

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0616**

In re the Marriage of:
Christopher John Nieber, petitioner,
Respondent,

vs.

Rebekah Kali Nieber, n/k/a Beka Kali,
Appellant.

**Filed April 19, 2021
Reversed and remanded
Klaphake, Judge^{*}**

Washington County District Court
File No. 82-FA-18-3800

Christopher Nieber, Stillwater, Minnesota (pro se respondent)

Beka Kali, Taylors Falls, Minnesota (pro se appellant)

Considered and decided by Hooten, Presiding Judge; Slieter, Judge; and Klaphake,
Judge.

^{*}Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

Appellant-mother Rebekah Kali Nieber, n/k/a Beka Kali, challenges the district court's decision to grant respondent-father Christopher John Nieber's motion and direction that the parties' two minor children receive vaccinations as recommended by health-care providers. Mother argues, among other things, that the district court erred by failing to consider the best interests of the children factors and by relying on its experience as a parent to make its decision. Because we agree that the district court should have considered the statutory factors relevant to the best interests of the children and that the district court improperly relied on its experience as a parent, we reverse and remand. In light of that conclusion, we need not consider mother's alternative arguments.

DECISION

Mother argues that the district court, in making the decision to grant father's motion and in directing that the children receive vaccinations, failed to consider and discuss the statutory best-interests factors and based its decision on personal experience as a parent. A district court has broad discretion when deciding matters of custody. *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). Our appellate review "is limited to whether the district court abused its discretion by making findings unsupported by the evidence or by improperly applying the law." *Id.*

Mother and father were married in May 2006 and divorced in May 2019. The parties have two minor children together. At the time of dissolution, the parties negotiated a parenting agreement that was incorporated into the dissolution judgment and decree. The

stipulated judgment awarded mother sole physical custody and both parties joint legal custody. “Joint legal custody” means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child’s upbringing, education, health care, and religious training. Minn. Stat. § 518.003, subd. 3(b) (2020). Under the stipulated custody provisions of the judgment, mother was required to schedule a vaccination consultation with a holistic medical doctor because the parties disagreed about whether to vaccinate the children. The agreement states:

Both parents agree to participate in a consultation with this provider to weigh the benefits/risks of immunizing the children and ongoing wellness care. Neither party will take any unilateral medical decision or action, without the agreement of the other party. If the parties cannot agree, then the Court will determine the legal dispute based on the best interest of the children.

In December 2019, father moved for an order directing that the children receive vaccinations. Since the dissolution in May 2019, the children had not seen a holistic medical doctor for a vaccination consultation. Father attended a consultation with a non-holistic medical doctor without the children and received a copy of a recommended immunization schedule. He submitted the schedule with his motion.

Father wants the children to be vaccinated. Mother does not. Where joint legal custodians disagree on specific issues of custodial care, the court “shall consider the best interests” of the children. *Novak v. Novak*, 446 N.W.2d 422, 424 (Minn. App. 1989), *review denied* (Minn. Dec. 1, 1989); *see also* Minn. Stat. § 518.17, subd. 3(a)(3) (2020). The law makes no distinction between general determinations of custody and resolution of specific issues of custodial care. *Novak*, 446 N.W.2d at 424. The district court determined

that because the parties did not agree on the issue of vaccinations, it would determine the dispute based upon the best interests of the children. The parties also agreed in the parenting agreement that if they could not agree, “the Court will determine the legal dispute based on the best interest of the children.” Neither party disputes that the district court should make its decision based on the best interests of the children.

“In evaluating the best interests of the child[ren] . . . the court must consider and evaluate all relevant factors.” Minn. Stat. § 518.17, subd. 1(a) (2020). The district court held a hearing and reviewed the recommended immunization schedule. In its written order, the district court stated:

The Court as a parent is familiar with vaccination of children concerning the many deadly childhood diseases that can be prevented through vaccines. . . .

This Court in its experience as a parent who has all three of our children vaccinated as children while attending school found the process helpful and protective and therefore finds, and concludes after reviewing the vaccination information [father] received from [the non-holistic doctor], that it is in the children’s best interests to be vaccinated against these potentially deadly childhood diseases. The Court believes the benefits of getting the children vaccinated far outweighs any potential risks of getting the vaccines. The parties must cooperate and follow the recommendations of the children’s health care providers in moving forward on the immunizations.

Mother argues that the district court should have considered and discussed the statutory best-interests factors such as the children’s spiritual and religious beliefs and the reasonable preferences of the children. *See* Minn. Stat. § 518.17, subd. 1(a). She also argues that the district court should not have based its decision on its experience as a parent.

Father argues that the district court made the correct decision based on the evidence before it and that having the children vaccinated is in their best interests.

Here, the district court referred to the best interests of the children as being the standard used for its findings and ultimate determination. When making marriage-dissolution determinations, a district court must identify both its decision and the underlying reasons for that decision. *See Hagen v. Schirmers*, 783 N.W.2d 212, 217 (Minn. App. 2010) (citing *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989)). It is essential that a district court judge deciding family court matters is neutral in deed and in appearance, and judges “should take measures to assure that litigants have no cause to think their case is not being fairly judged.” *McClelland v. McClelland*, 359 N.W.2d 7, 11 (Minn. 1984) (quotation omitted). The district court did not make findings of fact based on the relevant best-interests factors and did not explain how those factors led to its conclusion and ultimate determination. The district court did not base its decision solely on the evidence before it, but stated that it based its decision on “its experience as a parent who has all three of our children vaccinated [and] found the process helpful and protective.” The written order does not include findings related to the statutory best-interests factors. We acknowledge that a district court’s personal experience may inform their view of a situation. But those personal experiences may not replace the required statutory best-interests analysis.

Because the district court did not make findings of fact based on the relevant statutory best-interests factors, and because it based its decision solely on its experience as a parent, we conclude that the district court abused its discretion. A district court’s failure

to make detailed findings on relevant statutory factors generally requires a remand. *See Rogge v. Rogge*, 509 N.W.2d 163, 166 (Minn. App. 1993), *review denied* (Minn. Jan. 28, 1994). We therefore reverse and remand for further proceedings and consideration of the relevant statutory best-interest factors, allowing the parties to introduce evidence relevant to those factors. In light of that conclusion, we need not consider mother's alternative arguments.

Reversed and remanded.