

*This opinion is nonprecedential except as provided by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
A20-1082**

In re the Marriage of:
Andrew John Stevens, petitioner,
Appellant,

vs.

Kyla Anne Stevens,
Respondent.

**Filed May 10, 2021
Affirmed in part, reversed in part, and remanded
Halbrooks, Judge***

Washington County District Court
File No. 82-FA-12-1384

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Considered and decided by Bratvold, Presiding Judge; Bryan, Judge; and
Halbrooks, Judge.

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

NONPRECEDENTIAL OPINION

HALBROOKS, Judge

Appellant challenges the district court's denial of his motions to (1) compel his minor child's attendance at Eagan High School and (2) modify the parenting-time schedule so that the child spends the majority of time with him during the school year. Because we conclude that the district court did not err by determining that the dissolution judgment grants respondent authority to select the minor child's school, we affirm in part. But because we conclude that the district court abused its discretion by denying appellant's parenting-time motion without giving it separate independent consideration, we reverse and remand for further proceedings.

FACTS

Appellant Andrew Stevens (father) petitioned to dissolve his marriage to respondent Kyla Stevens n/k/a Kyla Sessing (mother) in 2012. At that time, the parties' minor child was six years old. Both parties agreed that they would share joint legal custody of their minor child, but were initially unable to agree on the school their child would attend. They participated in early neutral evaluation, which produced an understanding that they would share joint legal and physical custody but would employ a parenting consultant "to address the issue of child's school enrollment." This understanding was memorialized in an order from the district court. But the order also noted that the parties could amend their understanding by mutual agreement.

The district court subsequently issued an order for judgment and decree in September 2012, dissolving the parties' marriage pursuant to stipulation. The dissolution

judgment awarded the parties joint legal and physical custody of their minor child. The parties stipulated to define joint legal custody as follows:

The award of “joint legal custody” means that both parents have equal rights and responsibilities in major decisions determining their child’s upbringing including education, health care, and religious training. Neither parent’s rights are superior to those of the other parent. Parties have agreed that [mother] shall have the right to decide the minor child’s school location.

The dissolution judgment also set forth a parenting-time schedule that presumed their child would stay primarily with mother during the school year, giving father overnights from Thursday through Saturday with an additional weekly overnight in the summer. The parties operated in accordance with the judgment for several years, with their child attending public school in Stillwater.

In February 2020, father moved the district court on two matters. First, he sought to compel their child’s attendance at Eagan High School beginning with the 2020-21 school year. Father asserted that attending Eagan High School would be in their child’s best interests because the school district was high-performing and provided greater opportunities and academic support for their child, who had been diagnosed as being on the autism spectrum. Mother opposed the motion. Although she acknowledged that their child had struggled in Stillwater public schools, she attributed the child’s academic struggles to the social environment of the larger, more “chaotic” public schools. For that reason, mother chose New Heights School, a private charter school in Stillwater, for their child to attend during the high school years.

Second, father also moved to modify the parenting-time schedule so that their child would primarily live with him in Eagan during the school year. He asserted that this change would be in their child's best interests because his home provided a quieter environment that was more conducive to completing schoolwork and more amenable to their child's needs. Father also asserted that their child's relative academic improvement over the most recent school year was due to his being able to exercise his Thursday night parenting time to help their child with schoolwork. Mother opposed this motion as well, although she acknowledged that father's increased interest in their child's schoolwork "ha[d] helped a lot" in terms of the child's academic achievement.

The district court issued its findings of fact and order in August 2020, denying both motions. It concluded that the 2012 dissolution judgment "gives [mother] sole legal custody over [the child's] school location." And because father's motion on school choice was therefore a de facto motion to modify custody concerning school location, the district court determined that the endangerment standard should apply to father's motion. The district court noted that the child's academic difficulties were largely social and that the child's education would not be endangered by attending New Heights School instead of Eagan High School. And because the district court determined that father's motion to modify parenting time was contingent upon it granting his motion on school choice, the district court did not separately address father's motion to modify parenting time. This appeal follows.

DECISION

Father challenges the district court's determinations that the dissolution judgment grants mother sole authority over the school their child attends and that his motion to modify parenting time was contingent on his motion on school choice. We address each issue in turn.

I. The dissolution judgment grants mother sole authority over the child's school location.

Father asserts the district court's determination that the dissolution judgment awards mother sole authority to choose the child's school is erroneous because it is both incompatible with joint legal custody and leads to an absurd result. But, as the district court noted, father agreed to the stipulated language in the dissolution judgment. "Whether a provision in a dissolution judgment and decree is clear or ambiguous is a legal question." *Suleski v. Rupe*, 855 N.W.2d 330, 339 (Minn. App. 2014). And when "the same judge who entered the judgment and decree" is "the judge who determined" a provision's meaning in a subsequent proceeding—as is the case here—its "reading of the provision is entitled to great weight." *Id.* (quotation omitted).

Stipulated judgments are treated the same as binding contracts and are construed according to the "ordinary rules of contract interpretation." *Ertl v. Ertl*, 871 N.W.2d 410, 415 (Minn. App. 2015). If contractual language is unambiguous, it must be construed "according to its plain meaning." *Id.* Contractual language is ambiguous only if "reasonably subject to more than one interpretation." *Id.*

Father contends that the dissolution-judgment language is ambiguous for two reasons. First, he argues that placing the phrase “[p]arties have agreed” before “[mother] shall have the right to decide the minor child’s school location” renders the district court’s statement to be a mere recitation of the parties’ respective positions at the time, and not a binding conclusion of law. Father cites *Dean v. Pelton*, 437 N.W.2d 762 (Minn. App. 1989), for the proposition that when a district court prefaces a statement in an order with “claims,” “according to,” or “asserts,” the statement is nothing more than a recitation of the parties’ claims and cannot be interpreted as binding. *Id.* at 764. He urges us to conclude that the phrase “parties have agreed” carries this same effect in the district court order at issue here.

