

*This opinion is nonprecedential except as provided by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
A21-1658**

Scott Michael Gold, petitioner,
Respondent,

vs.

Chelsey Dodge Frawley,
Appellant.

**Filed August 8, 2022
Affirmed in part, reversed in part, and remanded
Ross, Judge**

Goodhue County District Court
File No. 25-FA-16-886

Ryan S. McLaughlin, Woodbury, Minnesota (for respondent)

Luke Hasskamp, Bona Law, PC, Minneapolis, Minnesota; and

Kathryn A. Graves, Henson Efron, Minneapolis, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

This case concerns a parenting-time dispute. Mother appeals from two district court orders, the first denying her request for conduct-based attorney fees and the second increasing father's parenting time, requiring parenting-time exchanges to occur at mother's residence, and denying mother's request for compensatory parenting time. We affirm in

part because the district court acted within its discretion by denying mother's requests for attorney fees and compensatory time. But we reverse in part and remand because the district court failed to make reviewable factual findings underlying its decision to increase father's parenting time and because it abused its discretion by ordering parenting-time exchanges to occur at mother's statutorily confidential address.

FACTS

Scott Gold and Chelsey Frawley never married and have two minor children together. They stipulated in 2016 to a parenting-time schedule and agreed that they would have joint legal custody and that Frawley would have sole physical custody. The schedule placed the children with Gold every Wednesday evening and alternating weekends, but otherwise with Frawley.

The district court first modified the parenting-time schedule in 2019 on Gold's motion for an increase based on Gold's anticipated move from Red Wing to Prescott, Wisconsin, where he would be closer to Frawley's home. The district court increased Gold's school-year parenting time (to increased time during his alternating weekends) and summer parenting time (to alternating weeks with two, nonconsecutive weeks of vacation).

In June 2021, Frawley told Gold that she was moving with the children and her boyfriend to Minnetonka. Gold had heard from a former girlfriend of Frawley's boyfriend that the boyfriend was a drug user who had committed child abuse and domestic assault. Gold filed an emergency motion asking the district court to award him temporary custody. The district court immediately granted the motion, transferring sole physical custody of the

children to Gold and suspending Frawley's parenting time. This precipitated a flurry of motions.

A month after transferring physical custody to Gold, the district court held a hearing to address the various motions: Gold's motion for emergency relief; Frawley's motion to prevent Gold from disclosing her contact information to her boyfriend's former girlfriend, to grant her compensatory parenting time, and to award her conduct-based attorney fees; and Gold's motion to enforce the order on his emergency motion and to award him conduct-based attorney fees. Frawley supported her motion with a December 2020 Hennepin County District Court order concerning her boyfriend and his former girlfriend's custody and parenting-time dispute involving their own children. The order included a finding that an order for protection previously issued against Frawley's boyfriend on behalf of his former girlfriend and their minor children had been vacated at the girlfriend's request. The order added that the boyfriend "has not committed domestic abuse against [the former girlfriend] or the minor children, and [the former girlfriend] repudiates all prior allegations to the contrary."

The district court denied Gold's and Frawley's motions. It found that Gold failed to show that the children were endangered or risked immediate harm, that compensatory parenting time was not then appropriate (but it reserved the issue pending the parties' scheduled mediation), and that neither party had unreasonably contributed to the length of the proceedings so as to justify an award of conduct-based attorney fees. It reinstated the preexisting parenting-time schedule.

Frawley relocated to Minnetonka. Gold moved to increase his parenting time. Frawley renewed her request for compensatory parenting time to recover time lost because of Gold's emergency motion. The district court issued an order that increased Gold's parenting time in the summers (the children to be with Gold every week and Frawley having them on alternating weekends with an additional two-week vacation), but the order included no factual findings and did not address Frawley's compensatory-time request. The order also modified the school-year schedule, having the children with Gold on alternating weekends and every Minnesota Educator Academy weekend, and it directed parenting-time exchanges to occur at Frawley's home.

Frawley appeals.

DECISION

Frawley challenges the district court's orders bearing on the parenting-time schedule, the location of parenting-time exchanges, compensatory parenting time, and attorney fees. We address each challenge.

I

Frawley argues that the district court's parenting-time decision is flawed because it lacks an ultimate best-interests finding and any factual findings that could support such a finding. She also argues that the parenting-time order constitutes a change in custody without a prerequisite finding of endangerment. *Compare* Minn. Stat. § 518.18(d)(iv) (2020) (including an endangerment component for orders modifying custody), *with* Minn. Stat. § 518.175, subd. 5(b) (2020) (requiring best-interests basis for orders modifying parenting time). Frawley's arguments that the parenting-time order lacks sufficient

findings is well founded, regardless of whether she accurately recasts it as a custody-modification order. The order includes no factual findings on the children's best interests. Indeed, the order includes no factual findings at all. We therefore have no basis on which to discern the rationale for the district court's parenting-time decision or to determine whether it applied the appropriate modification standard. *See In re Custody of M.J.H.*, 913 N.W.2d 437, 443 (Minn. 2018) (determining whether a proposed modification to parenting time is a substantial change that would effectively modify the parties' custody arrangement requires the court to consider the totality of the circumstances, including among others, the apportionment of parenting time, the child's age, the child's school schedule, and the distance between the parties' homes). We are not, however, persuaded by Frawley's assertion that the amount of change in the summertime parenting-time schedule is so substantial that the modification constitutes a custody change as a matter of law. Her assertion rests unconvincingly on the notion that we should consider only how the change impacts the parties' parenting-time balance for one season rather than for the entire year. We remand this case to the district court to properly enter factual findings sufficient to inform our review of whether it used the correct standard and whether it applied the standard correctly. The district court may, in its discretion, reopen the record.

