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Minn. Stat. § 480A.08, subd. 3 (2018).

STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0422

In re the Marriage of: Meghan Kim Eastman, petitioner,
Respondent,

vs.

Todd Louis Eastman,
Appellant,

County of Becker,
Intervenor.

Filed December 2, 2019
Affirmed
Johnson, Judge

Becker County District Court
File No. 03-FA-17-2141

Renee Ann Charon, Moorhead, Minnesota (for respondent)

Timothy H. Dodd, Detroit Lakes, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Johnson, Judge; and John P. Smith, Judge.*

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

U N P U B L I S H E D O P I N I O N

JOHNSON, Judge

The sole issue in this appeal is whether, after a district court has transferred permanent physical and legal custody of a child to a relative in a juvenile-protection case, the non-custodial parent may request modification of custody and parenting time in a marriage-dissolution case instead of the juvenile-protection case in which the district court previously ordered the transfer. We conclude that the district court, while presiding over the dissolution case, properly ruled that it did not have jurisdiction to modify the transfer-of-custody order that was filed in the juvenile-protection case. Therefore, we affirm.

FACTS

Meghan Kim Eastman is the biological mother of four children, who were born between 2001 and 2013. She married Todd Louis Eastman in 2015. Todd adopted the two oldest children in 2016. He is the biological father of the two youngest children.

In January 2017, Becker County Human Services received reports of domestic violence within the family. In February 2017, the county filed a petition for an order declaring the children in need of protection or services. The petition was granted. In August 2017, the county filed a petition for the termination of Todd's parental rights to the first child. That petition also was granted.

In August 2017, the county also petitioned for permanency dispositions for the second child, the third child, and the fourth child. In December 2017, after a two-day evidentiary hearing, the district court filed a 23-page order in which, among other things, it transferred permanent physical and legal custody of the second child from Todd to

Meghan. The district court ordered that any parenting time between Todd and the second child would "be at Meghan's discretion once [the second child]'s therapist determines that they are ready to be able to handle parenting time" and that it would "take place in a supervised setting until determined differently by [the second child]'s therapist." The district court also ordered that Meghan "is not to return [the second child] to the permanent care or custody of Todd Eastman without this Court's approval or without notice to Becker County Human Services." In addition, the district court stated, "The Court's jurisdiction in this matter is terminated and this Court File is closed."

Meanwhile, in October 2017, as the permanency case was pending, Meghan petitioned for dissolution of the marriage. The dissolution case was assigned to the same district court judge who was presiding over the juvenile-protection cases.

In the dissolution action, Todd served discovery requests on Meghan in which he sought, among other things, the children's therapy records and information about the location of the children's residence. Meghan moved for a protective order on the grounds that she has sole legal and physical custody of the children and that she and the children have an order for protection that prohibits Todd from having contact with them. In November 2018, the district court filed a two-page order granting Meghan's motion. The district court reasoned that Todd served his discovery requests only "for purposes of determining parenting time" and that "the family court has no jurisdiction to determine parenting time" because "the juvenile court has original and exclusive jurisdiction in proceedings concerning permanency matters." The order further provides that Todd "is required to bring a motion in juvenile court to address any legal rights having to do with

the children in this matter or to establish any parenting time with the children in this matter."

In March 2019, the district court reiterated its jurisdictional ruling in the dissolution decree by stating that "the Court is without jurisdiction to issue an order affecting child custody or parenting time with respect to the children in this proceeding."

Todd appeals. Meghan has not filed a responsive brief or otherwise appeared in the court of appeals. The appeal nonetheless is submitted for a decision on the merits. *See* Minn. R. Civ. App. P. 142.03.

D E C I S I O N

Todd argues that the district court, while sitting as a family court in the marriage-dissolution case, erred by ruling that it does not have jurisdiction to consider the issues of custody and parenting time.

