STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1971

In re the Marriage of:
Chris N. Carlson, petitioner,
Respondent,

vs.

Alyssa D. Carlson,
Appellant.

Filed September 16, 2008
Affirmed
Hudson, Judge

Hennepin County District Court
File No. 27-FA-000280123

Eva Cheney Hatcher, Olup and Associates, L.L.C., 11095 Viking Drive, Suite 265, Eden Prairie, Minnesota 55344 (for respondent)

Alyssa Carlson, 4336 Medary Avenue, Eagan, Minnesota 55122 (pro se appellant)

Considered and decided by Kalitowski, Presiding Judge; Hudson, Judge; and Harten, 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

HUDSON, Judge

On appeal in this dispute regarding where the parties' child would attend school, pro-se appellant mother argues that the district court abused its discretion in ordering that the child attend school in the Mound school district because the court did not address the best interest factors of Minn. Stat. § 518.17, subd. 1 (2006), and made findings unsupported by the record. Because the district court did not abuse its discretion, we affirm.

FACTS

Appellant Alyssa Carlson and respondent Chris Carlson were married on December 4, 2000. In November 2001, the parties separated and appellant moved to Arizona. Shortly thereafter, appellant married Chip Fjelstad, despite still being married to respondent. Appellant was pregnant when she married Fjelstad and led Fjelstad to believe the child was his. However, when respondent discovered that appellant was pregnant, he suspected the child was his. After C.C. was born on May 8, 2002, respondent moved to compel appellant to participate in genetic testing of C.C. Initially, appellant was uncooperative with respondent's request for genetic testing, but she eventually complied and the results established that C.C. is respondent's son.

The parties' marriage was dissolved in November 2004. The stipulated dissolution decree granted the parties joint legal and physical custody of C.C. with a shared parenting schedule and no designation of primary residence. The decree also

appointed Dr. Karen Irvine to assist the parties in establishing a shared parenting schedule. Finally, the decree stated that:

> The parties disagree on the school district enrollment for their minor child. The parties agree that this issue will be reserved. If the parties are unable to agree on a school for the child at the time the child is nearing school age, they agree that the issue will be submitted to the court for an evidentiary hearing and the court will make a final determination.

As C.C. approached school age, the parties were unable to agree upon a school choice for C.C. Appellant, who had moved to Eagan in September 2004, wanted C.C. to attend school in her school district, District 191. Conversely, respondent, who has lived in Mound all his life, wanted C.C. to attend school in his school district, District 277.

The parties presented the issue to Dr. Irvine, who, with the consent of the parties, addressed the issue with a team consisting of three other members. The team concluded that it would be "in [C.C.'s] best interests for [respondent] to relocate to the Eagan/Apple Valley community." The team stated that "it is clear that [appellant's] family is going to be more inconvenienced in a relocation than will [respondent]. [Appellant] would need to move her husband and three children into a community where she would prefer not to live." The team then recommended School District 196 (Apple Valley, Eagan, Rosemount) because it "is highly preferable to District 191 (Burnsville, Savage, Eagan)." The team surmised that appellant "lives very near the boundary of District 196, and it would be possible for [respondent] to relocate within the boundaries of District 196, keeping the parties' home within close proximity. [Respondent's] address could be used for enrollment purposes, precluding the need for open enrollment."

Because he disagreed with the team's recommendation, respondent moved for an evidentiary hearing to decide where the parties' minor child should attend school. Following a hearing, the district court concluded that C.C.'s "best interests are going to be served by him attending kindergarten/elementary school in Mound." This appeal follows.

D E C I S I O N

Appellant argues that the district court abused its discretion in concluding that it was in C.C.'s best interests to attend school in Mound in District 277. In a typical custody dispute, custody decisions are based on the child's best interests. Minn. Stat. § 518.17, subd. 3(a)(3) (2006). An award of legal custody includes an award to the legal custodian of "the right to determine the child's upbringing, including education." Minn. Stat. § 518.003, subd. 3(a) (2006). "The law makes no distinction between general determinations of custody and resolution of specific issues of custodial care," such as where a child will attend school. *Novak v. Novak*, 446 N.W.2d 422, 424 (Minn. App. 1989), *review denied* (Minn. Dec. 1, 1989). Custody decisions are reviewed for an abuse of discretion, which occurs if a district court makes findings unsupported by the evidence or improperly applies the law. *Silbaugh v. Silbaugh*, 543 N.W.2d 639, 641 (Minn. 1996).

When parents share joint legal custody of a child, both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education. *Novak*, 446 N.W.2d at 424. But where, as here, joint legal custodians cannot agree on which school their child should attend, the district court must resolve the dispute consistent with the child's best interests. *Id.* A child's

"best interests" are defined as "all relevant factors," including those listed in Minn. Stat. § 518.17, subd. 1(a)(1)-(13). Minn. Stat. § 518.17, subd. 1(a) (2006).