II

We agree with Frawley's contention that the district court wrongly ordered parenting-time exchanges to occur at her home. Where parenting-time exchanges occur is a matter of district court discretion. *Olson v. Olson*, 534 N.W.2d 547, 550 (Minn. 1995). But Frawley participates in the state-sponsored "Safe at Home" program, which is designed

to keep confidential the addresses of persons seeking to avoid actual or threatened domestic violence. *See* Minn. Stat. § 5B.01 (2020). Frawley’s home address is therefore confidential. *See* Minn. Stat. §§ 5B.05(a) (2020) (establishing address confidentiality), 5B.05(a), subd. 11 (listing exceptions, none of which applies here). Frawley’s status in the program was known to the district court, and Gold’s counsel informed the district court that Gold would stipulate to a neutral exchange location midway between the parties’ homes. The district court nevertheless ordered exchanges to occur at Frawley’s home, and it gave no reason for doing so. We conclude that the district court abused its discretion by ordering parenting-time exchanges to occur at Frawley’s residence. On remand, the district court must identify a new location for parenting-time exchanges.

III

We see no abuse of discretion in the district court’s denial of Frawley’s request for compensatory parenting time. The district court may, in its discretion, “provide compensatory parenting time when a substantial amount of court-ordered parenting time has been made unavailable to one parent unless providing the compensatory parenting time is not consistent with the child’s best interests.” Minn. Stat. § 518.175, subd. 6(a) (2020). The district court recognized that, because of Gold’s representation about potential danger posed by Frawley’s boyfriend (based on abuse allegations that were recanted), Frawley was “deprived of two weeks of parenting time.” The district court reserved the issue of awarding compensatory time, an issue that was revived when Frawley renewed her request for compensatory time but that was never expressly addressed when the district court entered its order on the parties’ various motions. We treat the district court’s silence as a

denial of Frawley's request, *see Anderson v. Anderson*, 897 N.W.2d 828, 832 (Minn. App. 2017) (“[A] district court’s failure to specifically address or reserve a motion constitutes a denial of that motion.”), *rev. granted* (Minn. Aug. 22, 2017) *and appeal dismissed* (Minn. Jan. 30, 2018), but Frawley does not explain how the district court’s denial reflects an abuse of discretion. She asserts generally that the “uncontroverted evidence firmly established that compensatory parenting time was necessary to help heal the damage,” but she identifies no evidence to support the assertion. It is not clear from the record what damage she refers to. She does not show that her relationship with the children was damaged by the two-week deprivation or that compensating her with two weeks would repair the damage. Given the district court’s discretion on whether to provide compensatory time, on this record we cannot say that the district court acted outside that discretion.

IV

We are also not persuaded by Frawley’s argument that the district court improperly denied her motion for conduct-based attorney fees. We will reverse a district court’s decision denying a motion for conduct-based attorney fees under Minnesota Statutes section 518.14 (2020) only if the court abused its discretion. *Sanvik v. Sanvik*, 850 N.W.2d 732, 737 (Minn. App. 2014). Frawley argues that we should reverse because the district court did not adequately explain its reasoning for denying her fee request and because Gold knowingly filed a fraudulent motion for emergency relief. The arguments fail.

The district court did provide a rationale for its decision rejecting both parties’ attorney-fee requests, finding that “neither party has unreasonably contributed to the length of the proceedings.” Although the finding is unspecific and does not elaborate on Frawley’s

factual contentions, it does scarcely reveal the district court's basic reasoning. And Frawley's insistence that Gold's emergency motion was fraudulent because it rested on her boyfriend's former girlfriend's allegations of domestic abuse—which the girlfriend recanted months before Gold's emergency motion—lacks evidentiary support. Frawley identifies no evidence establishing that the district court was bound to find that Gold's conduct was unreasonable under the circumstances. Even if Frawley had provided the district court with evidence proving that Gold knew of the recantation before he filed his emergency motion (Frawley did not), she could not establish that his emergency motion was fraudulent unless she also demonstrated that he knew that the recantation was credible and that the allegations were not. She identifies no evidence supporting either proposition, and she does not persuade us that the district court clearly erred by finding that Gold did not unreasonably contribute to the length of the proceedings. The district court acted within its discretion when it denied Frawley's motion for attorney fees.

Affirmed in part, reversed in part, and remanded.