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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0413**

In Re the Custody of the Children of:

William Munday, petitioner,
Appellant,

vs.

Hellda Gift Silvano,
Respondent.

**Filed February 17, 2026
Affirmed
Connolly, Judge**

Polk County District Court
File No. 60-FA-24-324

William Munday, St. Paul, Minnesota (pro se appellant)

Helda Gift Silvano, Climax, Minnesota (pro se respondent)

Considered and decided by Cochran, Presiding Judge; Connolly, Judge; and Segal,
Judge.*

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

In this parenting dispute, appellant-father argues that the district court abused its discretion in awarding respondent-mother sole custody, failed to give adequate weight to

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

appellant's evidence of parental alienation, put excessive weight on speculative testimony, abused its discretion in restricting appellant's parenting time, and failed to make adequate best-interest findings. We affirm.

FACTS

Appellant-father William Munday and respondent-mother Hellda Gift Silvano met in 2016 and began living together in appellant's apartment in 2017. Their first child, M., was born in December 2017, and respondent became the primary caregiver. When respondent and M. had to move out of the apartment in February 2018 because appellant had been taken in by immigration authorities, they moved in with respondent's aunt. In November 2019, after appellant was released from detention, he, respondent, and M. moved into a house in Minneapolis.

Their second child, N., was born in September 2020. Appellant was rarely home and did not provide support, and respondent had postpartum depression. She and the children moved into her father's home. In October 2021, appellant, respondent, and the children moved into an apartment she had rented. Appellant did not contribute to their expenses, and respondent asked him to move out in February 2022. Appellant said he refused to support the children because respondent had had them listed as dependents on her tax return since M.'s birth.

In March 2023, respondent and the children relocated to be with her new husband. Respondent did not tell appellant where she was living. She brought the children to visit him, but he cancelled the visits. In September 2023, appellant filed a petition for custody.

In October, a district court order established appellant's child-support obligation at \$1,213 monthly, and he began making child-support payments in December 2023.

At the December 2024 trial on the custody petition, appellant stated that he was seeking: (1) joint legal and joint physical custody of both children; (2) a specific parenting-time schedule that gave him three weekends a month during the school year and all of summer vacation except one week; and (3) a tax exemption for one child. Respondent was seeking: (1) sole legal and sole physical custody of both children, (2) scheduled parenting time for appellant during school breaks, with appellant having the children about 25% of the time, and (3) the tax exemptions for both children. The parties agreed that mediation should be used to resolve future disputes.

In its findings of fact, conclusions of law, order for judgment, and judgment and decree, the district court noted that the parties lived 300 miles, or a five-hour drive, apart. Respondent was awarded sole legal and sole physical custody. After observing that the children had not spent regular time with appellant and would need to get accustomed to doing so, the district court set a schedule of one weekend when appellant would have the children from 1:00 p.m. to 6:00 p.m. on Saturday and 9:00 a.m. to 2:00 p.m. on Sunday, then another weekend when he would have them from 1:00 p.m. Saturday to 1:00 p.m. Sunday. Beginning with March 7, 2025, appellant would have the children for the first and third weekends of each month, from 6:00 p.m. Friday to 6:00 p.m. Sunday.

Appellant filed a Notice of Appeal in March 2025; the appeal was stayed pending mediation. The stay was dissolved and the appeal was returned to the appellate process in

July 2025.¹ Appellant argues on appeal that the district court abused its discretion in awarding respondent sole legal custody of the children, clearly erred in its consideration of the evidence relative to respondent’s behavior toward appellant, improperly relied on speculative and biased testimony, failed to make the analysis required by Minn. Stat. § 518.175 (2024), and failed to make all the findings required by Minn. Stat. § 518.17 (2024).

DECISION

Standard of Review

To the extent that a party challenges a district court’s findings on factual issues relevant to custody, this court applies a clear-error standard of review. If the facts are not in dispute, we apply an abuse-of-discretion standard of review to a district court’s award of child custody. A trial court has broad discretion in making custody decisions; there is scant if any room for this court to question a district court’s balancing of best-interests considerations.

In re Welfare of C.F.N., 923 N.W.2d 325, 334 (Minn. App. 2018) (citations and internal quotation omitted). “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).

