

*This opinion is nonprecedential except as provided by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
A25-0591**

In Re the Matter of:

Nick Emilio Gherardi, petitioner,
Appellant,

vs.

Anna Elizabeth Ayres,
Respondent.

**Filed December 22, 2025
Affirmed; motion granted
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-FA-22-3767

Nick Emilio Gherardi, Plymouth, Minnesota (self-represented appellant)

Susan A. Daudelin, Amy M. Yanik, Henschel Moberg, P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Ede, Presiding Judge; Smith, Tracy M., Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this legal-custody dispute over where the parties' child will attend school, appellant father Nick Emilio Gherardi argues that the district court erred in its findings regarding the child's best interests and otherwise abused its discretion in choosing the

school requested by respondent mother Anna Elizabeth Ayres. Because the district court did not abuse its discretion, we affirm. We also grant mother's motion to strike portions of the addenda that father filed in this court with his principal and reply briefs.

FACTS

Father and mother are the parents of one child, born in 2019. The child was five years old at the time of the district court's order at issue in this appeal.

The parents never married. By a judgment entered in February 2023 based on stipulated findings of fact and order, the district court established joint legal and joint physical custody. It also established a parenting-time schedule granting mother approximately 60% of the overnights with the child and father approximately 40% of the overnights. The judgment directs the parties to discuss school selection at least 12 months before the child begins kindergarten. And it directs the parties to mediate any disputes before scheduling a motion.

In May 2024, following an unsuccessful mediation, father filed a motion to modify parenting time. At the time, father was living with his parents in Plymouth. Mother had been living in her own home in Minneapolis since October 2023. In August 2024, the district court denied father's motion, deciding that it was in the child's best interests to maintain the existing parenting-time schedule. In its order, the district court noted that

while the issue of school choice is not before the Court, the parties should be aware that if such a motion comes before the Court in the future, the Court will need to see a demonstrated effort by [father] to parent without the daily assistance of grandparents and in a home that has been established for [father] and [the child] to develop a relationship independent of grandparents.

Father did not appeal the order.

The parties then turned to the question of where the child would attend kindergarten starting fall 2025. When they did not reach agreement, the parties attended mediation, which was also unsuccessful.

In December 2024, mother filed a motion asking the district court to order that the child attend Kenny Elementary (Kenny) from kindergarten through fifth grade. Kenny is in the Minneapolis School District and is the neighborhood elementary school for mother's residence. The child was already attending a preschool located at Kenny through a Minneapolis Public Schools program. Shortly thereafter, father filed a responsive motion requesting that the district court order that the child attend school at Gleason Lake Elementary (Gleason Lake) instead. Gleason Lake is in the Wayzata School District and is located near father's home in Plymouth, which he had purchased in November 2024. The parties filed affidavits in support of their respective choices, and the district court held a hearing. In April 2025, the district court filed its order granting mother's motion and determining that child will attend Kenny from kindergarten through fifth grade, starting fall 2025.

Father appeals.

DECISION

I. The district court did not abuse its discretion in its school-choice decision.

The choice of school for a child is a matter of legal custody. *Novak v. Novak*, 446 N.W.2d 422, 424-25 (Minn. App. 1989), *rev. denied* (Minn. Dec. 1, 1989). Custody

determinations are reviewed for abuse of discretion. *Goldman v. Greenwood*, 748 N.W.2d 279, 281-82 (Minn. 2008). A district court abuses its discretion by “making findings unsupported by the evidence or by improperly applying the law.” *Id.* at 282. Appellate courts must give “great deference” to a district court’s custody determinations due to its superior familiarity with the parties. *Thornton v. Bosquez*, 933 N.W.2d 781, 796 (Minn. 2019) (citing *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988)). A district court’s factual findings are reviewed for clear error. *In re Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021). In reviewing the findings, appellate courts must view the evidence in a light favorable to the findings. *Id.* Appellate courts must defer to a district court’s credibility determinations, *Vangness v. Vangness*, 607 N.W.2d 468, 472 (Minn. App. 2000), and cannot reweigh the evidence, reconcile conflicting evidence, or engage in new fact-finding, *Kenney*, 963 N.W.2d at 221-22. “When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* (quotation omitted).

