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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0026**

In the Matter of the Welfare of the Child of A. N. N. and J. R. S., Parents.

**Filed June 22, 2020
Affirmed
Florey, Judge**

Faribault County District Court
File No. 22-JV-17-4

J.R.S., Colorado Springs, Colorado (pro se respondent)

Julia Craig, Birkholz & Associates, Mankato, Minnesota (for appellant A.N.N.)

Considered and decided by Tracy Smith, Presiding Judge; Reilly, Judge; and Florey,
Judge.

UNPUBLISHED OPINION

FLOREY, Judge

On appeal from the juvenile court's order, appellant-mother argues the district court lacked subject-matter jurisdiction to hear respondent-father's motion to modify custody and relocate the child out of state and erred by applying the rules of juvenile protection procedure to determine the timeliness of her post-trial motions. We affirm.

FACTS

Appellant-mother A.N.N. and respondent-father J.R.S. are the parents of minor child E.S. On December 27, 2017, sole physical custody of E.S. was voluntarily transferred

to respondent. Previously, following appellant's admission, E.S. was adjudicated as a child in need of protection and services and placed out of the home for over a year. Parenting time for appellant remained as previously ordered, and both parents continued to share legal custody of E.S. Despite being granted sole physical custody, respondent was specifically ordered "not to move the child out of the state, without first moving for a modification of this order." In this same permanency order, the juvenile court also stated, "This court's jurisdiction is hereby terminated."

On May 30, 2019, in a separate proceeding, an order for protection was issued against appellant which prohibited her from having contact with respondent or E.S. On July 18, respondent filed a motion with the juvenile court requesting sole legal custody of E.S. and permission to relocate E.S. to Colorado. The court held a hearing on September 25, and issued an order granting respondent's requests on October 4. In its order transferring sole legal custody to respondent, the court found domestic abuse had occurred between appellant and respondent, as well as between appellant and E.S., and that moving to Colorado was in E.S.'s best interests, although it would make maintaining the child's relationship with appellant more difficult. Notice of filing of this order was filed and served on appellant on October 8.

On October 28, appellant retained counsel and filed a motion for amended findings of the October 4, 2019 order, a motion for a new trial, and a parenting-time request. Appellant's motions were heard on December 11, 2019. The juvenile court denied all three motions and rejected appellant's jurisdictional challenges, stating it had "specifically retained jurisdiction to address [respondent's] request" through the language in its

December 27, 2017 order, which provided that respondent could not move the child out of the state without first moving for a modification of that order. The court found that, despite recent amendments to the Juvenile Protection Rules of Procedure, rule 42.07 controlled the procedure in place at the time respondent's motion was filed. The court went on to find that the proper timeline to file all post-trial motions in juvenile-protection matters is within 10 days after service of notice by the court administrator, and that appellant's post-trial motions, which were filed after this deadline, were therefore untimely. In regards to the parenting-time request, the court found that appellant would need to initiate a separate action in the appropriate venue, and denied her parenting-time request solely on this basis.

D E C I S I O N

This court reviews questions as to the district court's jurisdiction de novo. *Nelson v. Schlener*, 859 N.W.2d 288, 291 (Minn. 2015). As an initial matter, we note that both appellant and the juvenile court erred in applying the former Rules of Juvenile Protection Procedure. The Minnesota Rules of Juvenile Protection Procedure were amended effective September 1, 2019, and the amended rules apply to proceedings pending on or filed after that date. *Order Promulgating Amendments to the Rules of Juvenile Protection Procedure and the Rules of Adoption Procedure*, Nos. ADM10-8040 & ADM10-8041 (Minn. May 13, 2019). Because this proceeding was pending on September 1, 2019, the amended rules, which eliminated former rule 42.07, should have been applied. However, since the juvenile court continued to have the same authority to transfer permanent custody under Minn. Stat. § 260C.515 as it did under former rule 42.07, this error was harmless.

“The juvenile court has original and exclusive jurisdiction in proceedings concerning any child who is alleged to be in need of protection or services” Minn. Stat. § 260C.101, subd. 1 (2018). The juvenile court also has “original and exclusive jurisdiction in proceedings concerning . . . permanency matters under sections 260C.503 to 260C.521.” *Id.*, subd. 2(2). Those sections lay out possible permanency dispositions, including that “[t]he court may order permanent legal and physical custody to a fit and willing relative in the best interests of the child.” Minn. Stat. § 260C.515, subd. 4 (2018).

Appellant first argues that the juvenile court explicitly terminated its jurisdiction in the original permanency order (December 27, 2017 order), thereby losing its jurisdiction to hear respondent’s motion. At the end of its December 27, 2017 order, the juvenile court stated, “This court’s jurisdiction is hereby terminated.” However, several lines earlier, the court ordered, “[respondent] shall not move the child out of the state, without first moving for a modification of this order.” In its December 13, 2019 order denying appellant’s post-hearing motions and jurisdictional challenges, the juvenile court found it “specifically retained jurisdiction to address [respondent’s] request” based on its prior order stating that respondent could not move the child out of state without moving for a modification of that December 27, 2017 order.