¹We note that this opinion does not address respondent’s August 2025 motion for parenting-time assistance and for the imposition of a civil penalty of up to \$500 on appellant because it is not part of the record and it has no bearing on the decision being appealed.

1. Legal Custody

Absent domestic abuse, there is a rebuttable presumption that joint legal custody is in the best interests of the child. Minn. Stat. § 518.17, subd. 1(b)(9). But the presumption is rebutted when the parties cannot cooperate in raising their children; “[j]oint legal custody is presumed to be in a child’s best interests . . . [b]ut ‘should be granted only where the parents can cooperatively deal with parenting decisions.’” *Rosenfeld v. Rosenfeld*, 529 N.W.2d 724, 726 (Minn. App. 1995) (quoting *Wopata v. Wopata*, 498 N.W.2d 478, 482 (Minn. App. 1993)); *see also Durkin v. Hinich*, 442 N.W.2d 148, 153 (Minn. 1989) (the presumption that a natural parent is entitled to custody may be overturned if there are grave and weighty reasons to separate a child from a natural parent (quotation omitted)).

Here, the district court’s findings support its conclusion that joint legal custody would not be in the children’s best interests.

[T]here is a significant history of conflict and communication struggles. The parties have, thus far, been unable to resolve disputes effectively and respectfully. As an example, the parties disagreed over school enrollment, which led to each party taking individual action [and appellant’s] frustrations with [r]espondent led him to decline parenting time with the minor children.

. . . [Appellant] does not consider important practicalities when advocating for a specific decision—the importance of keeping the children in the same household, location and distance, and the needs of children at this age. . . . [H]e has been unable to find a way to co-parent with [r]espondent, which includes respectful discussions, joint problem solving, and putting the children’s needs ahead of a parent’s desires. . . .

. . . The parties’ inability to cooperate in child rearing, their communication struggles, and the increased parental

conflict over decision making all show that sole legal custody is in the children's best interests.

The district court also indicated that appellant was not to be excluded from information on the children: "Even though respondent is awarded sole legal custody, [appellant] remains entitled to information regarding the children's education, health care, and religion as detailed herein."

Appellant relies on *Troxel v. Granville*, 530 U.S. 57 (2000), claiming that it "emphasize[s] that parental rights should not be curtailed absent concrete evidence of harm."² But his reliance is misplaced. *Troxel* actually affirmed a Washington State Supreme Court case holding both that "the [United States] Constitution permits a State to interfere with the right of parents to rear their children only to prevent harm or potential harm to a child" and that "parents have a right to limit visitation of their children with third persons." *Troxel*, 530 U.S. at 63 (quotations and citation omitted). *Troxel* is not on point because this case does not involve either the United States Constitution or the right to limit third-party visitation.

2. Parental Alienation

Appellant argues that respondent's refusal to disclose her address to him was "a classic form of parental alienation" and that the district court ignored this argument. But this court applies a clear-error standard of review to a district court's factual findings in custody disputes. *C.F.N.*, 923 N.W.2d at 334. The district court heard respondent testify that, after she moved to a different area, appellant

² Appellant's brief does not have page numbers.

started getting more aggressive to the point where he would show up to my father's home and then he would continuously call me and text me saying that he would . . . disrupt my father's peace. . . . [T]hen [appellant] also threatened that he would find my address since he had experience in IT. So that's why I didn't disclose my location with him. But I would always bring the kids to him. . . . [W]hen I would schedule a time for him to see the children, he would always, um, cancel and have an excuse that he was tired or he had something going on[.]

This testimony supports the district court's finding that "the record reflects that [appellant] was given multiple chances to have contact and parenting time with the minor children and he declined or ignored those opportunities." There was no clear error in this finding.

3. Appellant's involvement with the children

Appellate courts "review [the district court's] findings [of fact] for clear error, *giving deference to the district court's opportunity to evaluate witness credibility* and reversing only if we are left with the definite and firm conviction that a mistake has been made." *Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019) (citation and internal quotations omitted) (emphasis added). But appellant argues that "the [district] court's reliance on partial, uninformed testimony amounts to clear error" because the district court relied on the testimony of respondent's relatives but "disregarded favorable testimony from appellant's witnesses."