When parents with joint legal custody disagree on the choice of school for their child, the district court must resolve the dispute by evaluating the child’s best interests. *Novak*, 446 N.W.2d at 423. By statute, in evaluating a child’s best interests for purposes of determining a custody issue, a district court “must consider and evaluate all relevant factors,” including 12 specifically listed factors. Minn. Stat. § 518.17, subd. 1(a) (2024).

The district court here addressed the 12 best-interests factors in its school-choice order. First, citing its August 2024 parenting-time order, the district court found that factors 3, 4, 5, 7, 10, and 11 were “neutral on school choice” because of the “parents’ equal

involvement and concern for the child.” The district court then evaluated the remaining six factors in detail, finding that factors 1 and 9 were neutral and that factors 2, 6, 8, and 12 favored the child attending Kenny. The district court found that the best-interests factors therefore weighed in favor of the child attending Kenny and ordered that the child be enrolled at Kenny starting academic year 2025-26.

Father asserts multiple arguments challenging the district court’s decision. We organize our analysis by considering, first, father’s challenges to the district court’s findings on the best-interests factors and, second, his other challenges to the district court’s decision.

A. Best-Interests Factors

Father argues that the district court erred by making findings that are unsupported by the record, failing to consider material evidence, and making defective credibility determinations with respect to seven best-interests factors. We address his arguments factor by factor.

Factor 1: Child’s physical, emotional, cultural, or spiritual needs

Factor 1 addresses the “child’s physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child’s needs and development.” Minn. Stat. § 518.17, subd. 1(a)(1). The district court found this factor neutral based on uncertainty about whether the child would be guaranteed enrollment at Gleason Lake, the performance statistics of Kenny and Gleason Lake, and the fact that the child would likely have neighborhood or sports friends at both Kenny and Gleason Lake.

Father argues the court erred in finding that the child would have to open-enroll at Gleason Lake. Confusion around Gleason Lake enrollment was caused by a redrawing of district lines while the parties were filing affidavits. Father represented that, despite the redistricting, he could use the child's grandparents' address, rather than his own, to enroll the child at Gleason Lake because father is listed as the taxpayer on the grandparents' home. Father also submitted emails with the school district that seemed to establish that child could enroll and indeed was already enrolled in Gleason Lake. Mother, on the other hand, submitted affidavit testimony stating that, based on her inquiry of Wayzata Public Schools, the child would have to attend the school assigned to the address of the child's legal guardian unless a transfer request was approved. The district court apparently credited mother's evidence in determining that there was uncertainty about the child's guaranteed enrollment at Gleason Lake, and we defer to a district court's credibility determinations. *See Vangness*, 607 N.W.2d at 472.

Father also argues that the district court failed to fully consider comparative statistical information that he argues establishes Gleason Lake as the superior school, including rankings of Kenny and Gleason Lake, student-teacher ratios at the two schools, and performance and outcome statistics more broadly in the Minneapolis and Wayzata school districts. He also notes the district court's failure to mention the child's need for greater academic challenge and argues that the district court did not adequately consider the child's existing friendships and other social benefits in the Plymouth/Wayzata area. But the record contains ample evidence that would support either of the two elementary schools as a good choice for the child. Father's arguments ask us to reweigh that evidence, which

we will not do. *See Kenney*, 963 N.W.2d at 221. The district court’s finding that factor 1 is neutral is supported by the record.

Factor 2: Child’s special medical, mental health, developmental disability, or educational needs

Factor 2 addresses “any special medical, mental health, developmental disability, or educational needs that the child may have that may require special parenting arrangements or access to recommended services.” Minn. Stat. § 518.17, subd. 1(a)(2). For this factor, the district court noted the child’s diagnosis of a learning disability and observed that both schools offered special-education services. But, because the child struggles with transitions, the district court found that factor 2 weighed in favor of the child continuing his education at Kenny since he was already attending preschool there.

Father argues that the child’s difficulty with transitions cannot be considered under this factor because the issue does not involve “special parenting arrangements” or “access to recommended services.” This argument is unconvincing. The focus of this factor is on the child’s special needs. The district court found that the child’s trouble with transitions weighed in favor of the child continuing at Kenny, which, as the court found, offers special-education services. We discern no error in this determination.

