

*This opinion is nonprecedential except as provided by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
A24-1826**

In the Matter of:

Cristina Lillian Mactaggart, petitioner,
Respondent,

vs.

Jeffrey Allen Westad,
Appellant.

**Filed July 28, 2025
Affirmed
Jesson, Judge***

Hennepin County District Court
File No. 27-FA-20-1991

Robert Hajek, Hajek Legal Services, Minnetonka, Minnesota (for respondent)

Jefferey Allen Westad, Greenwood Village, Colorado (self-represented appellant)

Considered and decided by Ross, Presiding Judge; Wheelock, Judge; and Jesson,
Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

This case revolves around the custody of the nine-year-old child of appellant-father Jeffrey Allen Westad and respondent-mother Cristina Lillian Mactaggart. The parties, who

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

were never married, initially reached an agreement on custody and parenting time, which was contingent on mother's ability to maintain sobriety and work on her substance abuse issues—which she has done. But an increasingly acrimonious relationship emerged as mother sought more parenting time and father sought to move out-of-state with the child.

In November 2024, following motions by both father and mother, the district court granted mother sole legal custody of the child; ordered that each parent have equal parenting time and that mother's home be the child's primary residence; denied father's request to relocate with the child; and directed father to pay \$518 per month in basic child support. Father raises two main issues on appeal. First, that the district court's order was contrary to the child's best interests, and second, that the district court erred when considering previous domestic violence by mother towards father. Because the district court's detailed order is supported by the record, and because we discern no error in its handling of the domestic-violence issue, we affirm.

FACTS

Mother and father are parents of a child born in September 2015. While the couple never married, they reached a stipulated agreement signed by the court (the agreement) that they would share joint legal custody of their child, but that father would have sole physical custody. The agreement identified particular “major decision making” areas requiring agreement by both parties, which included the child's education. It is undisputed that mother struggled with substance abuse issues around this time. Accordingly, the agreement conditioned mother's parenting time on her compliance with certain conditions, which included going to therapy, refraining from using non-prescription mood-altering

substances, and drug testing every three months for one year. If mother complied with these conditions, her parenting time would increase. The agreement also provided that the parenting-time schedule could be reviewed at either party's request under a best-interests-of-the-child standard and that any future motion by mother to increase her parenting time to an equal 50/50 would be reviewed under that same standard.

Sometime in early 2022 father raised the issue of relocating with the child to Colorado. A court-appointed evaluator, Jeff Postuma, conducted a relocation assessment based on interviews with the parties and child and his review of several records. Postuma's January 2023 report recommended that the child continue to reside in Minnesota.

About two months later, mother petitioned the court for 50/50 parenting time. Father moved for relocation to Colorado with the child. Mother continued to test negative for drugs during this time and the litigation between the parties intensified.

Then in October 2023, father unilaterally pulled the child out of her local elementary school and enrolled her in an online school. Father admitted doing this. The district court ordered that the child be unenrolled from the online school and reenrolled at her elementary school and that father not discuss a potential out-of-state move with the child. The district court stated, "[T]he parties share joint legal custody. The scope [of which is] detailed with specificity in their stipulation. Father unilaterally changed the child's school less than a month after she had started the school year . . . He violated the parties' agreement, and he violated a court order." But father refused to follow the district court's order and twice removed the child from her elementary school after the court order. Mother then moved

for attorney fees and argued that she made a prima facie case for a change of custody based on endangerment.

In December 2023, the district court issued a temporary order awarding equal parenting time pending mother's motion to modify parenting time. The order also required mother to submit to random substance testing for six months and denied father's motion to enroll the child in online school.¹

A week later mother moved the court for modification of custody and sought sole legal custody of the child. She argued that father's actions endangered the child's emotional health and development and requested an evidentiary hearing. Mother also asked the district court to set child support. Father responded by seeking a new custody/parenting-time evaluation and an order requiring mother to undergo a new chemical assessment evaluation and show that she complied with random substance testing, among other requests. Mother voluntarily underwent another chemical health assessment and provided negative drug tests results. Father then moved for sole legal custody and conduct-based attorney fees.

