

*This opinion is nonprecedential except as provided by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
A25-1273**

State of MN, County of Lac qui Parle,
Petitioner Below,

Danielle Marie Moseng, petitioner,
Respondent,

vs.

Cole Micky Kosbab,
Appellant.

**Filed July 13, 2026
Affirmed
Reyes, Judge**

Lac Qui Parle County District Court
File No. 37-FA-23-180

Sara J. Runchey, Runchey, Louwagie & Wellman, PLLP, Marshall, Minnesota (for respondent)

Matthew Haugen, Nelson, Oyen, Torvik, PLLP, Montevideo, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Reyes, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Father argues that the district court abused its discretion by denying his motion for an evidentiary hearing based on his request for joint physical custody of his children. We affirm.

FACTS

The County of Lac qui Parle and respondent-mother Danielle Marie Moseng petitioned to establish parentage and child support for two children born to mother and appellant-father Cole Micky Kosbab. The parties submitted a stipulated agreement to the district court, which the district court approved and incorporated into an order establishing child custody.¹ This initial custody order granted the parties joint legal custody, granted mother sole physical custody, and granted father parenting time. At issue is the order's locale-restriction clause, which provides:

Mother's award of sole physical custody is based upon the agreement of the parties [that] Mother shall not relocate the children's residence a distance greater than 40 miles from Dawson, Minnesota absent Father's consent or a court Order. . . . If Mother relocates the children's residence more than 40 miles from Dawson, Minnesota then the matter of physical custody shall come back to the Court for a *redetermination of physical custody de novo*.

(Emphasis added.)

Later, mother filed a motion requesting that the district court allow her to relocate the children's residence to a city that she estimated as located approximately 51 miles from Dawson. In the motion, mother asserted that the relocation would not disturb father's parenting-time schedule or his ability to participate in the children's school and extracurricular activities.

¹ The order stated that child-support issues "will be determined by separate agreement or hearing in the expedited child support process."

Father opposed mother's request. He also moved for, as relevant here, joint physical custody and an evidentiary hearing for custody "to be reviewed de novo as allowed under" the initial custody order's locale-restriction clause.

After a motion hearing, the district court granted mother's relocation request. It denied father's motion to modify custody and hold an evidentiary hearing, explaining that, "[e]ven if [it] were to find the required change in circumstances, [f]ather's affidavit does not allege facts to support any of the five specific additional grounds required for modification" of child custody under Minnesota Statutes section 518.18(d) (2024).

Father then requested the district court's permission to file a motion to reconsider its order under Minnesota Rule of General Procedure 115.11. Father asserted that the locale-restriction clause required the district court to hold an evidentiary hearing:

The [initial custody order] does not characterize the evidentiary hearing after [the] children's relocation as a change of custody, but instead a "redetermination." The [initial custody order] does not provide for a different standard to be applied in making the redetermination; it just states that it *shall come back* to [the district court] for a redetermination of physical custody de novo.

Father also argued that, despite language in section 518.18(d) stating that the district court "shall not modify a prior custody order" except in specific enumerated circumstances, the district court must grant him an evidentiary hearing because he was "not requesting a modification of a prior custody order, just enforce[ment of] the prior order by setting the matter for an evidentiary hearing."

The district court denied father's request to file a motion for reconsideration. It explained that, "[w]hether the parties call it a 'redetermination' or a 'modification,' it is

plain that the Court cannot change custody unless the requirements of [section] 518.18(d) are met.” It filed an amended order with no substantive changes to its prior determinations.

This appeal follows.

DECISION

Father challenges the district court’s denial of his request for an evidentiary hearing.² He argues that reversal is warranted because (1) the locale-restriction clause constitutes an agreement to apply a best-interests standard to custody-modification motions and (2) the district court relied on a case that statute has superseded.³ We address each issue in turn.

I. Father failed to preserve his argument that the locale-restriction clause constitutes an agreement to apply the best-interests standard to custody-modification motions.

Father contends that the locale-restriction clause in the initial custody order constitutes an agreement to apply the best-interests standard to custody-modification motions. We decline to grant relief on this basis.

² Father does not challenge the district court’s decision not to modify custody. He names only the evidentiary-hearing decision as grounds for his request for this court to reverse and remand for further proceedings.

