STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0223

In re the Matter of:
Matthew Lawson Thornton, petitioner,
Appellant,

vs.

Jessica Ortiz Bosquez,
Respondent.

Filed December 10, 2018
Affirmed
Johnson, Judge

Ramsey County District Court
File No. 62-FA-15-2708

Rodd Tschida, Minneapolis, Minnesota (for appellant)

Robert J. Lawton, St. Paul, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Worke, Judge; and Johnson, Judge.

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

JOHNSON, Judge

Matthew Lawson Thornton and Jessica Ortiz Bosquez are the parents of a four-year-old girl. When the girl was one year old, Thornton petitioned for custody and parenting time. After a two-day trial, the district court found that Bosquez had engaged in domestic abuse against Thornton but that the statutory presumption against joint custody in such a

case had been rebutted with respect to physical custody. The district court awarded the parties joint physical custody and awarded Bosquez sole legal custody. We conclude that the district court did not err and, therefore, affirm.

FACTS

Thornton and Bosquez met in 2008 or 2009 and began an intimate relationship in 2010. They had an on-again-off-again relationship that was dysfunctional, prone to conflict, and, in the district court's words, "toxic." On November 18, 2014, Bosquez gave birth to a girl. The parties signed a recognition of parentage stating that Thornton is the father.

On November 24, 2015, while the parties were living together, Thornton petitioned the district court for an award of child custody or, in the alternative, parenting time. On the same date, he also petitioned for an order for protection (OFP) on behalf of both himself and the child. In the OFP case, the district court issued a temporary *ex parte* OFP. After a hearing, a referee issued an OFP for the protection of Thornton but denied the petition for an OFP to the extent that it sought protection for the child. The referee awarded Thornton temporary sole physical custody and temporary sole legal custody and awarded Bosquez parenting time.

The custody case was tried to the same referee over two days in January 2017. Thornton testified on his own behalf. He testified in part that Bosquez physically abused him from 2011 to 2015. He introduced 170 exhibits, including approximately 25 photographs of injuries he sustained due to Bosquez's abuse, such as scratch marks, bruises, and a small cut on his arm from a knife. Thornton called eight additional witnesses,

who testified about his character and fitness as a parent. Through counsel, Bosquez cross-examined Thornton and his witnesses.

After Thornton rested his case, Bosquez testified very briefly on direct examination by answering only one question about her willingness to communicate with Thornton about parenting issues and only two questions about her completion of a co-parenting class. She then rested her case without calling any other witnesses or introducing any exhibits. Thornton was permitted to introduce rebuttal evidence concerning the service of the temporary *ex parte* OFP, a subject on which Bosquez had cross-examined Thornton's witnesses.

In May 2017, the referee signed a 31-page order in which he found, among other things, that Bosquez had engaged in domestic abuse against Thornton. The referee also found that Thornton had engaged in demeaning and manipulative behavior toward Bosquez, such as calling her vulgar and degrading names, asserting control over her, and collecting evidence unfavorable to her throughout their relationship. The referee engaged in a lengthy and detailed analysis of the factors relevant to the best interests of the child. In doing so, the referee relied on a written report of the guardian *ad litem*, which discussed the parties' court-ordered psychological evaluations, parenting assessments, and chemical assessments and recommended that the district court order both joint legal custody and joint physical custody.

The referee also made findings on the statutory presumptions concerning joint custody, as follows:

22. The Court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the minor child. Neither party has made this request so there is no rebuttable presumption in favor of joint legal custody.

23. The Court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).

24. The Court has already made findings regarding the nature and context of the domestic violence in this case. Father, the victim of domestic violence, has superior power and control over Mother. Mother's abusive actions were in the context of how powerless she felt in the relationship. The actions are not acceptable and, if they continue, will be detrimental to the minor child. There is evidence that Mother has respected the order for protection. There is also evidence that what appeared to be Mother's obsession to maintain the relationship has ended. The Court will adopt Dr. Harrington's recommendations for both parties to engage in therapy to address the issues which impair their ability to effectively communicate with each other.

25. Under these circumstances, the Court finds that the presumption against joint legal custody is not overcome. As noted above, the Court is concerned that Father will use joint legal custody as a weapon. Father has engaged in coercive control and manipulation of Mother throughout their entire relationship. Despite being a victim of domestic abuse, he has maintained the power and control in the parties' relationship.

