

Mother was served with Father's complaint and application for temporary relief on March 24. On March 28, after learning about Father's paternity action, Mother attempted to revoke the ROP. *See* Minn. Stat. § 257.75, subd. 2 (2018) (providing that an ROP "may be revoked in a writing"). In a letter dated March 29, the Minnesota Department of Health notified Mother that her revocation had been processed. Also on March 29, Mother

[1] Even though Father captioned his motion as one for a "temporary injunction," because the district court granted the motion without notice to other parties and made a determination regarding "irreparable injury," the order was a temporary restraining order under Minn. R. Civ. P. 65.01.

received a copy of the district court's order granting Father's motion for temporary relief and notice of the hearing in the paternity action scheduled for April 23.

Father, who had been living in Arizona, moved back to Minnesota on or about March 30 "to take responsibility for [his] first born child." And on April 16, Father moved for summary judgment.

Three days later, Adoptive Parents filed a petition to adopt the child in Ramsey County. They also moved to intervene in the paternity action and to dismiss it under Minn. R. Civ. P. 12.02(e). Mother also moved to dismiss the paternity action.

The district court granted Adoptive Parents' motions to intervene and to dismiss Father's paternity action. The district court also rejected Father's motion for summary judgment and Mother's motion to dismiss. The court first determined that Father was not entitled to notice of the adoption under Minn. Stat. § 259.49, subd. 1(b)(7) (2018), because Mother had validly revoked the ROP before a judicial hearing relating to the child took place. The court also concluded that Father had failed to timely register with the Fathers' Adoption Registry and was therefore barred under Minn. Stat. § 259.52, subd. 8, from bringing or maintaining a paternity action. The court further determined that Father filed his paternity action while an adoption proceeding was pending because the adoption proceeding began on January 14, 2018, when the child was placed with Adoptive Parents.

Father appealed, challenging the district court's dismissal of his paternity action for failure to state a claim. *T.G.G. v. H.E.S.*, 932 N.W.2d 830 (Minn. App. 2019). Father also asserted that if Minn. Stat. § 259.52, subd. 8, bars his paternity action, the statute violates his procedural due process rights and the child's equal protection rights. *Id.* at 839, 843.

The court of appeals affirmed the district court's decision. *Id.* at 844. The court of appeals agreed with the district court that Father was not entitled to notice because Mother had validly revoked the ROP. *Id.* at 837. The court then concluded that Minn. Stat. § 259.52, subd. 8, barred Father's paternity action, *id.* at 838, and that the statute did not violate Father's procedural due process rights, *id.* at 842–43. Finally, the court held that Father did not have standing to assert that Minn. Stat. § 259.52, subd. 8, violates the child's equal protection rights. *Id.* at 844.

We granted Father's petition for review.

ANALYSIS

Father challenges the district court's dismissal of his paternity action. Father argues that the district court erred in dismissing his action under Minn. Stat. § 259.52, subd. 8(1). In essence, Father asserts that this provision does not apply to him because it applies only to fathers who are not entitled to notice of the adoption. Because he was entitled to notice due to the ROP, Father argues, section 259.52, subdivision 8, does not bar his paternity action. In the alternative, Father argues that if section 259.52, subdivision 8, does bar his action, the statute is unconstitutional.

Because the district court took notice of matters outside of the pleadings, we treat the court's decision as an entry of summary judgment for Adoptive Parents.[2] *See* Minn. R.

[2] The district court took notice of (1) the ROP revocation form that Mother filed, (2) the temporary restraining order the district court issued, and (3) the adoption petition Adoptive Parents filed in Ramsey County—all of which are matters outside the pleadings in the paternity action. The parties reference these documents in their briefs and do not dispute our consideration of them in resolving the legal issues before us.

Civ. P. 12.02 ("If . . . matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56 . . . ."). Accordingly, we review the district court's decision de novo and "examine the evidence in the light most favorable to the party against whom summary judgment was granted," here, Father. *Dickhoff ex rel. Dickhoff v. Green*, 836 N.W.2d 321, 328–29 (Minn. 2013).

I.