Despite the agreement and this litigation backdrop, father refused to communicate with mother about travel plans and took the child on vacation out-of-state without notifying mother. In response, mother moved for a temporary order terminating father's joint legal custody and parenting time and awarding mother sole legal custody. The district court denied mother's motion and ordered father to return the child after their vacation. Mother

¹ In January 2024 the district court awarded mother \$11,585 in attorney fees against father.

and child were eventually reunited in early July, but father continued to interfere with mother's parenting time.

The parties appeared before the district court on August 21, 2024, for an evidentiary hearing on legal custody, parenting time, and relocation to Colorado. Mother testified and called as witnesses her father, Iain Mactaggart (grandfather), and Jeff Postuma, author of the 2023 relocation report. Father declined to call any witnesses or cross-examine mother's witnesses. He primarily relied on the approximately two dozen exhibits he submitted. His testimony was limited to answering questions from the district court and cross-examination by mother. After hearing all the evidence, the district court stated that it would consider the parties' motions but orally denied father's request to relocate to Colorado with the child. The district court explained that it would provide additional reasoning on its relocation decision in a written order.

The district court issued that order regarding legal custody, parenting time, relocation, and child support in November 2024. Noting that mother and her witnesses presented credible testimony, and that father was "less credible," the district court found that "[f]ather's actions and decision-making have endangered the [] child and it is in the child's best interests that [m]other be awarded sole legal custody." The district court then awarded the parties equal parenting time, denied father's relocation request, made mother's address the child's primary address, and ordered father to pay basic child support of \$518 per month.

This appeal follows.

DECISION

Father's arguments on appeal generally fall into two categories. First, he contends that the district court's best-interests findings from its November 2024 order were clearly erroneous, and it therefore abused its discretion when it awarded mother sole legal custody, ordered equal parenting time, and denied his relocation request. Second, father argues that the district court "erred by failing to properly apply the domestic violence burden-shifting provision of Minnesota law" regarding relocation.

This court reviews a district court's findings on the best-interests factors for clear error. *Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019). We review district courts' custody decisions, including relocation requests, for an abuse of discretion, mindful that there is little room to question their best-interests analysis. *In re Welfare of C.F.N.*, 923 N.W.2d 325, 334 (Minn. App. 2018), *rev. denied* (Minn. Mar. 19, 2019); *see Hagen v. Schirmers*, 783 N.W.2d 212, 215 (Minn. App. 2010). And we defer to district courts' credibility determinations. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021). But a district court abuses its discretion when it makes findings of fact that are unsupported by the evidence, misapplies the law, or issues a decision that is against the logic and the facts in the record. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022).

With these standards of review in mind, we turn to the issues raised by father on appeal.

I. The district court properly analyzed the best-interests and relocation factors.

In determining custody-related matters, a district court must make detailed findings on what is in the child's best interest. Minn. Stat. § 518.17, subd. 1(a) (2024); *see Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). Indeed, here the agreement between the parties stated that the best-interests standard governed parenting time decisions. In addressing those interests, the court needed to consider and evaluate all relevant factors, including the twelve delineated statutory factors. Minn. Stat. § 518.17 subd. 1(a).

Those factors follow:

- (1) the child's physical, emotional, cultural, spiritual, and other needs;
- (2) any special medical, mental-health, developmental, or educational needs;
- (3) the reasonable preferences of the child provided the district court determines they are of sufficient age maturity to express an independent, reliable preference;
- (4) whether domestic abuse has occurred in the home;
- (5) any physical-, mental-, or chemical-health issues of the parents;
- (6) the history of the parents' participation in caring for the child;
- (7) the willingness of the parents to meet the child's ongoing needs;
- (8) the effect a change in home, school, and community would have on the child's development and well-being;
- (9) the effect the proposed arrangement would have on the child's relationship with the other parent, siblings, and other important adults;
- (10) the benefit of maximizing the child's contact with both parents and the detriment of limiting that contact;

- (11) except in cases where domestic violence has occurred, the willingness of each parent to encourage a relationship with the other parent; and
- (12) the willingness of each parent to cooperate in rearing the children.

Minn. Stat. § 518.17 subd. 1(a)(1)-(12).

