

*This opinion is nonprecedential except as provided by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
A22-0778**

In re the Matter of:
Pamela Jean Anderson, et al.,
Respondents,

vs.

Amanda Renee Gbeyetin,
Respondent Below,

Hountcheme Yelognisse Gbeyetin,
Appellant.

**Filed February 27, 2023
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-FA-14-569

Valerie Arnold, Micaela Wattenbarger, Arnold & Rodman, P.A., Bloomington, Minnesota
(for respondents)

John R. Jespersen, Jespersen Law Offices, Edina, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Worke, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

In this parenting-time dispute, appellant-father argues that the district court:
(1) erred by denying father's motion to reunify with the child at the direction of father's

therapist; (2) abused its discretion by denying father's alternative motion to establish parenting time; and (3) abused its discretion by modifying the process to retain a reunification therapy provider. We affirm.

FACTS

Appellant-father Hountcheme Yelognisse Gbeyetin is the father of E.A.G.G. (the child), born in October 2008. Respondents Pamela Jean Anderson and Patrick George Anderson are the child's maternal grandparents. In July 2014, the district court adopted the parties' stipulation granting sole legal and sole physical custody of the child to father, supervised parenting time to the child's mother,¹ and visitation to respondents.

In May 2015, the district court found the child endangered after respondents discovered bruising on the child. Father admitted responsibility for the bruising, and the district court granted respondents temporary sole legal and temporary sole physical custody subject to father's supervised parenting time. The district court suspended father's parenting time in March 2016 after two parenting-time incidents. In July 2017, the district court found that contact with father likely endangered the child's physical and emotional health. The district court continued the suspension of parenting time and prohibited father from contacting the child and attending the child's extracurricular activities.

In April 2018, following a hearing, the district court filed an order granting respondents sole legal and sole physical custody of the child. The order prohibited father from having parenting time or contact with the child pending completion of a reunification

¹ Mother passed away in 2020.

plan. The plan required father to attend therapy with one of several specified providers. Father's selected therapist would "determine appropriate therapy for [f]ather and (in consultation with [the child]'s therapist) the timing, place, duration, supervision (if any) and other details for [f]ather to resume contact with [the child] when such contact is therapeutically appropriate for" the child. Father's therapist "(in coordination with [the child]'s therapist)" would then recommend a parenting-time schedule and potentially joint or family therapy.

In June 2020, the district court appointed a special master to address parenting matters. While the district court found that father complied with the April 2018 order, it concluded that his contact with the child needed to be "planned by a qualified professional who does not have a relationship with either party." The court empowered the special master to recommend when father's contact and parenting time with the child could resume.

In September 2020, the special master recommended a three-step reunification process. First, father could write letters to the child. Second, father and the child would be allowed phone or electronic contact if the child was willing. If the child did not initiate contact after four months, a reunification therapist would assist in building the child's willingness. And third, if the child's behavior and emotions remained stable during contact with father, they could begin in-person reunification therapy sessions.

In October 2020, the district court permitted father to write letters to the child per the special master's recommendation. In February 2021, step two of the process was to begin, giving the child until May 15 to initiate contact.

After May 15 passed without the child contacting father, father emailed reunification therapists from a list provided by the special master. Father attached various court documents to his emails. One therapist replied that his office does “not participate in legal matters.” The record does not show whether a provider has been obtained. Besides some letter-writing, father and the child have had no contact since July 2017.

In November 2021, father moved to discharge the special master and to require the parties to follow his therapist’s reunification recommendations. Alternatively, father moved to establish a parenting-time schedule.

The district court denied father’s motion, finding that “the same reasons the [s]pecial [m]aster was appointed still exist[ed]” and that the court “d[id] not have the expertise to determine when [the child] is strong and stable enough” to have parenting time with father. The court found that the record supported the special master’s recommendations, that deviating from the three-step process would likely endanger the child’s emotional health, and that the process served the child’s best interests. The court also ordered that father refrain from contacting potential reunification therapy providers until respondents informed him “who the provider is that responded first with intake availability.” Additionally, the court found it in the child’s best interests that no one give providers court documents other than summaries by father’s therapist, the child’s therapist, and the special master. Accordingly, the district court ordered respondents to contact and complete intake with one of several reunification therapy providers, and when doing so, to follow a script and only disclose specified documents.

This appeal followed.

DECISION

Reunification at direction of father's therapist

Father claims that the April 2018 order required the district court to grant his motion to conduct the reunification process at his therapist's direction.

This argument requires us to interpret the April 2018 order and any subsequent modifying orders, determining de novo whether the relevant language is ambiguous in context. *Tarlan v. Sorensen*, 702 N.W.2d 915, 919-20 (Minn. App. 2005) (examining subsequent modifying order to determine whether dissolution judgment was ambiguous); *Gray v. Farmland Indus., Inc.*, 529 N.W.2d 514, 516 (Minn. App. 1995) (noting that reviewing court must first determine ambiguity when “interpret[ing] or clarify[ing] an order”), *rev. denied* (Minn. June 14, 1995). If the language is unambiguous, we do not defer to the district court's interpretation of it. *See Gray*, 529 N.W.2d at 516.