The district court dismissed Father's paternity action based on Minn. Stat. § 259.52, subd. 8. Under this statute, putative fathers who do not register with the Fathers' Adoption Registry within 30 days of a child's birth are "barred . . . from bringing or maintaining an action to assert any interest in the child during the pending adoption proceeding concerning the child." Minn. Stat. § 259.52, subd. 8. But the statute only applies to putative fathers who are not "entitled to notice and consent under sections 259.24 and [certain provisions of] 259.49[.]" *Id.* Father argues that he is entitled to notice under Minn. Stat. § 259.49 (2018) and is therefore required to consent to the adoption under Minn. Stat. § 259.24, subd. 1(a) (2018), because he and Mother signed the ROP. *See* Minn. Stat. § 259.49, subd. 1(b)(7) (providing that notice must be given to a putative father who has signed an ROP with mother if the ROP "has not been revoked"); *see also* Minn. Stat. § 259.24, subd. 1(a) (providing that a child cannot be adopted without the consent of the child's parents, but that the consent of a parent "who is not entitled to notice of the proceedings" is not required). Mother and Adoptive Parents (collectively, "respondents") contend that Father was not entitled to notice under section 259.49, subdivision 1(b)(7), because Mother

revoked the ROP. Accordingly, to determine whether, as the district court held, section 259.52, subdivision 8, bars Father's action, we must first decide whether Mother revoked the ROP.

An ROP may be revoked by either the mother or father "within the earlier of 60 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action." Minn. Stat. § 257.75, subd. 2.[3] Respondents argue that Mother revoked the ROP on March 28, which was within 60 days of March 21, the date the ROP was signed. Father responds that the revocation was not effective because it came after the district court issued the temporary restraining order on March 26, which Father contends was a "judicial hearing" for purposes of section 257.75, subdivision 2. Because March 26 is the earlier date, Father argues that the revocation was not effective.

The dispute in this case then turns on whether a hearing took place before Mother filed the revocation of the ROP on March 28. Father argues that a hearing occurred before the district court issued its order granting temporary relief because the district court "listened to the arguments and evidence [Father] submitted in support of the application

---

[3] The statute addresses administrative and judicial hearings. But Father asserts that a hearing took place when the district court considered his motion for injunctive relief and issued temporary relief. As the court of appeals correctly concluded, nothing about this proceeding suggests that it took place in the administrative law context. *T.G.G.*, 932 N.W.2d at 837. We therefore limit our analysis to the meaning of "judicial hearing." The statute also requires that the hearing take place in an action "relating to the child in which the revoking party is a party." Minn. Stat. § 257.75, subd. 2. There is no dispute that these requirements are met here.

for a temporary injunction." Mother's revocation is invalid, Father asserts, because she filed it after the district court issued its order. Respondents contend that a "hearing" under Minn. Stat. § 257.75, subd. 2, should be interpreted as a "noticed hearing." Because the first noticed hearing in the case initially was not set to occur until April 23, respondents argue that Mother's earlier revocation was effective.[4]

A.

To resolve the parties' dispute, we must determine the meaning of "judicial hearing" in Minn. Stat. § 257.75, subd. 2, which "presents a question of statutory interpretation that we review de novo," *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). The first step in our inquiry "is to determine whether the statute's language, on its face, is ambiguous." *Id.* A statute's language "is ambiguous only if it is susceptible to more than one reasonable interpretation." *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 290 (Minn. 2013). If the statute's language is ambiguous, we may "look beyond the plain language of the statute to ascertain the intent of the Legislature." *Christianson v. Henke*, 831 N.W.2d 532, 539 (Minn. 2013). But if it is unambiguous, "we must apply the statute's plain meaning." *500, LLC*, 837 N.W.2d at 290.

The statute does not define the term "judicial hearing," so we may look to dictionary definitions to determine its common and ordinary meaning. *Thonesavanh*, 904 N.W.2d at 436. And because "judicial hearing" is a legal term, we may rely on legal dictionaries to define it. *Getz v. Peace*, 934 N.W.2d 347, 354–55 (Minn. 2019); *see also Cox v. Mid-*

[4] The district court originally scheduled the hearing for April 23, 2018, but later granted the parties' joint request to reschedule the hearing for June 11, 2018.