The jurisdiction of a district court presiding over a juvenile-protection proceeding is defined in the Juvenile Court Act, Minn. Stat. §§ 260C.001-.637 (2018 & Supp. 2019). *See* Minn. Stat. § 260C.001, subd. 1. "The juvenile court has original and exclusive jurisdiction in proceedings concerning," among other things, "permanency matters under sections 260C.503 to 260C.521." Minn. Stat. § 260C.101, subd. 2(2). In ruling on a permanency petition, the juvenile court "must order one of the permanency dispositions" authorized by statute. Minn. Stat § 260C.515, subd. 1. Among the permanency dispositions authorized by statute is an order for the transfer of "permanent legal and physical custody to a fit and willing relative." Minn. Stat § 260C.515, subd. 4. Such an order "may be modified." Minn. Stat. § 260C.521, subd. 2. "[F]urther court hearings are

necessary if . . . a party seeks to modify an order under section 260C.521, subdivision 2." Minn. Stat. § 260C.519(3).

The rules of juvenile protection procedure also are relevant to the question whether the juvenile court has exclusive jurisdiction over a request to modify an order transferring permanent legal and physical custody of a child to a relative. *See* Minn. Stat. § 260C.515, subd. 4(2). At the time of the district court proceedings relevant to this appeal, the applicable rule provided that if the juvenile court transferred permanent legal and physical custody of a child to a relative, "juvenile court jurisdiction is terminated unless specifically retained by the court." Minn. R. Juv. Prot. P. 42.07, subd. 2 (effective from July 1, 2014, to Aug. 31, 2019). But that provision did not mean that the juvenile court's jurisdiction could not be revived. The same rule required a party seeking modification of such an order to file a modification motion "in the court file in the county where the order was issued." Minn. R. Juv. Prot. P. 42.07, subd. 4 (effective from July 1, 2014, to Aug. 31, 2019). The rule further provided, "If the order was filed on or after August 1, 2012, *the motion to modify shall be filed in juvenile court*." *Id.* (emphasis added).[1]

This court applies a *de novo* standard of review to a district court's ruling that a juvenile court has jurisdiction over an issue related to a juvenile-protection case. *In re*

[1]This rule recently was amended and renumbered, effective September 1, 2019. *Order Promulgating Amendments to the Rules of Juvenile Protection Procedure and the Rules of Adoption Procedure*, Nos. ADM10-8040 & -8041 (Minn. May 13, 2019). The applicable rule now provides, in pertinent part, that the juvenile court "shall order further hearings if required by Minnesota Statutes, section 260C.519, and shall conduct any further review as required by Minnesota Statutes, section 260C.521." Minn. R. Juv. Prot. P. 58.04(b) (effective Sept. 1, 2019).

Welfare of Child of A.H., 879 N.W.2d 1, 4 (Minn. App. 2016); *Stern v. Stern*, 839 N.W.2d 96, 99 (Minn. App. 2013).

In this case, Todd contends that the family court erred because the juvenile court expressly stated in its December 2017 order, "The Court's jurisdiction in this matter is terminated and this Court File is closed." At oral argument, Todd's attorney asserted that subdivision 4 of rule 42.07 would apply only if the juvenile court had expressly retained jurisdiction upon transferring custody to Meghan. That assertion is not supported by the plain language of the then-applicable version of subdivision 4, which stated that "the motion to modify shall be filed in juvenile court." Minn. R. Juv. Prot. P. 42.07, subd. 4 (effective from July 1, 2014, to Aug. 31, 2019). There was no language in that version of subdivision 4 indicating that subdivision 4 applied only if a juvenile court expressly retained jurisdiction when transferring custody to a relative. Similarly, the Juvenile Court Act provides that "further court hearings are necessary if . . . a party seeks to modify an order under section 260C.521, subdivision 2." Minn. Stat. § 260C.519(3). Such "further court hearings" presumably would occur in the juvenile court because that statute is within the Juvenile Court Act. Consequently, under both the applicable statutes and the then-applicable rule, after a juvenile court has transferred custody to a relative, the juvenile court has exclusive jurisdiction over any subsequent request to modify custody or parenting time, even if the juvenile court expressly terminated its jurisdiction in its prior order.

Thus, the district court in this case, while sitting as a family court in the marriage-dissolution case, did not err by ruling that it does not have jurisdiction to consider a request

to modify the juvenile court's order concerning custody and parenting time. Todd was required to file such a motion to modify in the juvenile court.

Affirmed.