

*This opinion is nonprecedential except as provided by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
A25-0059**

In the Marriage of:

Pawel Dominik Rzeczkowski, petitioner,
Appellant,

vs.

Carolina Uribe Borrero,
Respondent.

**Filed September 29, 2025
Affirmed
Bentley, Judge**

Hennepin County District Court
File No. 27-FA-19-6324

Pawel Dominik Rzeczkowski, Newnan, Georgia (self-represented appellant)

Carolina Uribe Borrero, Minneapolis, Minnesota (self-represented respondent)

Considered and decided by Wheelock, Presiding Judge; Larson, Judge; and Bentley,
Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this dispute that follows the dissolution of the parties' marriage, appellant-father Pawel Dominik Rzeczkowski appears to challenge the district court's (1) denial of his motion to amend the dissolution judgment and decree (J&D), (2) award of conduct-based attorney fees to respondent-mother Carolina Urbe Borrero, and (3) granting of mother's

motion to modify custody to award her sole legal custody of the parties' son. Because the district court did not err by denying father's motion for an amended J&D, and because we discern no abuse of discretion in the district court's decisions to award conduct-based attorney fees and to modify legal custody of the parties' son, we affirm.

FACTS

The procedural history of this case is complex, but the issues in the current appeal are relatively narrow. The underlying J&D and an amended J&D already have been the subjects of two appeals before this court and are not properly before this court again in this appeal. Rather, father appeals from orders relating to motions he filed in the district court while his second appeal was pending, and from an order granting in part mother's motion to modify custody. For background purposes, we provide a brief explanation of the procedural history and describe the facts that are relevant to the issues here. Additional facts and procedural history are set forth in this court's prior opinions in this matter. *See Rzeczkowski v. Borrero*, No. A22-0954, 2023 WL 2762442, at *1-3 (Minn. App. Apr. 3, 2023) (*Rzeczkowski I*); *Rzeczkowski v. Borrero*, No. A24-0059, 2024 WL 4926223, at *1-2 (Minn. App. Dec. 2, 2024) (*Rzeczkowski II*), *rev. denied* (Minn. Feb. 26, 2025).

The parties married in October 2011 in Colombia, and their twin children—a son and a daughter—were born in 2015. Father petitioned for dissolution of the parties' marriage in 2019.

In June 2022, following a trial, the district court entered a J&D dissolving the parties' marriage. The district court allocated the parties' property pursuant to the parties'

prenuptial agreement and postnuptial stipulation.¹ It denied father's requests for spousal maintenance and need-based attorney fees. Although mother had requested sole legal custody of the twins, the district court awarded the parties joint legal and joint physical custody of the children upon finding that the parties seemed to share "a general concern for their children's health and wellbeing," even though they "were not easily agreeable" about decisions regarding their son's attention-deficit/hyperactivity disorder (ADD/ADHD).

Father appealed the J&D, challenging the district court's (1) enforcement of the postnuptial stipulation, (2) denial of spousal maintenance, (3) calculation of mother's income for child-support purposes, and (4) denial of need-based attorney fees. *Rzeczkowski I*, 2023 WL 2762442, at *1. This court remanded for the district court to determine whether enforcement of the postnuptial stipulation would violate the public policy against unconscionable agreements and to make additional findings on father's request for need-based attorney fees. *Id.* at *13. As to the remaining issues, this court affirmed. *Id.* at *8-12.

On remand, the district court entered an amended J&D on July 25, 2023, and determined that the postnuptial agreement was enforceable. On November 8, 2023, the district court filed an order, again denying father's request for need-based attorney fees.

¹ The "postnuptial stipulation" is a document through which the parties agreed "to immediately dissolve and liquidate the marital estate following the marriage." *Rzeczkowski I*, 2023 WL 2762442, at *1. The parties signed the document in Colombia the day before they were married, and it was notarized and recorded two days after they were married. *Id.* at *2.

Father filed notices of appeal with respect to both the amended J&D and the order on need-based attorney fees.²

Father's Motions

On November 17, 2023, father filed self-represented motions in the district court asking the district court to: (1) issue a second amended J&D that revised the existing J&D's provision of marital assets, spousal maintenance, child support, and other issues; (2) "refer[] this case to the Hennepin County Attorney's Office for criminal prosecution due to fraud and misconduct by [mother]"; and (3) "remove" several items from the record.³ Mother alleged that the motions were meritless and moved for conduct-based attorney fees.