Minn. Mut. Ins. Co., 909 N.W.2d 540, 543–44 (Minn. 2018). *Black's Law Dictionary* defines "hearing" as "[a] judicial session, usu[ally] open to the public, held for the purpose of deciding issues of fact or of law, sometimes with witnesses testifying . . . . Also termed *judicial hearing*." *Hearing*, *Black's Law Dictionary* (10th ed. 2014). Lay dictionaries define "hearing" similarly. *See Merriam-Webster's Collegiate Dictionary* 535 (10th ed. 2001) (defining "hearing" as an "opportunity to be heard, to present one's side of a case," or "a listening to arguments"); *The American Heritage Dictionary of the English Language* 810 (5th ed. 2011) (defining "hearing" as "[a] legal proceeding in which evidence is taken and arguments are given as the basis for a decision to be issued, either on some preliminary matter or on the merits of the case").

These definitions lead to at least two plausible meanings of "judicial hearing." One meaning is a session by the court or a judge to decide "issues of fact or of law." *Black's Law Dictionary*, *supra*. Such a session could be held in the courtroom, but it could also include the judge's review of motion papers in chambers. Another meaning is more narrow and contemplates a contested proceeding during which the court listens to evidence and/or arguments from both sides. Each of these meanings is reasonable within the overall context of the statute. Because "judicial hearing" has two reasonable interpretations, the term is ambiguous. *See 500, LLC*, 837 N.W.2d at 290.

After determining that the language in a statute has more than one reasonable interpretation, we "look beyond the plain language of the statute to ascertain the intent of the Legislature." *Christianson*, 831 N.W.2d at 539. In doing so, we may consider "the

former law" and "the contemporaneous legislative history," among other factors. Minn. Stat. § 645.16 (2018).

The former law and contemporaneous legislative history of Minn. Stat. § 257.75, subd. 2, support the conclusion that "judicial hearing" includes more than simply a contested hearing held in open court with the parties present. Originally, subdivision 2 provided that "[a] recognition may be revoked in a writing signed by the mother or father . . . within 30 days after the recognition is executed." Act of May 27, 1993, ch. 1, art. 6, § 40, 1993 Minn. Laws 1st Spec. Sess. 3019, 3288 (codified at Minn. Stat. § 257.75, subd. 2 (1994)). Four years later, the Legislature amended subdivision 2 to add the language about a hearing: "A recognition may be revoked in a writing signed by the mother or father . . . within the earlier of 30 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action." Act of June 2, 1997, ch. 203, art. 6, § 26, 1997 Minn. Laws 1587, 1768 (codified at Minn. Stat. § 257.75, subd. 2 (1998)). By adding this language, the Legislature further limited the period of time in which an ROP could be revoked. And in the same amendment, the Legislature strengthened the effect of ROPs. *See id.*, § 27, 1997 Minn. Laws at 1768 (amending subdivision 3 to include: "Once a recognition has been properly executed and filed with the state registrar of vital statistics, if there are no competing presumptions of paternity, a judicial or administrative court *may not allow further action to determine parentage regarding the signator of the recognition*" (emphasis added)). These changes suggest that the Legislature intended to provide only a narrow window of time in which an ROP could be revoked.

We find an even more important indication of legislative intent in the 1999 amendment to the statute. The Legislature amended subdivision 2 to extend the revocation period from 30 to 60 days. Act of May 25, 1999, ch. 245, art. 7, § 6, 1999 Minn. Laws 2262, 2561. As explained during the committee hearing, the amendment to extend the revocation period was introduced to put Minnesota law in compliance with federal law. Hearing on S.F. 947, S. Comm. on the Judiciary, 81st Minn. Leg., Mar. 16, 1999 (audio tape) (comments of Sen. Betzold, Senate author of the bill). Federal law requires that each state recognize "a signed voluntary acknowledgement of paternity" as "a legal finding of paternity[.]" 42 U.S.C. § 666(a)(5)(D)(ii) (2018). But federal law also requires that each state allow "any signatory to rescind the acknowledgement within the earlier of[] (I) *60 days*; or (II) the date of an administrative or judicial *proceeding* relating to the child (including a proceeding to establish a support order) in which the signatory is a party." *Id.* (emphasis added). Failing to comply with federal law put Minnesota at risk of losing $2 million to $5 million in federal funding. Hearing on S.F. 947, S. Comm. on the Judiciary, 81st Minn. Leg., Mar. 16, 1999 (audio tape) (comments of Sen. Betzold, Senate author of the bill). Accordingly, the Legislature extended the revocation period to 60 days.

