STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1539

In re the Matter of:

Chad Michael Offerman, petitioner,
Respondent,

vs.

Irina Petrovna Siruk,
Appellant.

Filed August 3, 2020
Affirmed
Kirk, Judge[*]

Hennepin County District Court
File No. 27-FA-16-2625

J. Lee Novelli, Novelli Law Office, P.A., Minneapolis, Minnesota (for respondent)

Adam Galili, Walker and Galili, PLLC, Minneapolis, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Segal, Chief Judge; and Kirk, Judge.

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

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UNPUBLISHED OPINION

KIRK, Judge

In this parenting dispute, appellant-mother Irina Petrovna Siruk argues that the district court erred by confirming a parenting consultant's decision on school placement. We affirm.

DECISION

The district court granted mother and respondent-father, Chad Michael Offerman, joint legal and joint physical custody of their minor child, and ordered the child's primary residence be with mother. The parties agreed to use a parenting consultant (PC) to decide issues like "the appropriate school placement for the child," reviewable under an abuse-of-discretion standard of review. When the child reached elementary-school age, the PC decided that the child would attend school near father and adjusted the parties' parenting-time schedule. The district court confirmed the PC's decision. Mother appeals.

A district court has broad discretion in deciding parenting time questions, and we will not reverse unless the district court abused that discretion. *Olson v. Olson*, 534 N.W.2d 547, 550 (Minn. 1995). The stipulated judgment appointing a PC is a binding contract. *See Szarzynski v. Szarzynski*, 732 N.W.2d 285, 293 (Minn. App. 2007).

We note at the outset that the parties focus their arguments on the decision of the PC, which the district court confirmed, rather than the decision of the district court itself. Therefore, for purposes of this appeal, we assume without deciding that mother can challenge the PC's underlying decision.

Mother bases several of her arguments on an assertion that the PC "did in fact modify the primary residence of the child." This argument repeats her contention in district court that the PC erred by "modifying the child's primary residence." But neither the district court nor the PC found a change in primary residence. We may not find facts on appeal for the first time. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Thus, we do not consider these arguments. *See Frank v. Illinois Farmers Ins. Co.*, 336 N.W.2d 307, 311 (Minn. 1983).

Mother also argues that the PC abused her discretion because: (1) she failed to analyze the statutory best-interest factors; and (2) the school placement is not in the child's best interests. We disagree. The parties agreed that the PC may modify parenting time "in the child's best interest" without any reference to a governing statutory standard. Also, the PC conducted a five-month investigation during which she reviewed the proposed school options, assessed their curricula, weighed the child's extracurricular options in each school district, and more. Though it was a close call, the PC ultimately found that "the determining factor is stability, which favors Dad." On this record, the district court did not abuse its discretion by confirming the PC's decision. *Cf. Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99-100 (Minn. App. 2009) (no abuse of discretion where decision "was a close call").

Affirmed.