

*This opinion is nonprecedential except as provided by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
A20-1500**

In re the Marriage of:
Michelle Lynn Wilson, petitioner,
Respondent,

Ryan Converse Wilson,
Co-Appellant,

vs.

Gayle Gaumer,
Appellant.

**Filed December 6, 2021
Affirmed in part and remanded
Klaphake, Judge ***

Wright County District Court
File No. 86-FA-20-840

Debra Julius, Prior Lake, Minnesota (for respondent)

Jennifer Nixon, Perusse Nixon, PLLC, Maple Grove, Minnesota (for co-appellant)

Gayle Gaumer, St. Louis Park, Minnesota (pro se appellant)

Considered and decided by Gaïtas, Presiding Judge; Reilly, 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NONPRECEDENTIAL OPINION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

The judgment dissolving the marriage of co-appellant Ryan Converse Wilson and respondent Michelle Lynn Wilson set the amount and nature of the parents' parenting time and the amount of Ryan's child support payment. In a later, binding mediation, the parents modified the arrangement created in the judgment. About one year later, Ryan moved to modify parenting time, to reduce his child support payment, and to modify the distribution of income tax dependency credits and exemptions. The children's grandmother, appellant Gayle Gaumer, intervened and moved for grandparent visitation. The district court denied Ryan's motions and granted Gayle's motion in part. Gayle appealed, and Ryan filed a notice of related appeal. We affirm the district court's decision granting Gayle's motion in part, but we remand for more detailed factual findings on Ryan's motions.

DECISION

I. Gayle's Appeal.

Gayle argues the district court should have granted her motion in full, ordering the visitation schedule she proposed. She contends the visitation schedule granted by the district court is mere "token visitation." A district court "may" grant a grandparent visitation rights if it finds visitation would be in the best interests of the child and the visitation would not interfere with the parent-child relationship. Minn. Stat. § 257C.08, subd. 2(a) (2020). We review a district court's decision on grandparent visitation for an abuse of discretion. *Olson v. Olson*, 534 N.W.2d 547, 550 (Minn. 1995). A district court abuses its discretion when it misapplies the law or relies on findings of fact that are not

supported by the record. *Shearer v. Shearer*, 891 N.W.2d 72, 75 (Minn. App. 2017). Gayle does not contend the district court misapplied the law. She argues both that the record does not support the district court’s findings that her proposed visitation schedule would interfere with the parent-child relationship and that the visitation schedule ordered by the district court is not in the best interests of the children. We find these arguments unpersuasive.

We will not set aside a district court’s findings of fact unless those findings are clearly erroneous. Minn. R. Civ. P. 52.01. When reviewing for clear error, we view the record in the light most favorable to the district court’s findings. *In re Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021). We do not resolve conflicts in the evidence or reweigh the evidence. *Id.* We will affirm the district court’s findings even if we might have made different findings had we found the facts in the first instance. *Id.* at 221-22. Nor must we “go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the trial court.” *Id.* at 222. As a result, “[w]hen the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* at 223.

The district court found that Gayle’s proposed visitation schedule would interfere with Michelle’s relationship with her children because Gayle’s proposed visitation schedule would have awarded her significant holiday time. It also found Michelle and Gayle have a tumultuous relationship. These findings are supported by the record. The record shows that Gayle had accused Michelle of denying her time with the children, and that Michelle accused Gayle of failing to adequately supervise the children’s visits with

Ryan. Gayle asked for visitation every school spring break, the week before the start of school each year, every Thanksgiving and the day after, the two days before Christmas, and one weekend corresponding to the Grand View Lodge Owner's weekend. On this record, the district court did not clearly err in finding that Gayle's proposed visitation schedule would interfere with the parent-child relationship.