Notably, in its effort to put Minnesota law in compliance with federal law, the Legislature did not change subdivision 2 to read "judicial proceeding," 42 U.S.C. § 666(a)(5)(D)(ii), but kept "judicial hearing," Act of May 25, 1999, ch. 245, art. 7, § 6, 1999 Minn. Laws 2262, 2561. The term "judicial proceeding," however, is broad. *Judicial Proceeding*, *Black's Law Dictionary*, *supra* (defining "judicial proceeding" as "[a]ny court proceeding; any proceeding initiated to procure an order or decree, whether in law or in

equity"); *see also Baker v. Ploetz*, 616 N.W.2d 263, 269 (Minn. 2000) (noting that "a proceeding may include in its general sense all the steps taken or measures adopted in the prosecution or defense of an action, including the pleadings and judgment" (citation omitted) (internal quotation marks omitted)). Because the Legislature intended to amend subdivision 2 to make it consistent with 42 U.S.C. § 666(a)(5)(D)(ii), which uses the broad term "judicial proceeding," applying the broader definition of "judicial hearing" to Minn. Stat. § 257.75, subd. 2, better "effectuate[s] the intention of the legislature," Minn. Stat. § 645.16.

In urging us to reach the opposite conclusion, respondents argue that a "judicial hearing" means only a noticed hearing; otherwise, an ROP "can be made *permanently* irrevocable and binding on the signing mother, solely on the basis of an *ex parte* motion." But signing an ROP is a voluntary decision. *See* Minn. Stat. § 257.75, subd. 1 ("The mother and father of a child born to a mother who was not married to the child's father . . . *may* . . . state and acknowledge under oath that they are the biological parents of the child and wish to be recognized as the biological parents." (emphasis added)). Mother's decision to sign the ROP was her choice and when she made that choice, it came with consequences. When she signed the ROP form, Mother affirmed that she understood and accepted "[t]he rights, responsibilities, alternatives and legal consequences associated with signing" the ROP.

One of those consequences is the statutory restrictions on revocation. The statute prohibits revocations that are made more than 60 days after an ROP is signed. Minn. Stat. § 257.75, subd. 2. Mother does not take issue with that time restriction. *Id.* And we cannot

conclude that a "judicial hearing" must mean a "noticed hearing" simply because the rights and responsibilities that a person voluntarily agreed to will be made permanently irrevocable earlier than 60 days from the date an ROP is signed. *See* Minn. Stat. § 257.75, subd. 2 (noting that a revocation is valid if it is signed and filed by the "earlier of 60 days after the recognition is executed or the date of a[] . . . judicial hearing").

Our consideration of the relevant legislative history confirms that we should construe the meaning of "judicial hearing" broadly—a definition that is modeled after the federal statute's use of "judicial proceeding." *See Baker*, 616 N.W.2d at 269 (noting that "a proceeding may include in its general sense all the steps taken or measures adopted in the prosecution or defense of an action"). When we interpret "judicial hearing" as used in Minn. Stat. § 257.75, subd. 2, consistent with that legislative history, we conclude that the term includes the court's decisions on matters of fact or law.

B.

With that definition in mind, we must decide whether a judicial hearing took place before Mother revoked the ROP. We conclude that it did.

In support of his motion for temporary relief, Father submitted the child's birth certificate, the results of the paternity test, the blank adoption paperwork, communications between Mother and Father in which Father told Mother he wanted to raise the child, and the completed ROP. Based on these documents, the district court concluded "that immediate and irreparable injury, loss, or damage will result if the relief requested is not granted," and issued temporary relief. In doing so, the district court decided issues of fact and law. Accordingly, we conclude that a judicial hearing for purposes of Minn. Stat.

§ 259.75, subd. 2, took place before Mother revoked the ROP. Mother's revocation therefore is invalid under Minn. Stat. § 257.75, subd. 2.

Because Father is a parent who signed an ROP, which has not been revoked or vacated, he is entitled to notice of the adoption-petition hearing under Minn. Stat. § 259.49, subd. 1(b)(7). And given that Father is entitled to notice, we hold that Minn. Stat. § 259.52, subd. 8, does not apply to Father. *See* Minn. Stat. § 259.52, subd. 8 (excepting from the statute's bar fathers who are entitled to notice).

II.

