

*This opinion is nonprecedential except as provided by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
A24-0353
A24-0991**

In re the Marriage of:

Petroula Nicole Hansen, petitioner,
Appellant,

vs.

Espen Allen Hansen,
Respondent.

**Filed December 23, 2024
Affirmed
Connolly, Judge**

Hennepin County District Court
File No. 27-FA-15-7518, 27-DA-FA-17-372

Petroula Hansen, Minneapolis, Minnesota (pro se appellant)

Nathalie S. Rabuse, DeSmidt Rabuse PLLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Ede,
Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

In this parenting dispute, pro se appellant-mother argues that the district court made clearly erroneous findings of fact, erroneously construed her motion for amended findings as a motion to reconsider, abused its discretion in denying her request to appoint a parenting

time expediter (PTE), and abused its discretion in awarding respondent-father conduct-based attorney fees. We affirm.

FACTS

The marriage between appellant Petroula Nicole Hansen (mother) and respondent Espen Allen Hansen (father) was dissolved in January 2016. Pursuant to the parties' stipulation, which was adopted by the district court, the parties were granted joint legal and joint physical custody of their two minor children, each born in December 2014, as well as equal, regular parenting time on a rotating schedule.

In September 2017, by stipulation and order, a parenting consultant (PC) was appointed. Under the stipulation, the PC was appointed for two years unless extended by mutual agreement of the parties. Although the parties initially agreed to renew the PC's services in January 2023, father rescinded his agreement later that month. As of January 2023, the parties no longer have a court-appointed PC.

In June 2023, mother filed a motion requesting, among other things: (1) appointment of a PTE; (2) relief related to the children's extracurricular activities; (3) that the children be allowed to wear smart watches; (4) inclusion of a non-disparagement clause; (5) that the time required to respond to Our Family Wizard (OFW)¹ communication be reduced from 72 hours to 24 hours; and (6) relief related to childcare issues. Mother later filed an "addendum" to her motion, requesting that a vacation parenting-time schedule be

¹ OFW is a cell phone application that helps parents manage child-custody schedules and co-parenting issues.

established. Father generally opposed mother's requested relief and, the day after he filed his response, mother filed a supplemental affidavit and exhibits, which were untimely.

A hearing was held on July 17, 2023, at which the district court agreed to consider mother's untimely filings conditioned on father having the opportunity to respond. After father responded, mother filed an "Affidavit of Health Care Expenses and Demand for Payment" and "Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment," seeking to collect \$15 of a \$30 uninsured medical expense. And on September 29, 2023, mother moved to find father in contempt for several alleged violations of the judgment and decree and other orders.

On October 23, 2023, the district court (1) declined to appoint a PTE; (2) denied mother's requested relief related to the children's extra-curricular activities; (3) declined to require that the children wear smartwatches; (4) in "routine language," ordered that the parties not disparage each other; (5) denied mother's request to reduce the parties' OFW-communication time; (6) denied mother's requested relief regarding childcare issues; and (7) granted relief related to the parties' proposals regarding vacation parenting time. The district court also addressed mother's contempt motion, finding that her motion "will not be heard unless [she] properly obtains a hearing date from the Court for that motion."

On November 14, 2023, the district court filed an amended order clarifying an issue related to mother's contempt motion. The next day, mother moved for amended findings. Father opposed mother's motion, but requested correction of a clerical error, as well as an award of conduct-based attorney fees.

On January 23, 2024, the district court filed a second amended order related to the issues raised in mother’s June 2023 motion; the second amended order did not materially change the amended order. In a separate order filed the same day, the district court treated mother’s motion for amended findings as a motion to reconsider and denied the motion. The district court also found that mother’s motion “had the effect of extending litigation of this matter increasing the expense of these proceedings.” Therefore, the district court found “it appropriate to grant [f]ather attorney fees of \$3,000.” Mother appeals.²

DECISION

I.

Mother challenges several of the district court’s findings of fact. We review a district court’s factual findings for clear error. Minn. R. Civ. P. 52.01; *see Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). In conducting this review, appellate courts view the evidence in the light most favorable to the findings, do not find their own facts, do not reweigh the evidence, do not reconcile conflicting evidence, and “need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [district] court.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (quotation omitted); *see also Bayer v. Bayer*, 979 N.W.2d 507, 513 (Minn. App. 2022) (citing *Kenney* in family-law appeal). Our duty is fully performed after we

² After this appeal was filed, the part of mother’s appeal seeking review of the portion of the January 23, 2024 order awarding father attorney fees was dismissed as premature. But after judgment was entered on the attorney-fee award in May 2024, mother filed an appeal of that award. This court subsequently filed an order consolidating mother’s appeals.

have fairly considered all the evidence and determined that the evidence reasonably supports the decision. *Kenney*, 963 N.W.2d at 222.