The district court held a motion hearing on January 17, 2024, and then filed an order denying each of father's motions on March 28, 2024. The district court denied the motion to remove materials from the record because father had cited no legal authority to support

² Father filed separate notices of appeal from both the amended J&D and the order on need-based attorney fees on September 21, 2023, and November 16, 2023, respectively. This court consolidated those appeals but then dismissed the appeals as premature because the district court had not entered judgment on the issue of attorney fees. The district court entered judgment on December 15, 2023, and father filed a notice of appeal from both judgments on January 11, 2024. Although not relevant to the issues in this appeal, we note that this court later affirmed the district court's conclusion that the postnuptial agreement was enforceable and, again, remanded for additional findings by the district court regarding need-based attorney fees. *See Rzechkowski II*, 2024 WL 4926223, at *4, 6.

³ Those items included: affidavits supporting mother's motion to enforce the postnuptial agreement; an affidavit by the children's nanny submitted in support of pretrial temporary orders relating to custody, parenting time, and other matters; an affidavit and dissolution-trial exhibit from an accountant relating to mother's finances; and dissolution-trial exhibits produced by mother's vocational expert. Father generally alleged that the affidavits were fraudulent, false, and the product of "witness tampering" and perjury.

his position. With respect to father's motion for a second amendment to the J&D, the district court noted that father had "filed an appeal" of the amended J&D, and the appeal was "pending." The district court awarded mother \$999 in conduct-based attorney fees based on its conclusion that father's motions were meritless and on the fact that "[f]ather has an appeal pending which he initiated."

On August 12, 2024, father filed a "motion to vacate" the district court's March 28, 2024 order. He largely reasserted his prior allegations of fraud and misconduct. The district court denied the motion to vacate in a November 19, 2024 order "because Father cite[d] to no legal authority for his requests."

Custody Modification Proceedings

Separately from father's motions, in April 2023 mother moved for sole legal and sole physical custody of the parties' minor children. She alleged that father abruptly moved to the State of Georgia in August 2022, leaving the children in mother's care "100% of the time." Mother alleged that since father had left, their son had started acting younger than his age, had become more aggressive toward his classmates, and had seemed distracted at school. She also alleged that their son had been diagnosed with ADHD and post-traumatic stress disorder (PTSD) and that she had sought treatment for him, but for "almost three years," father had "caused countless delays to obstruct treatment[] by being non-responsive or asking for numerous conversations which never take place or result in accusations or threats by him." In particular, mother alleged that father "refuse[d] to follow [doctors'] recommendations for ADHD treatment" and that their son "continues to be harmed by [father's] lack of cooperation with the medical professionals."

The district court ordered the parties to mediate. But after mediation was unsuccessful, the district court held an initial hearing on mother's motion on the same day it heard father's motions. The district court determined that mother made a prima facie showing that she was entitled to sole physical custody of both children and sole legal custody of the parties' son. The district court suspended mother's child-support obligation, directed the county to conduct a brief focused assessment (BFA) to evaluate how the custody and parenting-time arrangements were affecting the children's needs, and scheduled an evidentiary hearing.

At the evidentiary hearing in September 2024, the district court clarified that the matter at issue was custody modification, and there was "absolutely no connection" between custody modification and the issues that were pending in father's appeal of the amended J&D and attorney-fee order. Mother called the BFA evaluator as a witness, who concluded that "the current joint decision-making process is fraught with conflict and creating delays in responsiveness and care for the children, particularly [the parties' son]." Mother and father both testified. Father testified that "fraud and misrepresentation" in the dissolution proceedings resulted in financial hardship, which forced him to move to Georgia and prevented him from exercising his parenting time and from hiring an expert to testify that medicating the parties' son for ADHD would be harmful.