We disagree. The issue in *Dean* was whether or not the district court’s findings were sufficient to support an increase in child support. *Id.* at 765. In several of its findings the district court stated, “petitioner claims,” “according to petitioner’s application,” and “respondent asserts.” *Id.* at 764. This court reversed and remanded for further proceedings. *Id.* at 765. In doing so, we stated, in part: “Reciting the parties’ claims may be helpful in understanding what the trial court considered in making its findings; however, the findings themselves must be affirmatively stated as findings of the trial court.” *Id.* at 764.

Here, the district court made conclusions of law based on the parties’ stipulation. The verbs “agree” or “agreed” mean to “be in accord,” to “concur,” or to “come to an understanding.” *American Heritage Dictionary of the English Language* 34 (5th ed. 2018). The phrase “parties have agreed” evidences that the parties concurred about how to choose a school location and must be interpreted as indicative of a binding agreement.

Second, father argues that construing the stipulation language as creating an exception from joint legal custody is absurd because he never explicitly waived the presumption of joint legal custody and such an exception cannot be reconciled with the preceding language granting the parties an equal right to decide matters of their child's education. But the statutory definition of "joint legal custody" as used in chapter 518 contemplates that parties may modify the term by mutual agreement. *See* Minn. Stat. § 518.003, subd. 3 (2020) (providing definitions of "custody" that apply "[u]nless otherwise agreed by the parties"); *see also Wolf v. Oestreich*, 956 N.W.2d 248, 255 (Minn. App. 2021) (contemplating that "a district court order" may change "the meaning of the relevant terms" such as "joint legal custody" upon request of the parties), *pet. for review filed* (Minn. Mar. 18, 2021). In this instance, the parties modified "joint legal custody" by defining it to allow mother to decide where their child attends school. Concluding that the parties proposed a definition of "joint legal custody" that allowed mother to decide where the child would attend school and that the district court adopted the parties' stipulation on this point is consistent with the statute and is not an absurd interpretation.

We also note that the district court's interpretation properly harmonizes the judgment's clauses and is not incompatible with joint decision-making on matters of education. Courts must construe contractual language "as a whole and attempt to harmonize all of [the] clauses." *Storms, Inc. v. Mathy Constr. Co.*, 883 N.W.2d 772, 776 (Minn. 2016). Father contends it is impossible to harmonize a grant of equal rights to determine a child's upbringing, including their education, with a grant of sole authority to one parent on an education-related issue. But as noted, the statutory definition of joint

legal custody specifically contemplates that parties may mutually decide to attribute a different meaning to the term. Minn. Stat. § 518.003, subd. 3. Further, there are conceivably additional major decisions related to a child’s education beyond where their child will attend school. For example, there may be decisions regarding appropriate elective courses, preferred teachers, specialized academic programs, or extracurricular activities. The district court’s interpretation of the school-choice sentence does not exclude father from these decisions. Based on our de novo review, we conclude that the dissolution judgment unambiguously grants mother sole legal custody to decide where their child attends school.

II. The district court abused its discretion by summarily denying father’s parenting-time motion.

Father contends that the district court abused its discretion by denying his parenting-time motion because the district court regarded the motion as contingent on his school-choice motion. We review a district court’s determination of a parenting-time issue for an abuse of discretion. *Shearer v. Shearer*, 891 N.W.2d 72, 75 (Minn. App. 2017). A district court abuses its discretion if it misapplies the law or relies on findings of fact that are unsupported by the record. *Id.*

The district court’s determination that father’s parenting-time motion was contingent on the school-choice motion is unsupported by the record. At no point in father’s motion or supporting documentation does he tie the two motions together. To the contrary, father raised two issues in his February 2020 motion: (1) “that the parties’ minor child . . . attend high school at Eagan High School during the 2020-2021 school year and

until [the child] graduates” and (2) to modify “the parenting[-]time schedule in the parties’ divorce decree to allow the parties’ minor child to reside primarily with [father] during the school year.” In his supporting affidavit, father proposed “that the regular parenting[-]time schedule should be modified such that [child] is with [father] during most of the school week,” so that he can “even better assist [child] with . . . school work while giving both parents parenting time during the weekends.” He further delineated between the two motions in the supporting memoranda that he submitted to the district court.

On this record, there is no support for the district court’s determination that father made his motion to modify parenting time contingent on the success of his motion on school choice.¹ Instead, the record suggests that the motions were separate. Although father’s increased parenting time might arguably be more convenient if their child attended high school in Eagan—the community in which father lives—father’s second motion was not dependent on that arrangement. Because we conclude that the district court abused its discretion by not treating the second motion as separate and distinct from the first, we reverse the district court’s denial of father’s motion to modify parenting time and remand for separate consideration of that motion. On remand, the district court has the discretion to reopen the record if doing so would assist in its consideration.

Affirmed in part, reversed in part, and remanded.

¹ Mother asserts that father made this connection at the motion hearing. However, there is no transcript from this hearing in the record.