First, mother challenges the district court's findings that (A) it was concerned about the "triviality" and the number of times that mother has raised parenting issues in court; (B) the time and energy spent on mother's motions could be better focused on the children; (C) it was "unconscionable" that the children are being robbed of a childhood free from parental conflict; and (D) mother should consider alternatives before bringing additional motions. But these findings reflect the district court's perceptions based upon the parties' actions throughout the proceedings, the evidence presented at the hearing, and the court's opportunity to judge the credibility of the testimony. Mother's disagreement with these findings does not demonstrate that they are clearly erroneous.

Second, mother challenges the district court's finding that: "Based on the information provided to this Court the children are not endangered in either party's care." Mother contends that "[t]his finding is inappropriate because endangerment elements were not analyzed in this proceeding." But the district court made the finding in addressing its concern about mother's litigious nature, and the record supports the finding that, based on the information in the record, the children are not endangered in either parent's care.

Third, mother argues that the "district court clearly erred in making findings regarding [her] risk of being frivolous . . . without analyzing the criteria for a frivolous litigant" set forth in Minn. R. Gen. Prac. 9.02. We disagree. The district court never found mother to be a frivolous litigant. Instead, the district court found that it was "very concerned about the number of times [m]other has brought this matter before the Court

since the parties' marriage was dissolved and about the triviality of some of [m]other's requests for relief." The district court then cautioned mother "to strongly consider alternatives to litigation before bringing additional motions," and found that "[i]f she does not do so she risks facing a motion to be found a frivolous litigant." Because the district court never found mother to be a frivolous litigant, an analysis of the related rules was unnecessary.

Fourth, mother argues that she was deprived of a fair hearing because the district court judge was not impartial. But the district court's disagreement with mother's position, and its related findings, does not demonstrate that the district court judge was biased. And mother points to nothing in the record supporting her claim that the district court judge was not impartial. Accordingly, mother has failed to show that any of the challenged findings are clearly erroneous.

II.

Mother challenges the denial of her motion for amended findings, arguing that the district court erred in construing her November 15, 2023 motion for amended findings as a motion for reconsideration. This court reviews the denial of a motion for amended findings under an abuse-of-discretion standard. *Zander v. Zander*, 720 N.W.2d 360, 364 (Minn. App. 2006), *rev. denied* (Minn. Nov. 14, 2006). But "[t]he interpretation of the Minnesota Rules of Civil Procedure is a question of law that we review de novo." *Gams v. Houghton*, 884 N.W.2d 611, 616 (Minn. 2016).

"A motion to amend findings must be based on the files, exhibits, and minutes of the court, not on evidence that is not a part of the record." *Zander*, 720 N.W.2d at 364; *see*

also Minn. R. Civ. P. 52.02 (permitting amendment of findings when based on “the files, exhibits, and minutes of the court”). On a motion for amended findings, the district court must base its decision on “the evidence as submitted during the trial of the case and may neither go outside the record, nor consider new evidence.” *Zander*, 720 N.W.2d at 364 (quotation omitted). “The purpose of a motion for amended findings is to permit the [district] court a review of its own exercise of discretion.” *Johnson v Johnson*, 563 N.W.2d 77, 78 (Minn. App. 1997) (quotation omitted), *rev. denied* (Minn. June 30, 1997).

“Motions to reconsider are prohibited except by express permission of the court, which will be granted only upon a showing of compelling circumstances.” Minn. R. Gen. Prac. 115.11. “Motions for reconsideration play a very limited role in civil practice, and should be approached cautiously and used sparingly.” *Id.*, adv. comm. cmt. And “a motion for reconsideration cannot introduce new evidence.” *State v. Allwine*, 963 N.W.2d 178, 191 (Minn. 2021).

The district court found that mother’s “motion for amended findings both raises new arguments and offers new evidence not made in her original motion and reargues her prior motion alleging the Court failed to consider those arguments.” The district court also determined that mother’s “motion for amended findings is not supported by existing law and the Court finds it to be a motion to reconsider.” The district court then denied mother’s motion, determining that mother “did not follow the requirements of Rule 115.11 regarding a motion to reconsider.”

Mother appears to argue that the district court erroneously construed her motion to amend as one for reconsideration because the court addressed her challenges to the court’s

findings, rendering its determination “confusing and inconsistent” with the order as whole. But a review of mother’s motion and supporting affidavit indicates that mother primarily reargued her prior motion and claimed that the district court failed to consider her previous arguments. And, as the district court found, mother’s motion made new arguments and relied on new evidence that was outside the record. As such, we cannot conclude that the district court abused its discretion in construing mother’s motion for amended findings as a motion to reconsider.