The district court's finding that the visitation schedule as ordered is in the best interests of the children is also supported by the record. The district court found both that the children had a significant relationship with Gayle in the past, and that, because Ryan was deployed out of the country, visitation with Ryan's family would be important to the children. On the other hand, the district court also found that the children's need for stability during the holidays was important and that limited visitation with Gayle was in the best interests of the children. These findings are not clearly erroneous. The record contains affidavits of Gayle and Ryan stating that Gayle spent significant time with the children before the divorce. And Ryan deployed shortly after the hearing on these motions. But the record also shows that, because the children have faced challenging circumstances over the last several years, stability is important for them. On this record, the district court did not clearly err in finding that Gayle's proposed visitation schedule was not in the best interests of the children. We therefore affirm the district court's decision granting Gayle's motion in part.

II. Ryan's Appeal.

Ryan moved to modify two categories of the parties' co-parenting arrangement: visitation and child support. As it relates to visitation, Ryan sought to increase his parenting

time and change his parenting time to unsupervised. As it relates to child support, Ryan sought to lower his basic monthly support payment through a parenting expense adjustment, to lower his monthly childcare support payment, to change the children's health care coverage, and to change the distribution of income tax dependency credits and exemptions. The district court denied all his motions, but made factual findings mainly related to Ryan's motion for unsupervised parenting time. We sympathize with the task put before the district court here. This case has a long record and has been highly litigated. It was transferred from the Fourth Judicial District to the Tenth Judicial District while litigation of these motions was ongoing. But because the district court did not adequately address the statutory factors and because much of the pertinent information in the record is now dated, we remand to the district court to reopen the record and make additional findings.

When adjudicating a motion to modify parenting time, the district court must consider whether the proposed modification is in the best interests of the children. Minn. Stat. § 518.175, subd. 5(b) (2020). The statute also provides “a rebuttable presumption that a parent is entitled to receive a minimum of 25 percent of the parenting time for the child.” Minn. Stat. § 518.175, subd. 1(g) (2020). When addressing a motion to modify parenting time, a district court's failure to make adequate findings of fact explaining its decision may require a remand. *Suleski v. Rupe*, 855 N.W.2d 330, 338 (Minn. App. 2014). And when the moving party alerts the district court that the 25% parenting-time presumption is at issue, the district court must consider the presumption. *Hagen v. Schirmers*, 783 N.W.2d 212, 217 (Minn. App. 2010). Here, the district court did not make detailed findings about the

best interests of the children. Nor did it consider the 25% parenting-time presumption even though Ryan alerted the court to its relevance in the affidavit supporting his motion. The district court should therefore make detailed findings on remand about whether an increase in parenting time would be in the children's best interests and consider the 25% parenting-time presumption.

To restrict parenting time as to time, place, duration, or supervision, the district court must find the parenting time "is likely to endanger the child's physical or emotional health or impair the child's emotional development." Minn. Stat. § 518.175, subds. 1(b), 5(c)(1). Failure to make a precise finding of endangerment is not necessarily a ground for reversal if the record, as a whole, shows the parent's conduct would endanger the children. *Gregory v. Gregory*, 408 N.W.2d 695, 698 (Minn. App. 1987). *See* Minn. R. Civ. P. 61 (requiring harmless error to be ignored). Here, the district court discussed whether unsupervised parenting time would endanger the children but did not reach a definite conclusion. It stated a parenting assessment would help to determine whether Ryan poses a danger to the children. Because the record raises concerns of endangerment, but is not definitive, we remand to the district court to make a more precise finding about whether Ryan's conduct endangers the children.

A party may obtain modification of child support by proving a substantial change that makes the terms of the current award unreasonable and unfair. Minn. Stat. § 518A.39, subd. 2(a) (2020). The same is true for obtaining a modification of the distribution of tax credits and exemptions. Minn. Stat. § 518A.38, subd. 7(e) (2020). When the district court fails to make specific findings on the factors the legislature requires to be considered when

modifying child support, remand is appropriate even where the record may support the district court's decision. *Moylan v. Moylan*, 384 N.W.2d 859, 865 (Minn. 1986). Here, the district court neither addressed Ryan's motions to modify child support in its findings of fact nor made a finding that Ryan failed to prove a substantial change. The parties dispute many facts central to that determination. Now the financial information in the record is over one year old. We therefore remand to the district court to reopen the record to obtain current information and make the necessary findings.

Affirmed in part and remanded.