Here, the district court addressed each factor after reviewing the record and hearing testimony from mother and her witnesses, which it deemed credible, and sparse testimony from father, which it deemed less credible.² Overall, it determined that relocation was not in the child's best interests and awarded the parties equal parenting time and mother sole legal custody, which were in the child's best interests.³

² In addressing father's lack of credibility, the district court provided an example of father's efforts to circumvent court orders. Father had been living in an RV without a separate room for the child, when father could afford permanent housing. After the district court ordered father to have permanent housing with a room for the child, "[f]ather simply disabled the engine of the RV and claimed the RV was now permanent since it could not be moved," the court found.

³ While the legal issues set out in father's brief focus on the district court's alleged errors in its best-interests analysis regarding custody and relocation, in his argument he also asserts that the court's endangerment finding is clearly erroneous and unsupported by substantial evidence. We disagree. A district court will only grant an endangerment-based motion to modify custody if it finds that (1) "a change has occurred in the circumstances of the child or the parties and [] modification is necessary to serve the best interests of the child," Minn. Stat. § 518.18(d), and (2) "the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child." *Id.* at (iv). Here, the court found that father's actions and decision-making endangered the child, relying on many facts which led to its best-interests decision. These facts include father's extensive steps to remove mother from the child's life; his unilateral cancellation of the child's doctor's appointments; his move to an RV without a separate room for the child; and his removal of the child from her local elementary school. Accordingly, the district court's endangerment finding is supported by substantial evidence. It is not clearly erroneous.

Regarding the first three best-interests factors, among a myriad of findings, the district court found that father twice removed the child from school after mother dropped her off and unilaterally enrolled the child in online school; that the parties disagree on the child's level of interest in participating in religious activities; and that relocating to Colorado would benefit father, but not the child. The district court found that father's decision to pursue litigation, act contrary to court orders, "and push for his desired outcome . . . may result in [the child] requiring special mental health services in the future." Regarding the child's preference, the district court found that, because "[f]ather has exerted such influence on [the child] regarding moving to Colorado[,] [] she likely could not accurately state or understand a preference" even if she was asked for her input. Based upon its findings, the district court determined that the first factor weighed in favor of mother and that the second and third factors were neutral, given that the child had no special health needs and could not accurately state a preference.

Addressing factors four and five, the district court found that mother was abusive towards father during the child's early years when mother was struggling with substance abuse. Now four years sober, mother acknowledges that her behavior was unacceptable, and grandfather credibly testified that mother's recovery was exceptional, "addressing the core issues that fed her illness," the court found. But the district court highlighted father's "recent behaviors and interactions with the [c]ourt" as a "cause for concern regarding his mental health and decision-making." For example, father cut off child's contact with mother and communicated with mother in a "condescending and controlling manner," while mother "has been successful in remaining sober and providing consistent, safe care

for [the child].” Accordingly, the district court found that the fourth factor involving domestic abuse was neutral, while the fifth—any issue of a parent that affects the child’s safety or developmental needs—favored mother.

On factors six and seven, the district court found that both parents have been very involved in the child’s life, that her relationship with both of them is important, and that they both “take an active and loving role.” However, the district court noted how father has tried to “motivate” the child to “support a move to Colorado”—before knowing whether it would be permitted—by taking her to visit potential schools and encouraging her to make friendships there. The district court found that father’s continued comments to the child about moving to Colorado are detrimental to her well-being. And the court stated that it had “significant concerns about [f]ather’s recent unilateral decision-making.”⁴ Based upon this evidence, the district court found that factors six and seven favor an equal parenting time arrangement and disfavor relocation, while factor seven weighs in favor of granting sole legal custody to mother.

On factors eight and nine, the district court found that father physically removing the child twice from her school was disruptive and demonstrated his “lack of respect for [c]ourt [o]rders or joint legal decision making.” The district court cited findings from

⁴ Related to this point, father argues that the district court “made erroneous findings regarding travel notifications” in finding 15, which notes that in June 2024, father left the state with the child and did not provide mother with notice or travel information, did not allow the child to contact mother, and failed to return the child following his parenting time. But mother’s testimony at the evidentiary hearing supports the district court’s findings.