In the same November 19, 2024 order in which it denied father's motion to vacate, the district court awarded mother sole legal custody of the son. The district court determined that father's move to Georgia and the son's ADHD and PTSD diagnoses were changes in circumstances from the prior custody order, that modification was in the son's

best interests, and that “the demonstrated inability of the parties to make decisions that are in [their son’s] best interests require that Mother make those decisions alone.” Relying on an assessment completed by the son’s psychologist and the BFA, the district court determined that “if [the son] does not receive medication for his ADHD he will continue his significant lack of performance in school, and this will continue to adversely affect his academic performance and his social relationships.” As for mother’s request for sole physical custody of both minor children, the district court denied it after determining that it was not in the children’s best interests.

Father appeals.

DECISION

Before considering the merits of father’s arguments on appeal, we briefly address the scope of our review. Generally, “[t]he appellate courts may reverse, affirm or modify the judgment or order” that is being appealed. Minn. R. Civ. App. P. 103.04; *see* Minn. R. Civ. App. P. 103.03 1998 advisory comm. cmt. (discussing the scope of review on appeal). The November 19, 2024 order being appealed modified custody of the minor children and denied father’s “motion to vacate,” so we may review those issues. Appellate courts also may “review any order affecting the order from which the appeal is taken.” *Id.* Father’s “motion to vacate” sought relief from the March 28, 2024 order that denied father’s motions—including his motion for a second amended J&D—and that awarded conduct-based attorney fees to mother. Therefore, the March 28, 2024 order “affect[s] the order from which the appeal was taken” and is within the scope of review on appeal from the November 19, 2024 order. *Id.*

Father appears to raise three issues. We construe father's first argument as a challenge to the district court's denial of his motion for a second amended J&D. He disputes several factual findings and credibility determinations underlying the amended J&D and asserts that the district court should have entered a second amended J&D in which it should have declined to enforce the postnuptial stipulation, reconsidered the division of the parties' marital property, awarded him spousal maintenance, and recalculated his income for child support, among other things. Father's second argument is that the district court erred by awarding mother conduct-based attorney fees. Father's third argument, in respect to the order modifying legal custody of the son, challenges the district court's characterization of his move to Georgia as abandonment.

Mother argues that father's issues on appeal either lack merit or are not properly before this court. We address the issues in turn.

I

Father challenges the district court's denial of his motion for a second amended J&D, which the district court denied because father already had challenged the existing amended J&D in an appeal then pending.

Except in circumstances not relevant here, a party's "filing of a timely and proper appeal suspends the trial court's authority to make any order that affects the order or judgment appealed from." Minn. R. Civ. App. P. 108.01, subd. 2. "[T]he trial court retains jurisdiction as to matters independent of, supplemental to, or collateral to the order or judgment appealed from." *Id.* This rule "is designed to avoid the confusion and waste of time potentially arising from having the same issues before two courts at the same time."

Perry v. Perry, 749 N.W.2d 399, 402 (Minn. App. 2008) (quoting *Spaeth v. City of Plymouth*, 344 N.W.2d 815, 825 (Minn. 1984)). In the family-law context, “the district court’s authority to act should be construed in a way that permits the courts to respond to changing circumstances and protect the best interests of the children.” *Id.* at 403. Moreover, “an order does not necessarily affect the order on appeal if it involves a new set of facts and does not require the district court to consider the merits of the issue on appeal.” *Id.* “We review the construction and application of procedural rules de novo.” *Contractors Edge, Inc. v. City of Mankato*, 863 N.W.2d 765, 768 (Minn. 2015).

When the district court considered father’s motion for a second amended J&D, father already had appealed the amended J&D, and that appeal was pending. The motion raised specific challenges to the amended J&D that were being reviewed by this court, including the enforceability of the postnuptial stipulation and father’s request for need-based attorney fees. *See Rzeczkowski II*, 2024 WL 4926223, at *2-5. Father’s claims were not based on changed circumstances or designed to protect the best interests of the children; they were based on his allegations that mother presented fraudulent and misleading evidence at the dissolution trial, which father suggests his attorneys “repeatedly declined to present” over “nearly four years” of litigation. The district court was not authorized to decide those issues because its authority to “make any order that affects” the amended J&D was suspended. Minn. R. Civ. App. P. 108.01, subd. 2. For these reasons, we discern no error in the district court’s denial of father’s motion without reaching the merits of the arguments he raised. We likewise do not reach the merits of those arguments, many of

which were ultimately resolved in the appeal that was pending before this court. *See Rzeczkowski II*, 2024 WL 4926223, at *2-5.