> 26. Joint physical custody, on the other hand, is defined as "the routine daily care and control and the residence of the child is structured between the parties." Minn. Stat. Sec. 518.003, subd. 3(d). As noted above, the parties have been able to have a jointly structured parenting time arrangement which benefits the child by providing substantial time with each parent and if exchanges and communication is addressed, the Court believes the presumption against joint physical custody has been rebutted.

The referee concluded that an award of joint physical custody would be in the child's best interests. The referee also concluded that an award of sole legal custody to Bosquez would be in the child's best interests. A district court judge approved the referee's recommendations, and the order was filed with the court administrator. Thornton later moved for amended findings or, alternatively, a new trial. The referee recommended that the motion be denied, and a district court judge approved that recommendation. Thornton appeals.

D E C I S I O N

Thornton argues that the district court erred by awarding the parties joint physical custody and by awarding Bosquez sole legal custody. His argument has two parts. He first argues that the district court improperly applied the statutory presumption against joint custody in cases in which there is a history of domestic abuse between the parties. He also argues that the district court erred in its analysis of the best-interests factors.

In ruling on a child-custody petition, a district court must consider the best interests of the child and make a custody award that serves those interests. Minn. Stat. § 518.17, subd. 1 (2018); *Olson v. Olson*, 534 N.W.2d 547, 549 (Minn. 1995); *Pikula v. Pikula*, 374

N.W.2d 705, 711 (Minn. 1985). In considering the child's best interests, a district court must consider "all relevant factors," including 12 factors prescribed by statute:

> (1) a child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;
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> (2) any special medical, mental health, or educational needs that the child may have that may require special parenting arrangements or access to recommended services;
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> (3) the reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference;
>
> (4) whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs;
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> (5) any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs;
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> (6) the history and nature of each parent's participation in providing care for the child;
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> (7) the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time;
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> (8) the effect on the child's well-being and development of changes to home, school, and community;
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> (9) 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;

> (10) the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;
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> (11) except in cases in which domestic abuse as described in clause (4) has occurred, 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; and
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> (12) 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).

When considering the statutory best-interests factors, a district court "must make detailed findings on each of the factors . . . based on the evidence presented and explain how each factor led to its conclusions and to the determination of custody and parenting time." Minn. Stat. § 518.17, subd. 1(b)(1). In doing so, the district court "may not use one factor to the exclusion of all others, and the court shall consider that the factors may be interrelated." *Id.*

In addition, a district court must consider two presumptions concerning joint custody in certain situations:

> [1] The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. [2] *However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01,*[1] *has occurred*

[1]Domestic abuse is defined in that section to mean the following acts, "if committed against a family or household member by a family or household member: (1) physical

> *between the parents.* In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. . . .

Minn. Stat. § 518.17, subd. 1(b)(9) (emphasis added).

To the extent that a party challenges a district court's findings on factual issues relevant to a custody decision, this court applies a clear-error standard of review. *Pikula*, 374 N.W.2d at 710; *Schallinger v. Schallinger*, 699 N.W.2d 15, 19 (Minn. App. 2005), *review denied* (Minn. Sept. 28, 2005). If the facts are not in dispute, we apply an abuse-of-discretion standard of review to a district court's award of child custody. *Pikula*, 374 N.W.2d at 710; *In re M.R.P.-C.*, 794 N.W.2d 373, 378 (Minn. App. 2011). A trial court has broad discretion in making custody decisions, and there is "scant if any room" for this court to question a district court's balancing of best-interests considerations. *Vangsness v. Vangsness*, 607 N.W.2d 468, 476-77 (Minn. App. 2000). But to the extent that a district court's custody award depends on an interpretation of the child-custody statute, we apply a *de novo* standard of review. *See Williams v. Carlson*, 701 N.W.2d 274, 278 (Minn. App. 2005).

A.