Postuma’s report that a move to Colorado would “impact all areas of [child’s] li[f]e” and specifically noted the child’s relationship with grandfather (with whom child and mother reside) and mother’s ties to Minnesota. While acknowledging father’s claim that he does not have family or friends in Minnesota despite living here since 2010, the court found that father’s proposed move would not allow mother to be a part of child’s daily life. “[I]t is much more likely that [f]ather could afford to travel to Minnesota” if he moved to Colorado without the child than mother could afford to visit, the court found. Both of these factors weigh in favor of mother’s proposal regarding custody and relocation, according to the court.

Regarding the remaining factors, the district court found that both parents are important to the child and that an equal parenting time schedule would maximize the time she can spend with each of them. But father has been an obstacle to mother’s parenting time and has made parenting decisions that are contrary to the child’s best interests and court orders.⁵ Moreover, the district court relied upon mother’s credible testimony about

⁵ Father argues that when making this finding, the district court failed to consider mother’s refusal to engage in mediation and settlement discussions. The record does not support father’s argument. The district court issued its November 2024 order after reviewing “the court file, arguments, and evidence,” which includes affidavits and motions from father stating that mother refused to engage in mediation and settlements, *and* affidavits from mother denying father’s claims. It appears the district court considered the factual dispute, and to the extent it addressed the competing affidavits, made a credibility determination favoring mother.

father's controlling behaviors and unilateral decision-making and noted that father's decisions have been contrary to the stability or structure that the child needs.⁶

While the district court addressed many of the underlying issues involved in its relocation decision while considering the twelve best-interests factors, it also specifically addressed the additional considerations Minnesota law requires when considering a parent's request to move to another state. The district court found that father "has established a pattern of conduct to thwart the relationship of child and [m]other," noting his unilateral decision-making regarding the child's education, travel plans, and medical appointments, and his "choice to remove [the child] from the only home she has known to live in an RV (not for financial reasons but because he intended to leave Minnesota with her)." The court also found that "[t]he benefits and enhancements to quality of life as a result of relocation are squarely placed on [f]ather," that mother "does not benefit at all from a relocation," and that "while the child may benefit from relocation . . . as the conflict between her parents would diminish,[] so too would her time with her [m]other."

The district court's detailed best-interests analysis, including its decision regarding relocation, is fully supported by the record. Here, the court carefully weighed each parent's efforts to raise the child, as well as the child's specific needs. In doing so, it relied on Postuma's extensive report and testimony. The report stated: "If [father] were allowed to continue to involve the [c]ourt (perhaps for years) until he gets what he wants [it] will

⁶ The court's analysis did not explicitly state which parent these final factors favored, but its discussion of the factors demonstrates implicit weighing of these factors in mother's favor.

undoubtedly be detrimental to [the child] and [the child]’s entire family. [Child] will live in a state of mind not really knowing where to ground herself and perhaps making it difficult to solidify her friendships and community.”

Mother’s testimony also grounded the district court’s best-interests analysis. The court found her credible, an assessment we will not second guess. *See Kenney*, 963 N.W.2d at 221-22. Further, the district court relied upon its own experiences with father. It noted, for example, that father not only showed a lack of respect for joint legal decision-making, but also for court orders. And father’s limited involvement in the evidentiary proceeding provided little evidence for the district court to consider. The court found his brief testimony “less credible.” Given the district court’s detailed, supported analysis, it did not abuse its discretion by denying father’s relocation request, awarding equal parenting time, and awarding mother sole legal custody of the child.⁷

To persuade us otherwise, father argues that the district court “relied on a flawed and inadmissible relocation evaluation” because its “outdated” findings from January 2023 “mischaracterize both the scope of the evaluation and the extent of Mr. Postuma’s involvement with the family.” Father also argues that, because Postuma “is not a licensed psychologist, therapist, or social worker,” it is questionable whether his opinions constitute

⁷ Father contends that the district court abused its discretion in making its child support determination because mother’s financial disclosures were incomplete and inaccurate and because she acted in bad faith. But father fails to provide any evidence to support this claim and does not challenge the district court’s determination of his income. We therefore decline to address his argument. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) (arguments that are no more than a “mere assertion,” are unavailing).