Father's argument fails under the unambiguous language of the April 2018 order and the orders appointing the special master. Father's therapist never had sole power over the reunification process. Rather, his therapist was empowered to determine reunification “in consultation” with the child's therapist. The district court clarified that “in consultation” meant that the parties should cooperate with the recommendations of father's therapist as long as they do “not conflict with any recommendation of [the child's] therapist.” In any event, the district court empowered the special master to make recommendations about reunification, divesting the therapists of any power over the court-ordered reunification process. The special master recommended the three-step process and

the district court adopted it. The district court did not err by continuing the three-step process and not permitting father's therapist to control the reunification process.

Parenting time

Father alternatively contends that the district court abused its discretion by denying his motion to establish a graduated parenting-time schedule.

The district court “shall . . . grant such parenting time on behalf of the child and a parent as will enable” a parent-child relationship that is “in the best interests of the child.” Minn. Stat. § 518.175, subd. 1(a) (2022); *see* Minn. Stat. § 257C.02(a) (stating that chapter 518 “appl[ies] to” third-party-custody proceedings “unless otherwise specified in this chapter”) (2022). “The district court has broad discretion in determining parenting-time issues and will not be reversed absent an abuse of that discretion.” *Shearer v. Shearer*, 891 N.W.2d 72, 75 (Minn. App. 2017) (quotation omitted). “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) (quotation omitted).

Declining to modify parenting time did not contradict logic or the facts on record. Under the April 2018 order, the district court denied father parenting time pending completion of the reunification plan, finding that father committed domestic abuse multiple times against both the child and mother. The district court also found that the child “suffer[ed] from significant behavioral and emotional issues” stemming in part from father's abuse and parenting time with father.

From April 2018 through early 2020, the child's therapist repeatedly opposed father's and his therapist's requests to have contact with the child. According to the child's therapist, the child needed time to process and regulate his trauma-induced emotions and behavior that father partially caused. The child's therapist emphasized that the child did not want any contact with father and was angry that he had not been removed from father's care sooner.

In her September 2020 recommendations, the special master noted that the child would avoid the topic of father during therapy, making statements like, "I don't want to see or talk to my dad," and, "I don't want [the father-child relationship] fixed." The special master believed that the next step was to build the child's willingness to have contact with father. Yet, when the district court filed the order at issue in March 2022, the child still had not contacted father.

The special master also noted the child's mental-health issues that partially resulted from being abused early in life. As a result, the special master concluded that "any relationship repair will take a long time and require enormous patience" from father. And by September 2021, medical records indicated "suspicion that [the child] becomes activated" by "thoughts of previous trauma," that the child continued to experience "pictures or images" of father that kept him from sleeping, and that he continued to display "intermittent explosive episodes." Yet, in the March 2022 order, the district court found that father continued to "minimize[] the abuse [that the child] has experienced and witnessed" and its "impact . . . on [the child]'s mental health."

The district court did not abuse its discretion by concluding that the three-step process serves the child's best interests and denying father's motion to establish parenting time.

Modification of process to retain reunification therapy provider

Father argues that the district court abused its discretion by sua sponte ordering respondents to contact and complete intake with a reunification therapy provider and prohibiting father from contacting any provider until respondents inform him of the first one available. Father appears to claim that these orders violate the recommendation procedure established in June 2020.

We first note that father did not notify the district court of its alleged error. *See Hughes v. Hughley*, 569 N.W.2d 534, 536 (Minn. App. 1997) (emphasizing the “strong policy” of allowing parties to present alleged errors to district court before pursuing appeal). Father also cites no authority for his apparent claim that the district court abused its discretion by modifying its own order, nor does he explain how the modification will impair the reunification process. As such, we could determine that father's claim is not properly before us. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that reviewing courts generally consider only issues presented to and considered by district court); *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) (“An assignment of error based on mere assertion and not supported by any argument or authorities . . . is [forfeited] and will not be considered on appeal unless prejudicial error is obvious on mere inspection.”).

We nonetheless consider and reject father’s claim on the merits, viewing the district court’s structuring of the reunification process as an aspect of its parenting-time discretion. We review the issue for an abuse of that discretion. *See Shearer*, 891 N.W.2d at 75.

The recommendation procedure was intended to regulate disagreements between the parties, not limit the district court’s discretion. Moreover, father previously failed to retain a reunification therapy provider after over-disclosing information. And it is reasonable to think that having respondents—the child’s sole legal and sole physical custodians—contact potential providers using a script is less likely to evoke fear of involvement in litigation. The district court had reason to modify the process to retain a reunification therapy provider.

Even if the district court abused its discretion, father does not explain how the modification would impair the reunification process. But father had the “burden to show prejudice,” and he failed to do so. *Sinda v. Sinda*, 949 N.W.2d 170, 176 (Minn. App. 2020); Minn. R. Civ. P. 61 (stating that we “must disregard” error that does not affect substantial rights). The district court’s decision to modify the process to retain a reunification therapy provider did not affect father’s substantial rights and does not merit reversal.

Affirmed.