Father also argues that the information that he provided about special-education resources in the Wayzata school district favored Gleason Lake. Again, his argument asks us to reweigh the evidence, which we will not do. *See Kenney*, 963 N.W.2d at 221. Moreover, the district court found that both Gleason Lake and Kenny offered special-education services and focused instead on the continuity of keeping the child in the same

building. It was not an abuse of discretion to find that Kenny would present less of a transition and that factor 2 therefore favored Kenny.

Factor 6: History and nature of parents' care

Factor 6 addresses “the history and nature of each parent’s participation in providing care for the child.” Minn. Stat. § 518.17, subd. 1(a)(6). For this factor, the district court incorporated its findings from its August 2024 order regarding father’s historical parenting participation. It also calculated and compared the commute time that the child would experience, finding that the child would experience about 90 more minutes of commute time every two weeks if the child if attended Gleason Lake rather than Kenny. It found that factor 6 weighed in in favor of Kenny.

Father argues that the court mischaracterized his historical care of the child and erroneously relied on its prior findings from the earlier order. He lists 13 of mother’s claims about his parental involvement that the district court relied on—either in the prior order or in the order under review—despite evidence to the contrary. We conclude that the district court was well within its discretion to rely on its best-interests findings from a recent order. *See Grein v. Grein*, 364 N.W.2d 383, 385 (Minn. 1985) (concluding that district court may rely on court files to discern history in connection with modification of custody). Furthermore, we defer to the district court’s credibility determinations. *See Thornton*, 933 N.W.2d at 791.

Father also asserts that the district court erred in comparing commute times, because his evidence shows that the parents’ “drop-off commute times, including travel to each parent’s workplace,” are nearly identical. Although the district court generally described

the parents' commutes from home, to school, to work, it properly calculated and compared the amount of time that *the child* would spend in the car under the current parenting schedule. Father has not asserted any error in the district court's findings about the child's car time. We discern no abuse of discretion in the district court's finding that factor 6 favored Kenny.

Factor 8: Effect of changes to home, school, and community

Factor 8 addresses "the effect on the child's well-being and development of changes to home, school, and community." Minn. Stat. § 518.17, subd. 1(a)(8). Regarding this factor, the district court evaluated the child's behavioral needs and past schooling. The district court noted that the child had already attended four different school or care environments and, focusing on the child's difficulty with transitions, found that this factor favored Kenny.

Father argues that the district court erred regarding the history of the child's enrollment in the preschool program at Kenny. The district court found that the parents had disagreed on where to send the child for preschool and that mother unilaterally enrolled the child in the program at Kenny. But the district court found that mother's unilateral decision was a "necessity" for her to continue working and rejected father's assertion that it was a tactic to influence future schooling decisions. Father argues that this finding was erroneous. But the finding is supported by the evidence and represents a credibility determination to which we defer. *See Vangness*, 607 N.W.2d at 472.

Father makes other arguments regarding this factor, including that father's preschool choices were superior, that the child does not struggle with transitions, that

Kenny would still constitute a transition since the child will be starting kindergarten, and that Gleason Lake is familiar to the child due to the child spending time at the school's playgrounds and fields. But each of these arguments asks us to reweigh the evidence, which we will not do. *See Kenney*, 963 N.W.2d at 221. The district court did not abuse its discretion in finding that factor 6 favored Kenny.

Factor 9: Effect on significant ongoing relationships

Factor 9 addresses “the effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child’s life.” Minn. Stat. § 518.17, subd. 1(a)(9). Here, the district court weighed the value of maintaining friendships at Kenny against proximity to hockey teammates and grandparents at Gleason Lake and found factor 9 neutral.

Father argues that the district court erred in not finding that this factor favored Gleason Lake because it failed to consider that attending school in the Wayzata school system would let the child remain close to extended family and to receive after-school care from his grandparents. But the district court did consider these benefits of attending Gleason Lake, along with the benefits that attending Kenny would offer, including continuing in the same school environment with current friends. The district court did not abuse its discretion in weighing these considerations and finding that factor 9 was neutral.