“expert testimony.” Father’s arguments are without support. First, the district court noted that even though the report dates from January 2023, it is detailed, thorough, and reliable. Postuma’s report and testimony were based on his personal observations, research, and conversations and the district court found him credible. Second, the district court never referred to Postuma as an expert. Nor did father raise the issue of Postuma’s qualifications below. As a result, we will not address them, for the first time, on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts generally address only those questions previously presented to and considered by the district court).

Relevant to father’s relocation request, he argues that the district court failed to properly consider the quality-of-life benefits of relocation. We disagree. The district court explicitly found that the “benefits and enhancements to quality of life as a result of relocation are squarely placed on [f]ather. Moving to Colorado would make [f]ather happier, reduce the contact [f]ather and [child] have with [m]other, and allow [f]ather added contact with his family.”⁸ In contrast, the court determined that mother would not benefit at all from relocation and her time with the child would “drastically diminish[.]”

Because the record supports the district court’s findings of fact on the best-interests factors and relocation considerations, the court did not abuse its discretion when it

⁸ A district court’s decision on relocation, which is determined by weighing several considerations under Minn. Stat. § 518.175, subd. 3 (2024), including the best interests of the child, is reviewed for an abuse of discretion. *Hagen*, 783 N.W.2d at 215.

determined that it was in the best interests of the child for mother to have equal parenting time and sole legal custody of the child and denied father’s relocation request.⁹

II. The district court did not abuse its discretion in its application of the domestic-violence burden-shifting provision.

Father argues that the district court “erred by failing to properly apply the domestic violence burden-shifting provision” under Minnesota Statute § 518.175, subd. 3(c), as part of its relocation determination. Section 518.175, subd. 3(b), instructs district courts to apply a best-interests standard when considering a relocation request. We addressed the district court’s application of that standard in our analysis above. But in a separate argument, father argues that the court violated this statute because it placed the burden of proof regarding relocation on him, rather than mother. The burden should be on mother, he asserts, because he is a victim of domestic violence.

We begin with the wording of subdivision 3(c):

The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds that *the person requesting permission to move has been a victim of domestic abuse* by the other parent, *the burden of proof is upon the parent opposing the move*. The court must consider all of the factors in this subdivision in determining the best interests of the child.

Minn. Stat. § 518.175, subd. 3(c) (emphasis added).

⁹ Father also argues that the district court “mischaracterized [his] employment situation” by “incorrectly stat[ing] that [his] employment is based in Eden Prairie, Minnesota.” However, his 2023 W-2 identifies his employer’s address as located in Eden Prairie. In an affidavit, father stated that he is “employed out of Austin, TX,” that his company’s location “in Minnesota is an unstaffed datacenter,” and that he works remotely. The record supports the district court’s finding.

As discussed above, the statutory best-interests factors require the district court to consider: “[W]hether domestic abuse . . . has occurred in the parents’ or either parent’s household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child’s safety, well-being, and developmental needs.” Minn. Stat. § 518.17, subd. 1(a)(4). Which the district court did in its custody and parenting time determinations. But in addressing the related decision, the district court did not directly address who bore the burden of proof on relocation: mother or father.

Given the record and detailed order below, to the extent that the law placed a burden of proof on mother regarding relocation, mother met this burden. Notably, the district court relied on Postuma’s 2023 report, which explained how father “previously minimized his experience of domestic abuse in the relationship and how his statements were void of intensity and fear for this safety” and that the evidence “does not corroborate [f]ather’s current stated level of fear.” Not only does this evidence raise questions about the level of domestic abuse, but much of the testimony supports the district court’s finding that the benefits from the proposed relocation fall squarely on father. Mother certainly does not benefit, the court found. And the child benefits only to the extent the conflict between her parents is removed. But that relocation also, as the district court pointed out, removes her from her mother.

In sum, even assuming that mother bears the burden of proof regarding relocation, the district court's decision to deny father's relocation request falls within its wide discretion.

Affirmed.