Respondents argue that if we conclude that Mother did not validly revoke the ROP, which we have, then they still prevail. Specifically, respondents argue that section 259.52, subdivision 8, still applies because Father was barred from signing the ROP in the first place. Section 259.52, subdivision 8(1), provides that "a putative father who fails to timely register with the fathers' adoption registry under subdivision 7 is barred thereafter from bringing or maintaining an action to assert any interest in the child during the pending adoption proceeding concerning the child." Minn. Stat. § 259.52, subd. 8(1). Respondents contend that signing and filing an ROP is "an action to assert any interest in the child," *id.* They maintain that the word "thereafter" means that a putative father who has not timely registered is barred from signing and filing an ROP any time after the 30-day registration deadline. They also assert that because the child had been placed with Adoptive Parents, the adoption proceeding was pending at the time Father signed the ROP. Respondents argue that Minn. Stat. § 259.52, subd. 8(1), therefore barred Father from signing the ROP

because he is a putative father who failed to timely register with the Fathers' Adoption Registry.

Respondents' first argument is unavailing because we interpret a statute "to give effect to all of its provisions; no word, phrase, or sentence should be deemed superfluous, void, or insignificant." *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 287 (Minn. 2000) (citation omitted) (internal quotation marks omitted). If we were to interpret "thereafter" to mean that a putative father is barred from bringing or maintaining an action any time after the 30-day registration deadline, it would render the phrase, "during the pending adoption proceeding concerning the child," meaningless. Under respondents' interpretation, the statute should read, "a putative father who fails to timely register with the fathers' adoption registry under subdivision 7 is barred thereafter from bringing or maintaining an action to assert any interest in the child." But that is not what the statute says. Rather, it provides that a putative father who fails to timely register is barred from asserting an action during a specific time period: "during the pending adoption proceeding concerning the child." Minn. Stat. § 259.52, subd. 8(1).

Respondents' second argument is similarly unsuccessful because an adoption proceeding was not pending on March 21, when Father and Mother executed the ROP. Although the term "adoption proceeding" is not defined by statute, Minn. Stat. § 259.52, subd. 1, provides that the purpose of the Fathers' Adoption Registry is "to provide notice of the *adoption proceeding* to the putative father who is not otherwise entitled to notice under section 259.49, subdivision 1 . . . ." (Emphasis added.) Section 259.49, subdivision 1, provides that "notice of *the hearing upon a petition to adopt a child* must be

given to" those who meet certain requirements. (Emphasis added.) Reading these statutes together, "adoption proceeding" must include "a petition to adopt a child." Accordingly, an adoption proceeding is not pending when a child has been placed with prospective adoptive parents but no adoption petition has been filed.[5]

Dictionary definitions support an interpretation of "adoption proceeding" that requires more than the placement of a child with prospective adoptive parents. *Black's Law Dictionary* offers four relevant definitions of "proceeding":

> 1. The regular and orderly progression of a lawsuit, including all acts and events between the time of commencement and the entry of judgment. 2. Any procedural means for seeking redress from a tribunal or agency. 3. An act or step that is part of a larger action. 4. The business conducted by a court or other official body; a hearing.

Proceeding, *Black's Law Dictionary*, *supra*. Similarly, *Merriam-Webster's Collegiate Dictionary* defines "proceeding" as a "legal action" or "an official record of things said or done." *Merriam-Webster's Collegiate Dictionary* 927 (10th ed. 2001). These definitions demonstrate that the placement of a child with prospective adoptive parents is not an adoption proceeding.

---

[5] The Minnesota Rules of Adoption Procedure further support this interpretation. Rule 26.01 provides, in relevant part, that "[a]n adoption matter is commenced by filing . . . an adoption petition[.]" Minn. R. Adoption P. 26.01(b). And an "[a]doption matter" is defined as "any proceeding for adoption of a child or an adult in the juvenile courts of Minnesota." Minn. R. Adoption P. 2.01(4).

Based on this analysis, we conclude that an "adoption proceeding" begins when an adoption petition is filed, not when a child is placed with prospective adoptive parents.[6]

Because Adoptive Parents did not file the adoption petition until almost one month after Father and Mother signed the ROP, the adoption proceeding had not begun and therefore was not pending. Accordingly, Minn. Stat. § 259.52, subd. 8(1), did not bar Father from signing the ROP.[7]

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals and remand to the district court for proceedings consistent with this opinion.

Reversed and remanded.