The district court recognized the disparity between the parties' testimony as to appellant's involvement with the children and the involvement of their respective families:

Although [appellant] does have a history of providing care for the children, his care was often inconsistent and unreliable.

. . . [E]ven when the parties resided near one another, respondent often had to rely on her family to assist with childcare (sometimes at the last minute) due to [appellant's] refusal to assist in caring for the children.

. . . .

[Appellant] offered a general testimony about his ability to provide and care for the minor children. However, [he] did not present a specific plan that included details of his residence, a plan for childcare, and addressing the children's emotional needs (particularly as that relates to [r]espondent).

. . . [Appellant] does not have a consistent history of providing care. His emotions toward [r]espondent have also negatively impacted his parenting time. [He] has cancelled parenting time to work, address his own mental and physical health, to show his displeasure over child support, as payback for respondent's refusal to provide all transportation without [appellant's] financial assistance, and for other reasons.

. . . .

[Appellant] provided limited testimony about relationships between the children and significant persons. Witness testimony references two cousins of similar ages and the importance of that connection. [Appellant] offered no testimony about other significant persons.

Witness testimony on behalf of [r]espondent included a grandfather, two aunts, and a great-aunt who have significant relationships with the children. . . .

Respondent's family has been a constant source of love and support for [r]espondent and the children. The children have important and meaningful connections with [r]espondent's family. . . . The court has limited information on [appellant's] parents, siblings, and other significant people in his life.

The district court clearly listened to the witnesses for both parties, assessed their credibility, and based its decision on those assessments, and we defer to the district court's credibility findings.

4. Minn. Stat. § 518.175, subd. 3 (2024)

Appellant argues that the district court “emphasized the travel burden of ‘300 miles [between the parties’ residences]’ and ‘30 hours per month [the children would need to spend in travelling with appellant’s schedule]’ yet never applied the relocation statute. Respondent unilaterally created that distance and the court penalized appellant for it.” However, appellant did not present any evidence contradicting respondent’s views of the distance or the driving time involved.

In any event, Minn. Stat. § 518.175, subd. 3, applies to situations where custody and parenting time have already been determined and one parent wants to remove the children to another state. Respondent’s move was not out of state, because she and the children already lived in Polk County. She testified that, when she moved there, she “told [appellant] that [she] was relocating and he was okay with that,” and appellant did not contradict this testimony. The district court questioned respondent about her plan for appellant’s parenting time. She replied:

[D]uring the school year the children would be with me and [appellant] can get some breaks that they have, the longer breaks because it wouldn’t make sense to exchange when they only have one day off from school. Like maybe winter break and . . . spring break he could have visitation. And then in the summer [appellant] could have the children, we can exchange every two weeks so he would have the first two weeks and then I would have the next, and then we would just exchange back and forth every two weeks during the summer.

The district court questioned respondent about how they would exchange the children.

A. . . . I would say we would meet half point. So, since it’s four hours, four and a half hours, we’d meet like two hours, two and a half hours.

Q. What city is about halfway?

A. . . . Alexandria because that's one, where we exchanged the kids one time.

The district court then asked appellant if he had a proposal regarding transportation and exchanges. He answered, “[N]o. I actually went and bought a new car . . . to accommodate the proposed schedule that I proposed to the Court.” The parties’ testimony further supports the district court’s determinations that appellant “does not consider important practicalities” when advocating frequent moves between their parents’ residences for the children.

5. Minn. Stat. § 518.17, subd. 1 (a)

Appellant argues that the case should be remanded because the district court did not make adequate findings on the 12 statutory best-interest factors. *See* Minn. Stat. § 518.17, subd. 1(a). But the district court found that three factors, Minn. Stat. § 518.17, subd. 1(a)(1), the children’s special medical or mental health needs; Minn. Stat. § 518.17, subd. 1(a)(3), the children’s preferences; and Minn. Stat. § 518.17, subd. 1(a)(5), either parent’s physical, mental, or chemical health needs, were neutral; one factor, Minn. Stat. § 518.17, subd. 1(a)(4), domestic abuse, did not apply; and the other eight factors favored custody with respondent. The district court made extensive findings on those factors.