Factor 11: Parents’ support of the child’s relationship with the other parent

Factor 11 addresses “the disposition of each parent to support the child’s relationship with the other parent and to encourage and permit frequent and continuing

contact between the child and the other parent.” Minn. Stat. § 518.17, subd. 1(a)(11). The district court found that this factor was neutral, based on its findings in its previous order and the “parents’ equal involvement and concern for the child.”

For the first time in his reply brief, father challenges the district court’s finding on factor 11, arguing that the district court ignored “substantial, relevant evidence” in his affidavit. Generally, an issue not raised in an appellant’s principal brief cannot be asserted in a reply brief. *Moorhead Econ. Dev. Auth. v. Anda*, 789 N.W.2d 860, 887 (Minn. 2010). But, even if this issue were properly raised on appeal, father’s argument is unconvincing. Father devoted several pages of his affidavit to claims about mother excluding him from the child’s life. Mother provided affidavit testimony to the contrary. We defer to the district court’s credibility determinations, *see Vangness*, 607 N.W.2d at 472, and discern no error in the district court’s determination that this factor was neutral.

Factor 12: Willingness and ability of parents to cooperate

Factor 12 addresses “the willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child.” Minn. Stat. § 518.17, subd. 1(a)(12). The district court considered father’s recent hostile text messages to mother, the recency of father’s establishment in his own home, father’s decision not to purchase a home closer to mother’s to reduce commute times and improve collaborative parenting, and father’s lack of openness with mother regarding the enrollment issues at Gleason Lake and found that this factor favored Kenny.

Father makes several arguments that seem to address factor 12, including that the district court over-relied on his text messages, unfairly scrutinized his success in his new home, and mischaracterized the facts regarding his school preference and enrollment at Gleason Lake. But these arguments again ask us to reweigh the evidence, which we will not do. *See Kenney*, 963 N.W.2d at 221. The district court did not abuse its discretion in finding that factor 12 favored Kenny.

B. Other Challenges

Father makes numerous other arguments that are not necessarily related to a specific best-interests factor. These arguments include that the district court improperly downplayed his affidavit testimony by attributing its persuasiveness to the skill of his lawyer rather than the truth of the testimony, unfairly criticized his statements about mother as reflecting a failure on his part to focus on the child's best interests while finding mother's statements to be relevant and persuasive, was improperly dismissive of his commentary about mother's mental-health history, mischaracterized his cooperation regarding the child's therapeutic services, and improperly stated that he would view the district court's decision as mother "winning" rather than a decision based on the child's best interests. We need not explore each of these arguments in further detail because "an appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the trial court." *Kenney*, 963 N.W.2d at 222 (quotation omitted). Suffice it to say that these arguments fail because they again challenge the district court's credibility determinations and weighing of evidence. *See Vangness*, 607 N.W.2d at 472; *Kenney*, 963 N.W.2d at 221.

Father also complains that the district court improperly considered a supplemental affidavit from mother that was submitted after the hearing. But father cites no law that bars the district court from considering a supplemental affidavit containing new, relevant evidence, especially when the district court is exercising its “broad discretion” to make a custody determination in the best interests of the child. *See Goldman*, 748 N.W.2d at 282. We see no error in the district court’s consideration of the supplemental evidence supplied by mother, especially since the district court also considered the supplemental evidence that father was permitted to submit in response.

In sum, the district court did not abuse its discretion in evaluating the best interests of the child and deciding that the child should attend Kenny for kindergarten through fifth grade.

II. Respondent’s motion to strike portions of appellant’s addenda is granted.

Mother filed a motion to strike portions of father’s addenda. Father filed an addendum with both his principal brief and his reply brief. The addenda contain what appear to be edited excerpts from the record rather than copies of the actual record documents. In addition, the addenda contain unredacted non-public information. We grant mother’s motion to strike the addenda in their entirety, except for the district court order under review. *See* Minn. R. Civ. App. P. 110.01 (stating that record on appeal consists of “the documents filed in the trial court, the exhibits, and the transcript of the proceedings, if any”); Minn. R. Civ. App. P. 112.05 (addressing treatment of non-public information in filings), 130.02(a) (describing required contents of addenda).

Affirmed; motion granted.