STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0245

County of Anoka,
Petitioner,
Aphton Marie Hansen, petitioner,
Appellant,

vs.

David Matthew Shallman,
Respondent.

Filed December 27, 2022
Remanded
Larson, Judge

Anoka County District Court
File No. 02-FA-14-2481

Aphton M. Hansen, Eden Prairie, Minnesota (pro se appellant)

David M. Shallman, Blaine, Minnesota (pro se respondent)

Considered and decided by Larson, Presiding Judge; Johnson, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Aphton M. Hansen appeals the district court's decision to deny her motion to modify parenting time. Appellant argues the district court failed to make sufficient factual findings and abused its discretion when it denied the motion. Because

we conclude the district court failed to make sufficient findings regarding the best interests of the child, we remand.

FACTS

Appellant and respondent David M. Shallman had their daughter, E.M.H.,[1] in 2009.[2] The two shared joint legal custody, and appellant initially had sole physical custody of E.M.H. But concerns that appellant's physical custody brought E.M.H. within the ambit of domestic violence resulted in a stipulated agreement authorizing a parenting consultant to decide the extent and conditions of appellant's parenting time. The agreement also granted respondent joint physical custody. The district court filed the order effectuating this stipulated agreement in December 2013.

Concerns that appellant continued to expose E.M.H. to domestic violence and new concerns regarding appellant's drug use led the parties to enter another stipulated agreement in 2016. The district court filed an order effectuating the 2016 stipulated agreement, which is still in effect. After appellant filed several motions requesting modifications to the standing orders, the district court filed another order in 2017. The 2016 and 2017 orders modified the 2013 stipulated order in the following relevant respects: respondent holds sole physical custody, and the parenting consultant has broad authority to decide "all child-related issues" other than support and custody determinations. This authority included the extent and conditions of appellant's parenting time. The 2017 order

[1] The record refers to daughter as "E.M.H. and "E.M.S." interchangeably. For consistency, we refer to daughter as "E.M.H."

[2] The parties do not dispute paternity.

expressly adopted the parenting consultant's decision to suspend appellant's unsupervised parenting time.

In November 2021, appellant moved the district court to make several modifications to parenting time.[3] Appellant requested that the district court grant appellant unsupervised parenting time and other access to E.M.H., effectively asking the district court to modify the standing orders and remove these decisions from the parenting consultant's authority. Appellant attached an affidavit to the parenting-time motion asserting that E.M.H.'s life would be better if appellant had greater involvement. Appellant also asked the district court to hold respondent in contempt. Appellant attached an affidavit to the contempt motion alleging that respondent had withheld from her E.M.H.'s medical and educational information to which she was entitled as a joint legal custodian.

The district court heard oral argument on these motions in December 2021. The district court ruled from the bench and filed two separate orders. From the bench, the district court described the first order, stating:

> The first order is . . . already the law of the case. . . . [It will state that] [appellant] has joint legal custody of the child. And then, of course, she has all the rights of joint legal custody, including the decisionmaking process as to medical, dental, school, therapy, and [knowledge of] the child's current

[3] Appellant also argues that she filed a motion to modify custody under Minn. Stat. § 518.18 (2020). Appellant's motions before the district court contained no request to modify physical or legal custody. To the extent appellant argues the district court erred when it did not modify custody over E.M.H., those arguments are forfeited. *See Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988) (stating that appellate courts generally address only those questions previously presented to and considered by the district court); *see also Lewis-Miller v. Ross*, 710 N.W.2d 565, 570 (Minn. 2006) (applying this aspect of *Thiele* in a family law appeal). The same is true of appellant's arguments challenging the decisions of the parenting consultant.

> residence. And [respondent] is to provide all this information to [appellant] within seven days of today. . . . [Appellant] doesn't need [this order] because she is joint legal custodian. However, there's no harm in doing it. All other prior orders remain in effect.

In describing its second order from the bench, the district court said:

> I am denying each and every one of the other requested pieces of relief [appellant] is asking for. One, they are inappropriate. Two, they don't apply to this case. Three they're too specific as far as some of the things that she's asking for. I don't order the child to be put into [a specific type of] therapy for example, that's not my call. . . . [I]t's a tough way to say it, but I don't micromanage these situations, I let the professionals handle it.

The district court filed the written orders reflecting these terms the following day.

This appeal follows.

DECISION

Appellant argues that the district court failed to make sufficient factual findings and that the district court abused its discretion when it denied her motion to modify parenting time. Under Minn. Stat. § 518.175, subd. 5(b) (2020), "[i]f modification would serve the best interests of the child, the court shall modify the decision-making provisions of a parenting plan or an order granting or denying parenting time, if the modification would not change the child's primary residence." Generally, appellate courts review a district court's decision regarding whether to modify parenting time for an abuse of discretion. *Suleski v. Rupe*, 855 N.W.2d 330, 334 (Minn. App. 2014). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quoting *Bender v. Bernhard*, 971

N.W.2d 257, 262 (Minn. 2022)). Here, however, appellant argues the district court failed to make sufficient findings of fact to allow this court to address whether the district court abused its discretion. Therefore, we address that question first.

Recognizing their broad discretion over family law issues, the appellate courts have instructed the district courts to "identify both [their] decision (e.g., spousal maintenance, child support, parenting time) as well as the underlying reason(s) for that decision (i.e., findings showing why the amount of maintenance, child support or parenting time is appropriate in the particular case)." *Hagen v. Schirmers*, 783 N.W.2d 212, 217-18 (Minn. App. 2012) (citing *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989); *Wallin v. Wallin*, 187 N.W.2d 627, 631 (Minn. 1971)). Both the supreme court and our court have explained in several family law cases that "[e]ffective appellate review of the exercise of [the district court's] discretion is possible only when the [district] court has issued sufficiently detailed findings of fact to demonstrate its consideration of all . . . relevant [statutory factors]." *Stich*, 435 N.W.2d at 53; *see also Moravick v. Moravick*, 461 N.W.2d 408, 409 (Minn. App. 1990) (applying this principle to a request to modify parenting time under Minn. Stat. § 518.175, subd. 5 (Supp. 1989)). We remand for further findings when a district court's order on a parenting-time modification fails to make particularized findings regarding the child's best interests. *Suleski*, 855 N.W.2d at 338 (reversing and remanding when the district court order contained no findings to explain why granting father new parenting time was in the child's best interests).

We have remanded district court decisions that are more robust than the instant case. In *Suleski*, we remanded where the district court "generally found" that the new parenting

schedule was in the child's best interests, but otherwise failed to provide more detailed explanatory findings. *Id.* at 338. Here, neither the district court's orders nor its explanation at the modification hearing mention E.M.H.'s best interests. On a record spanning over a decade, we recognize the possibility that the district court relied on an unstated basis for its decision. Nevertheless, we require more detailed findings to enable review.[4] And a decision on a modification motion that does not account for the best interests of the child neither satisfies the statutory standard in Minn. Stat. § 518.175, subd. 5(b), nor allows for meaningful appellate review of the decision reached by the district court.

For this reason, we remand to the district court to make more detailed factual findings that, under the relevant statutory factors, explain its decision. *See* Minn. Stat. § 518.175, subd. 5.

Remanded.

[4] Because we require more detailed factual findings to enable review, we do not reach appellant's arguments that the district court abused its discretion.