Appellant argues that the district court abused its discretion in determining which school C.C. will attend because the court's analysis does not address the best-interest factors set forth in section 518.17. Specifically, appellant argues that "[t]he court's order contains so many irrelevant findings and facts not supported by the record that it is impossible to determine if the best interests of the child [were] considered and if they were, how they were considered as depicted above in the 'Important Facts' section on the MN Statute 518.17."

We disagree. Initially, we note that the list of best-interest factors assumes that the determination being made by the district court is an award of custody. *In re Paternity of B.J.H.*, 573 N.W.2d 99, 102 (Minn. App. 1998). Here, the custody of C.C. is not an issue. Rather, the parties were previously awarded joint legal and physical custody of C.C. Therefore, the statutory factors in Minn. Stat. § 518.17, subd. 1(a), which are not exclusive even in an award of custody, are likewise not exclusive where, as here, the district court is addressing a child's best interests for reasons other than awarding custody. *See id.* (reaching this conclusion in considering a child's best interests in the context of resolving conflicting paternity presumptions). As a result, any failure by the district court to address every factor set forth in Minn. Stat. § 518.17, subd. 1, is not reversible error. Nor is the district court's consideration of factors not listed in the statute reversible error. *See generally id.* at 102–03 (affirming, in the context of resolving conflicting paternity presumptions, a district court's consideration of relevant factors not

limited to those listed in Minn. Stat. § 518.17, subd. 1, in determining a child's best interests); *cf. Hanka v. Pogatchnik*, 276 N.W.2d 633, 636 (Minn. 1979) (stating that where the findings necessary for a legal conclusion are adequately supported, the district court's inclusion of other unsupported findings is harmless error).

Moreover, our review of the record shows that the district court actually did consider the best-interest factors set forth in Minn. Stat. § 518.17, subd. 1. And, in addition to the statutory best-interest factors, the court considered other relevant factors. The district court found that, in contrast to appellant, respondent extensively researched the school districts for Mound and Eagan, and that the evidence presented at trial demonstrated that the Mound school district was exceptional. The court also compared the parties' ties to the community. The district court found that respondent has lived in Mound his entire life and has deep roots in the community, which include the respondent's mother who lives five minutes from respondent's residence. The court found that respondent and C.C. visit respondent's mother about twice per week and that in addition to the many activities in the Mound community in which respondent and C.C. participate, C.C. has established many friendships in the community. In contrast, the court found that C.C. "has very few ties to the [Eagan] community other than Mr. Fjelstad's parents"; appellant has only lived in Eagan for three years, has no extended family in the area, and that other than Fjelstad's parents, appellant's family does not socialize in the community.

The district court also addressed the team's recommendation. The court noted that between appellant's and respondent's school districts, the team members all

recommended the Mound district. The court noted the team's recommendation that C.C. attend school in District 196 because it would be less burdensome for respondent to relocate than it would for appellant and her family to relocate. But the district court found that, contrary to the team's conclusion, it would be a hardship for respondent to relocate in light of (1) his income and financial resources as compared to appellant's income and resources; (2) the fact that respondent pays appellant child support; (3) respondent's business is located in Plymouth; and (4) respondent's deep roots in the Mound area and the significant lifestyle change a relocation would impose on respondent. The district court further noted that C.C. is well adjusted in both communities, but found that the Mound district is better suited for C.C. because C.C. "has a small town personality, enjoys his lifestyle in Mound, . . . has ties to the community," and would be "negatively impacted if [respondent] is forced to relocate to Eagan." The district court made extensive and detailed findings and these findings are supported by the record, and, in turn, support the district court's conclusion that it is in C.C.'s best interests to attend school in the Mound school district. Although there may be evidence in the record supporting the assertion that it is in C.C.'s best interests to attend school in District 196, appellant has not shown that the district court's findings are clearly erroneous. *See Vangsness v. Vangsness*, 607 N.W.2d 468, 474 (Minn. App. 2000) (stating "[t]hat the record might support findings other than those made by the trial court does not show that the court's findings are defective").[1]

[1] Appellant also raised the issues of breach of contract and judicial bias in her brief. But these issues are only vaguely mentioned and are not fully developed; accordingly, we

Affirmed.

decline to address them. *See Ganguli v. Univ. of Minn.*, 512 N.W.2d 918, 919 n.1 (Minn. App. 1994) (holding that court may decline to address allegations unsupported by legal analysis or citation). And, to the extent they are raised by appellant, they are not properly before this court because they were not raised below. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).