A district court’s order is ambiguous if reasonable minds can differ as to its meaning. *Suleski v. Rupe*, 855, N.W.2d 330, 339 (Minn. App. 2014). The meaning of an ambiguous provision in an order is a fact question; accordingly, we review a district court’s interpretation of an ambiguous provision for clear error. *Id.* A district court’s construction of its own decree receives “great weight” on appeal. *Johnson v. Johnson*, 627 N.W.2d 359,

363 (Minn. App. 2001), *review denied* (Minn. Aug. 15, 2001). This is true even if the judge who interpreted the order is not the same judge who wrote it. *See id.*

We acknowledge that there is ambiguity in the original December 27, 2017 order at issue here. In this single order, the juvenile court retained jurisdiction for a specific issue, yet included a general statement that its jurisdiction was “terminated.” However, we defer to a district court’s interpretation of its prior order and do not find a clear error in the juvenile court’s finding that jurisdiction was specifically retained to hear respondent’s request regarding modification of the outstanding custody order. *Id.*

Appellant next argues that, even if the juvenile court retained jurisdiction, it did not have statutory authority while acting as the juvenile court to grant respondent’s requests. This argument is unavailing. The juvenile court has authority to transfer permanent legal and physical custody to a fit and willing relative in the best interests of the child. Minn. Stat. § 260C.515, subd. 4. Even after a permanency disposition has been entered, “further court hearings are necessary if the court orders further hearings in a transfer of permanent legal and physical custody matter including if . . . a party seeks to modify an order under section 260C.521, subdivision 2.” Minn. Stat. § 260C.519. “An order for a relative to have permanent legal and physical custody of a child may be modified using standards under sections 518.18 and 518.185.” Minn. Stat. § 260C.521, subd. 2(a). Under the standards set forth in section 518.18, the court may modify a custody order, including changing the child’s primary residence. This same section references requests by the primary custodial parent to relocate a child out of the state, as well as requests for modification of prior custody orders seeking permission to move the residence of the child

to another state. *See* Minn. Stat. § 518.18(d), (e). The juvenile court may use the standards set forth in section 518.18 to address a “request of the primary custodial parent to move the residence of the child.” Minn. Stat. § 518.18(d)(v); *see* Minn. Stat. § 260C.521, subd. 2.

Appellant also asserts the juvenile court acted outside its jurisdiction by applying the standards outlined in Minn. Stat. § 518.175—the family law provision governing changes in parenting time—and, accordingly, that this matter should have been heard in family court. As previously discussed, under Minn. Stat. § 260C.521, the juvenile court may apply the standards established by Minn. Stat. § 518.18 to modify an outstanding permanent custody order, including when considering a change in the child’s primary residence. The juvenile court’s order met the applicable standards of sections 260C.521 and 518.18, and the court was acting within its statutory authority when it granted respondent’s modification requests. Any reference to another standard was harmless.

To the extent appellant challenges the sufficiency of the juvenile court’s findings, we observe the court’s order was supported by findings of fact regarding the changed circumstances that constituted endangerment and the best interests of the child, consistent with the requirements of Minn. Stat. § 518.18(d)(iv). Based on the evidence presented by both parties, the court concluded that appellant committed domestic abuse, which constituted endangerment, and that it was in E.S.’s best interests to transfer sole legal custody to respondent and to allow respondent to relocate with E.S. to Colorado, where he had family support and job prospects. The court explicitly considered the impact of

relocation on E.S.'s ability to maintain a relationship with appellant and concluded the transfer of custody and move was in E.S.'s best interest.

Finally, appellant challenges the juvenile court's determination that her post-trial motions were untimely. Appellant argues that the Minnesota Rules of Civil Procedure, which grant 30 days to bring a motion, should have governed this matter rather than the Rules of Juvenile Protection Procedure, which provide a shorter 10-day timeline.

Unless otherwise specifically provided for, the Minnesota Rules of Civil Procedure generally do not apply to juvenile-protection matters. Minn. R. Juv. Prot. P. 3.01. Under Minnesota Rule of Juvenile Protection Procedure 21.01, subdivision 1, which governs the procedure and timing of post-trial motions, "[a]ll post-trial motions . . . shall be filed with the court and served upon the parties within 10 days of the service of notice by the court administrator of the filing of the court's order." Accordingly, the court properly applied the timing requirements imposed by rule 21.01 to appellant's motions, which were filed and heard in juvenile court.

Because the juvenile court retained jurisdiction in its original permanency order, acted within its statutory authority in granting respondent's custody-modification motion, and properly applied the Rules of Juvenile Protection Procedure to appellant's post-trial motions, we affirm.

Affirmed.