As to Minn. Stat. § 518.17, subd. 1(a)(1), the children’s needs and the effect of the proposed arrangements on those needs and their development, the district court found that (1) appellant’s “proposed custody and parenting time would negatively impact the children,” (2) appellant “offered no testimony on how he would manage the practicalities

of multiple exchanges or how these transitions would impact the children physically emotionally, or educationally,” (3) respondent’s “proposal seems to recognize that having longer stretches of parenting time (three to four overnights versus two overnights of a standard weekend) would be better for the children,” “has both parents spending time with the children during the summer months,” and “support[s] the children’s physical, emotional, cultural and other needs.”

As to Minn. Stat. § 518.17, subd. 1(a)(6), the history and nature of each parent’s participation in providing care for the children, the district court found that “[w]hile [appellant] appears able to care for the children, [he] has allowed his anger and frustration to limit his parenting time” which “is reflected in the fact that [he] has essentially provided no care for the children for the past year” and he “was given multiple chances to have contact and parenting time with the minor children and he declined or ignored those opportunities.”

As to Minn. Stat. § 518.17, subd. 1(a)(7), each parent’s willingness and ability to provide ongoing care and meet the children’s needs, the district court found that appellant “provided limited testimony on his ability to provide for the children’s developmental, emotional, spiritual and cultural needs,” had “prioritized his education and work over time with the children, . . . [and] cancelled parenting time to work,” while respondent “has exhibited her willingness and ability to care for the children by doing so since their birth and “continued to make efforts to connect [appellant] with the children, even when [he] was upset or frustrated.”

As to Minn. Stat. § 518.17, subd. 1(a)(8), the effect of changes to their home, school, and community on the children, the district court found that “the children have resided with [r]espondent their entire lives and their primary connection is to [r]espondent and her home,” while appellant “did not address the impact his proposed parenting time would have on the children.” The district court said it “has concerns about the children spending nearly every weekend away from [r]espondent – their primary care provider and significant point of attachment” and noted that “disrupting that consistency [by removing the children from [r]espondent and putting them with appellant] must be balanced with the children’s needs for stability.”

As to Minn. Stat. § 518.17, subd. 1(a)(9), the effect of the proposed arrangements on the children’s relationships with other people in their lives, the district court found that it was “important for the children to maintain those relationships” with their relatives in respondent’s family and noted that it had “limited information on [appellant’s] parents, siblings, and other significant people in his life.”

As to Minn. Stat. § 518.17, subd. 1(a)(10), the benefits and detriments of the children spending time with each parent, the district court found that, while “[r]egular and consistent contact with each parent is important and necessary for the girls’ well-being and development . . . the distance between the parties is significant” and “[d]istance and time away from [r]espondent must be considered when setting a parenting time schedule, particularly in light of the girls’ ages.”

As to Minn. Stat. § 518.17, subd. 1(a)(11), the disposition of each parent to support the children’s relationship with the other parent and to encourage and permit frequent and

continuing contact with that parent, the district court found that “at times, [appellant] has taken actions to diminish [r]espondent’s relationship with the children, . . . has taken the children and not returned them as expected or agreed[,] . . . [and] historically, he has taken actions to diminish [r]espondent with respect to the children.” The district court also found that, “[i]n contrast, even when [appellant] was acting rudely, respondent continued to reach out to [appellant] for contact and parenting time.”

As to Minn. Stat. § 518.17, subd. 1(a)(12), the willingness and ability of parents to cooperate in the rearing of their children, the district court found that “[r]espondent wants to co-parent with as little conflict as possible and appears willing to compromise. [Appellant] is less willing to compromise[.] . . . The parties have a history of conflict, coupled with difficulties in resolving disputes on their own. . . . They are unable to effectively communicate and resolve disputes without negatively impacting the children.”

While appellant may not agree with the district court’s findings, his claim that “[b]ecause the order lacks detailed findings on each factor [of Minn. Stat. § 518.17, subd. 1(a)], appellate review is impossible and remand is required” is without foundation: the district court made adequate findings on each factor.

Affirmed.