Moreover, even if the district court erroneously construed mother’s motion as one for reconsideration, her argument on appeal demonstrates that she is not entitled to relief because she is unable to show prejudice. *See Bloom v. Hydrotherm, Inc.*, 499 N.W.2d 842, 845 (Minn. App. 1993) (stating that, on appeal, the appellant has the burden to show error and prejudice), *rev. denied* (Minn. June 28, 1993). As mother points out in her brief, the district court considered and addressed the arguments made in her motion. In other words, despite construing mother’s motion as an improper motion for reconsideration, the district court still addressed her arguments. Therefore, we conclude that the district court’s decision to deny mother’s motion for amended findings was not an abuse of discretion because mother’s motion was based on evidence that is not part of the record, and the court appropriately reviewed its own exercise of discretion.

III.

Mother challenges the denial of her request to appoint a PTE, arguing first that the “district court misapplied the law when it did not apply the proper statutes,” such a Minn. Stat. § 518.17, to resolve a parenting-time question. A district court’s decision to appoint

a PTE is reviewed for an abuse of discretion. *Nolte v. Mehrens*, 648 N.W.2d 727, 731 (Minn. App. 2002). But a district court’s compliance with the statutory requirements governing appointment of a PTE is reviewed de novo. *Braith v. Fischer*, 632 N.W.2d 716, 724 (Minn. App. 2001), *rev. denied* (Minn. Oct. 24, 2001); *see also Ramirez v. Ramirez*, 630 N.W.2d 463, 465 (Minn. App. 2001) (“The applicability of a statute is an issue of statutory interpretation, which appellate courts review de novo.”).

Minnesota Statutes section 518.17 governs a determination of child custody and requires the district court to evaluate the best interest of the child. Minn. Stat. § 518.17, subd. 1 (2022). In doing so, a district court “must consider and evaluate all relevant factors,” including 12 statutory factors. *Id.*, subd. 1(a)(1-12) (2022). But the supreme court has recognized that Minn. Stat. § 518.17 “applies to the *creation and initial approval* of parenting plans.” *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018) (emphasis added).

Here, mother’s request that a PTE be appointed did not involve the creation or initial approval of a parenting plan. As such, the best-interest factors set forth in section 518.17 are not applicable. *See id.* Moreover, the appointment of a PTE is governed by Minn. Stat. § 518.1751 (2022). There is nothing in this statute requiring a district court to consider the best-interest factors set forth in section 518.17, when the appointment of a PTE is requested. *See* Minn. Stat. § 518.1751. The district court did not err by not considering the best-interest factors in addressing mother’s request for the appointment of a PTE.

Mother also appears to challenge the district court’s findings related to denial of her request to appoint a PTE. Specifically, she contends that “the district court’s finding that

a PTE is inappropriate based on [mother] abusing the PC process is unfounded” because the evidence shows that both parties sought the PC’s services equally. But the district court found that father “*alleges* that [m]other has abused the PC process and by seeking the PC’s involvement anytime [f]ather disagreed with her.” (Emphasis added.) And the district court found that father “provided numerous examples of [m]other doing so.” Although the district court did not list each example provided by father, the district court’s findings are supported by the record because father *alleged* that wife abused the PC process and then provided examples. The district court then weighed father’s allegations and the examples he provided in deciding not to appoint a PTE. In doing so, the district court made credibility determinations, to which this court defers. *See Kenney*, 963 N.W.2d at 221-23 (stating that, when reviewing factual findings for clear error, appellate courts defer to the district court’s credibility determinations). As such, the district court’s findings related to father’s allegations that mother abused the PC process are not clearly erroneous.

Mother further argues that, in light of the parties’ September 2017 agreement to appoint a PC, the district court erroneously determined that “the scope of authority of a PTE is vastly different from and much more limited than that of a PC.” She argues that, “[a]lthough PCs and PTEs are distinct, they are not vastly different in the type of resolution services they offer when examining the PC’s authority in the parties’ PC decisions, [and] the parties’ stipulated PC order.” And mother argues that, because “mediation services have limitations compared to PCs and PTEs,” the district court abused its discretion in declining to appoint a PTE.

We disagree. This court has recognized that PTEs are distinct from PCs. *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 293 (Minn. App. 2007). PCs are “a creature of contract or of an agreement of the parties which is generally incorporated into (or at least referred to in) a district court’s custody ruling.” *Id.* Consequently, PCs require a stipulation or agreement between the parties and cannot be appointed by a district court on its own motion. *See id.* Conversely, PTEs are appointed pursuant to the procedure set forth in Minn. Stat. § 518.1751. “The purpose of a [PTE] is to resolve parenting time disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing parenting time order and, if appropriate to make a determination as to whether the existing parenting time order has been violated.” Minn. Stat. § 518.1751, subd. 1b(a). Therefore, the district court properly determined that PCs are “vastly different” from PTEs.