---

[6] This interpretation of "proceeding" is also consistent with our case law. *See, e.g.*, *Christianson*, 831 N.W.2d at 538 (concluding that the filing of an ROP, which has the force and effect of law, is a "proceeding" under the grandparent visitation statute, Minn. Stat. § 257C.08, subd. 2 (2012)); *State v. Hohenwald*, 815 N.W.2d 823, 830 (Minn. 2012) ("The word 'proceedings' generally refers to the course of procedure in a judicial action or in a suit in litigation . . . ." (citation omitted) (internal quotation marks omitted)); *Latourell v. Dempsey*, 518 N.W.2d 564, 565 (Minn. 1994) (concluding that a court's custody and visitation determinations are "proceedings" under the Parentage Act).

[7] Because we conclude that Father is entitled to notice of the adoption-petition hearing under Minn. Stat. § 259.49, subd. 1(b)(7), and that Minn. Stat. § 259.52, subd. 8, does not apply, we do not reach Father's other statutory and constitutional arguments concerning the application of Minn. Stat. § 259.52, subd. 8(1).

C O N C U R R E N C E

LILLEHAUG, Justice (concurring).

The court reverses the court of appeals on the issue of whether respondent H.E.S. timely revoked a recognition of parentage that she and appellant T.G.G. had executed. This issue turns on the meaning of the phrase "judicial hearing" in Minn. Stat. § 257.75, subd. 2 (2018), the law that establishes the deadline to revoke a recognition. The revocation must occur "within the earlier of 60 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action." Minn. Stat. § 257.75, subd. 2

In this case, respondent revoked the recognition within 60 days after execution. But the court concludes that she missed the deadline because a "judicial hearing" occurred before revocation. The court determines that the phrase "judicial hearing" is ambiguous and then, based primarily on legislative history, concludes that a hearing occurred before the recognition was revoked.

To my mind, whether the phrase "judicial hearing" has more than one reasonable meaning is a close question. Ultimately, I cannot say that "the words of [Minn. Stat. § 257.75, subd. 2] in their application to [this] situation are clear and free from all ambiguity," Minn. Stat. § 645.16 (2018). I also concur in the court's use of the legislative history of the 1999 amendment enacted against the backdrop of federal law to resolve the ambiguity.

I write separately to emphasize that the opinion of the court is a narrow one, limited to the particular statute and situation at hand. The opinion should not be read to undermine

the plain meaning of the word "hearing" as we use it in our Minnesota rules of practice and procedure.

Our rules tell us that a hearing is a court proceeding that happens on a scheduled date during which all parties have an opportunity to be heard. *See* Minn. Gen. R. Prac. 303.01(a), (c). Our rules distinguish between motions that are resolved by "hearing"—after notice and both sides' motion papers are served and filed, *see* Minn. Gen. R. Prac. 303.03(a)(1), (3)—and those unopposed motions whereby an order may issue "without hearing," *see* Minn. Gen. R. Prac. 303.03(b).

The rules allow relief without a hearing in only limited circumstances. Even a request for emergency relief must include "notice of the time when and the place where the motion will be *heard*." Minn. Gen. R. Prac. 303.04(e) (emphasis added). The notice requirement may be waived, and an emergency order may be issued ex parte, only if the requesting party complies with Minn. Gen. R. Prac. 3 (governing ex parte orders), and shows a good faith effort to provide notice to the adverse party or good cause why notice should not be required. Minn. Gen. R. Prac. 303.04(a), (e). And if emergency relief is granted without notice, the order "shall include a return *hearing date* before the judicial officer hearing the matter." Minn. Gen. R. Prac. 303.04(f) (emphasis added). The Minnesota Rules of Civil Procedure[1] are entirely consistent. *See* Minn. R. Civ. P. 65.01 (stating that a temporary restraining order may be issued without notice, but only if certain

[1] In addition to Rules 3 and 303.04 of the General Rules of Practice, the proper procedure for seeking and granting ex parte relief is guided by "[t]he standards of Rule 65.01 of the Minnesota Rules of Civil Procedure." *See* Minn. Gen. R. Prac. 303.04 advisory comm. cmt.—2012 amendment.

conditions are satisfied and the motion for a temporary injunction is "set down for hearing at the earliest practicable time").

Clearly, we use the word "hearing" in our rules to signify the due-process values of notice and an opportunity to be heard. With the understanding that the court's opinion does not suggest to the contrary, I respectfully concur.

CHUTICH, Justice (concurring).

I join in the concurrence of Justice Lillehaug.