³ Father also argues that, even if the locale-restriction clause does not constitute an agreement to apply the best-interests standard, “enforcing negotiated settlement agreements is a positive public policy.” We decline to address father’s public-policy argument because “[t]he function of the court of appeals is limited to identifying errors and then correcting them.” *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *see also LaChapelle v. Mitten*, 607 N.W.2d 151, 159 (Minn. App. 2000) (“Because this court is limited in its function to correcting errors it cannot create public policy.”), *rev. denied* (Minn. May 16, 2000); *Leifur v. Leifur*, 820 N.W.2d 40, 43 (Minn. App. 2012) (affirming district court despite appellant’s “meritorious policy arguments,” noting that “this court may not disregard unambiguous statutory language”), *rev. dismissed* (Minn. Nov. 1, 2012).

Minnesota Statutes section 518.18(d) governs modification of existing child-custody orders. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022). To obtain an evidentiary hearing on a motion to modify custody, the movant must allege a prima facie case; and if they allege a prima facie case, “the district court must hold an evidentiary hearing on the motion.” *Id.* at 507-08; *see also Szarzynski v. Szarzynski*, 732 N.W.2d 285, 292 (Minn. App. 2007) (“Whether a party makes a prima facie case to modify custody is dispositive of whether an evidentiary hearing will occur on the motion.”), *rev. denied* (Minn. Oct. 17, 2006).

A prima facie case in the child-custody context requires a “showing that: (1) the circumstances of the child or the parties have changed; (2) modification would serve the child’s best interests; and (3) one of the five specific additional grounds for modification as set out in [section] 518.18(d)(i)-(v) exists.” *Woolsey*, 975 N.W.2d at 507.⁴ As relevant here, section 518.18(d)(i) “allows parties in a child custody case to stipulate in writing to a best-interests standard of review for future motions to modify custody.” *Woolsey*, 975 N.W.2d at 507.

Father contends that the locale-restriction clause satisfies section 518.18(d)(i), meaning that it constitutes an agreement to apply the best-interests standard. *See Woolsey*, 975 N.W.2d at 507. But father failed to present to the district court an argument that he alleged *any* “specific additional ground[] for modification as set out in [section] 518.18(d)(i)-(v).” *Woolsey*, 975 N.W.2d at 507. Instead, he argued only that an evidentiary

⁴ The legislature has not amended Minnesota Statutes section 518.18 since *Woolsey*.

hearing was required under the terms of the locale-restriction clause. By failing to present his section 518.18(d)(i) argument to the district court, father forfeited it, and we will not consider it on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts consider only issues “presented [to] and considered by the [district] court” (quotation omitted)).

II. Father fails to establish that a citation in the district court’s order made its decision incorrect under applicable, correctly interpreted law.

Father next argues that the district court misapplied the law by citing *Frauenshuh v. Giese* in its order because section 518.18(d)(i) superseded that case. *See Frauenshuh v. Giese*, 599 N.W.2d 153 (Minn. 1999), *superseded by statute*, 2000 Minn. Laws ch. 444, art. 1, § 5, at 984-85, *as recognized in Woolsey*, 975 N.W.2d at 507 n.2. Father’s argument is unavailing because appellate courts “will not reverse a correct decision simply because it is based on incorrect reasons,” *Katz v. Katz*, 408 N.W.2d 835, 839 (Minn. 1987). A district court’s citation to nonbinding law and its reliance on incorrect interpretations of law do not warrant reversal of a district court’s decision when that decision is nonetheless correct under applicable, correctly interpreted law. *See, e.g., Schweich v. Ziegler, Inc.*, 463 N.W.2d 722, 727-29 (Minn. 1990) (affirming district court because its decision was correct despite its reliance on inapplicable statute); *see also* Minn. R. Civ. P. 61 (requiring reviewing court to disregard harmless error).

Here, the district court cited *Frauenshuh* for the proposition that section 518.18 controls custody-modification motions “even when the parties have stipulated to a different standard.” 599 N.W.2d at 159. The district court quoted *Woolsey* to list the elements of a

prima face case and then explained that father failed to allege a prima face case. Because father does not demonstrate that the district court's order is incorrect under applicable, correctly interpreted law, we decline to disturb the order.

Affirmed.