II

We turn next to father’s challenge to the district court’s award of conduct-based attorney fees to mother. Father argues that the award of attorney fees was “legally unjustified and punitive” because he “lacks income, assets, or legal representation.”

A district court may award conduct-based attorney fees “against a party who unreasonably contributes to the length or expense of the proceeding.” Minn. Stat. § 518.14, subd. 1a (2024). “In determining whether to award fees, the court must consider the circumstances and any other factors that contributed to the length or expense of the proceeding.” *Id.*

This decision is “discretionary with the district court.” *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 295 (Minn. App. 2007). Attorney-fee awards “normally will not be disturbed absent a clear abuse of discretion.” *Erickson v. Erickson*, 452 N.W.2d 253, 256 (Minn. App. 1990). A district court abuses its discretion when it misapplies the law, its decision is against logic and the facts on record, or its factual findings are clearly erroneous. *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010).

Here, the district court explained that it awarded conduct-based attorney fees to mother because father’s motions—which not only lacked merit, but were unsupported by legal authority, contained rhetorical attacks on mother and mother’s family, and were improperly brought while father had a pending appeal—unnecessarily caused mother to incur legal fees to respond. Those grounds are supported by the record. And although the

district court did not consider father’s ability to pay the fees, we have said that a proper award for conduct-based attorney fees “may be made regardless of the recipient’s need or the payor’s ability to pay.” *Brodsky v. Brodsky*, 733 N.W.2d 471, 746 (Minn. App. 2007). We conclude that the district court did not abuse its discretion in awarding mother conduct-based attorney fees.

III

Finally, we address what we construe as father’s challenge to the district court’s consideration of his relocation to Georgia in making its decision to modify legal custody and award sole legal custody of the parties’ son to mother. Appellate courts review custody-modification decisions for an abuse of discretion. *See Goldman v. Greenwood*, 748 N.W.2d 279, 282 (Minn. 2008) (stating that district courts “have broad discretion in determining custody matters” (quotation omitted)). Again, “[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).

A parent seeking to modify legal custody based on endangerment must establish that (1) “the circumstances of the child or custodian have changed”; (2) “modification would serve the [child’s] best interests”; (3) “the [child’s] present environment endangers their physical health, emotional health, or emotional development”; and (4) “the benefits of the change outweigh its detriments with respect to the [child].” *Christensen v. Healey*, 913 N.W.2d 437, 440 (Minn. 2018); *see also* Minn. Stat. § 518.18(d)(iv) (2024) (setting forth endangerment standard for custody modification).

Father argues that the district court erred by “cit[ing] [his] relocation as a basis for awarding [mother] sole legal custody, [and] characterizing [his] absence as abandonment,” when his move resulted from financial hardship caused by the amended J&D. Mother argues that the district court properly determined that father’s out-of-state move was a change in circumstances and that the district court properly analyzed the best-interests factors.

We discern no abuse of discretion. Father cites no legal authority to support his assertion that the district court’s consideration of his move to Georgia was “legally erroneous.” Indeed, caselaw suggests the opposite. *See Sefkow v. Sefkow*, 427 N.W.2d 203, 214 (Minn. 1988) (holding that “[a] custodial parent’s move out of state is clearly a change in circumstances” under the custody-modification statute). And, in any event, the crux of the district court’s decision was “the demonstrated inability of the parties to make decisions that are in [their son’s] best interests,” which is distinct from father’s relocation. “‘Legal custody’ means the right to determine the child’s upbringing, including education, health care, and religious training.” Minn. Stat. § 518.003, subd. 3(a) (2024). Here, the district court noted that mother was in the best position to make decisions for the parties’ son because she is better able “to gather the information about [their son’s] condition and secure the services he needs to flourish academically and socially.” And mother sought to follow the recommended treatment for the son’s ADHD, while father opposed it. Without that treatment, the district court found that the son “will continue his significant lack of performance in school,” which would “continue to adversely affect his academic performance and his social relationships.” Father does not challenge these findings, which

support the district court's determination that modification of legal custody is in the best interests of the parties' son and is necessary to meet the son's unmet healthcare needs that have been adversely affecting his social and academic well-being.

Affirmed.