Moreover, as the district court found in its order denying mother’s motion for amended findings, “[t]he appointment of a PC was not at issue at the hearing resulting in the October 23, 2023 Order.” Rather, mother sought the appointment of a PTE. The district court considered mother’s position, but determined that “the appointment of a PTE is not [an] appropriate method of alternative dispute resolution for the parties.” Instead, the district court determined that mediation is appropriate to resolve the parties’ differences, and that “[i]f they cannot be resolved through mediation either party may then file a motion with the Court.” The district court’s decision appears to be grounded in the contentious nature of the parties’ relationship. Although mother may be unhappy that the parties must resolve their differences through mediation, the district court’s decision was based, in large

part, on mother's own actions. Accordingly, mother is unable to show that the district court abused its discretion in declining to appoint a PTE.

IV.

Mother challenges the district court's decision to award father conduct-based attorney fees. A district court may, in its discretion, award conduct-based attorney fees and costs against a party "who unreasonably contributes to the length or expense of the proceedings." Minn. Stat. § 518.14, subd. 1 (2022). Whether to award conduct-based attorney fees generally depends on "the impact a party's behavior has had on the costs of the litigation." *Dabrowski v. Dabrowski*, 477 N.W.2d 761, 766 (Minn. App. 1991). We apply an abuse-of-discretion standard of review to a district court's award of conduct-based attorney fees. *Gully v. Gully*, 599 N.W.2d 814, 825 (Minn. 1999).

The district court found that father requested "an award of \$6,927 in conduct-based attorney fees incurred in having to respond to [m]other's motion for amended findings." The district court then found that mother's "motion for amended findings both raises new arguments and offers new evidence not made in her original motion and reargues her prior motion alleging the Court failed to consider those arguments." The district court also found that mother's "motion for amended findings is not supported by existing law and the Court finds it to be a motion to reconsider." The district court further determined that mother failed to "follow the requirements of rule 115.11 regarding a motion to reconsider." Thus, the district court determined that mother's "motion has had the effect of extending litigation of this matter increasing the expenses of these proceedings." And after finding that father

provided the requisite affidavit required under Minn. R. Gen. Prac. 119.02, the district court found “it appropriate to grant [f]ather attorney fees of \$3,000.”

Mother argues that the district court’s “findings are not supported by the record and the district court misapplied the law when it considered [her] motion to reconsider.” Mother also contends that her “arguments are neither frivolous nor asserted in bad faith,” and her “conduct did not violate a court order nor did it prevent or disrupt a future adjudication of the parties.” And mother blames father for much of the litigation, claiming that her “motion and subsequent court involvement would have likely been wholly unnecessary if [father] had not rescinded the parties’ agreement to renew PC services” in January 2023. Thus, mother argues that the district court abused its discretion in awarding father conduct-based attorney fees.

We disagree. As noted above, the district court did not abuse its discretion in construing mother’s motion for amended findings as one for reconsideration. And the district court’s findings that mother failed to adhere to rule 115.11 regarding a motion to reconsider are supported by the record. *See* Minn. R. Gen. Prac. 115.11 (stating that “[m]otions to reconsider are prohibited except by express permission of the court,” and “shall be made only by letter to the court of no more than two pages in length, a copy of which must be served on all opposing counsel and self-represented litigants”).

Moreover, the record reflects that mother has habitually filed trivial and meritless motions. For example, the record reflects that mother filed a request for an order for protection that was eventually denied. The record also reflects that mother sought to collect \$15 of a \$30 uninsured medical expense. And, in addition to her motions related to this

case, mother filed a motion to hold father in contempt which, at the time of the January 23, 2024 order, “no hearing date and no affidavit of service ha[d] been filed with the Court.” The triviality of mother’s court filings, including her improper motion for reconsideration, supports the district court’s finding that mother’s motions have “had the effect of extending the litigation in this matter increasing the expenses of these proceedings.”

Finally, the record reflects that father requested almost \$7,000 in attorney fees and supported his request with the requisite affidavit under Minn. R. Gen. Prac. 119.02. But despite father’s request for almost \$7,000 in attorney fees, the district court ordered that mother only pay \$3,000 of those fees. And although this court has stated that it is “normally reluctant to grant an award of attorneys’ fees against a pro se litigant” absent “extreme” conduct, *Liedtke v. Fillenworth*, 372 N.W.2d 50, 52 (Minn. App. 1985), *rev. denied* (Minn. Sept. 13, 1985), this court has also stated that pro se litigants are generally held to the same standards as attorneys and must comply with court rules, *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Therefore, we discern no abuse of discretion in the district court’s award of conduct-based attorney fees.

Affirmed.