Thornton first argues that the district court erred by misapplying the statutory presumption against joint custody in cases in which domestic abuse has occurred between

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harm, bodily injury, or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats . . . ; criminal sexual conduct . . . ; or interference with an emergency call." Minn. Stat. § 518B.01, subd. 2(a) (2018).

the parties. He contends that the district court misapplied the statutory presumption on the ground that "a domestic abuser should not have joint custody." He also contends that the statutory presumption exists "for the benefit of the victim of the abuse, not the abuser." He further contends that the statutory presumption imposes on the party who committed domestic abuse the burden of producing evidence to rebut the presumption. Accordingly, he contends that Bosquez did not rebut the presumption because she introduced "little or no evidence" and because none of her evidence related to the issue of domestic abuse. In response, Bosquez provides only one paragraph of argument, asserting that "the presumption is rebuttable" and that "more than sufficient evidence was provided to rebut the presumption."

Thornton's argument does not find support in the text of the relevant statute. The second sentence of section 518.17, subdivision 1(b)(9), which sets forth the presumption against joint custody in cases with a history of domestic abuse between the parties, does *not* state that the presumption operates for or against any particular party. Rather, that provision simply states that, if domestic abuse has occurred between the parties, there is "a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child." Minn. Stat. § 518.17, subd. 1(b)(9). The presumption does not necessarily favor one party over the other party. The presumption simply expresses a preference for sole custody in one parent or the other parent, unless the presumption has been rebutted.

This meaning is confirmed by nearby statutory provisions. The existence of domestic abuse between the parties is one factor among the 12 statutory factors that a

district court must consider before making a custody award. *See id.*, subd. 1(a)(4). A district court "may not use one factor to the exclusion of all others." *Id.*, subd. 1(b)(1). Accordingly, a person who has committed domestic abuse may be awarded custody of a child, notwithstanding his or her commission of domestic abuse, if "all relevant factors" indicate that such a custody award is in the child's best interests. *See id.*, subd. 1(a). Furthermore, the presumption in the second sentence of section 518.17, subdivision 1(b)(9), is no impediment whatsoever to an award of *sole* custody to a person who has engaged in domestic abuse because the presumption is concerned solely with awards of *joint* custody. Accordingly, the statute does not provide *any* support for Thornton's challenge to the award of sole legal custody to Bosquez. If the presumption in the second sentence of section 518.17, subdivision 1(b)(9), applies, it operates only to limit a district court's discretion in determining the best interests of the child by directing the district court to not award joint custody, unless the presumption has been rebutted.

Thornton contends that Bosquez did not rebut the presumption. We question whether Bosquez bore a burden of rebutting the presumption. That principle is not found in the text of the statute, which does not state whether a party bears a burden of rebutting the presumption and, if so, which party. We also question whether the presumption in the second sentence of section 518.17, subdivision 1(b)(9), is the type of presumption that necessarily imposes a rebuttal burden on one party or the other party such that, in the absence of evidence from the party bearing that burden, the district court must make a finding consistent with the presumed fact. *See* Minn. R. Evid. 301 & 1977 comm. cmt.; 11 Peter N. Thompson, *Minnesota Practice—Evidence* § 301.01, at 126-32 (4th ed. 2012).

In general, neither party to a child-custody proceeding bears a burden of production or persuasion on the issue of the best interests of the child; rather, a district court must determine that issue without regard for burdens of proof. *See* Minn. Stat. § 518.17, subd. 1. The appellate briefs in this case do not explore these underlying issues.

Assuming without deciding that a party may bear a burden of rebutting the presumption in the second sentence of section 518.17, subdivision 1(b)(9), the burden most naturally would fall on the party or parties who request an award of joint custody. If a party seeks a ruling that is inconsistent with the statutory presumption that joint custody is *not* in the child's best interests, that party naturally must persuade the district court that joint custody *is* in the child's best interests. In this case, however, neither party requested an award of joint custody. In his petition, Thornton requested awards of sole physical custody and sole legal custody in his favor. He maintained that position in his post-trial memorandum. Throughout district court proceedings, Bosquez sought awards of sole physical custody and sole legal custody in her favor. Accordingly, there is no basis for imposing on Bosquez a burden of rebutting the presumption against joint custody arising under the second sentence of section 518.17, subdivision 1(b)(9). The district court determined (using the passive voice) that the presumption in the second sentence of section

518.17, subdivision 1(b)(9), "has been rebutted." The district court's application of the statutory presumption is not inconsistent with the text of the statute.[2]

Thus, the district court did not err in its application of the presumption against joint custody in cases with a history of domestic abuse between the parties.

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[2]Thornton cites unpublished opinions of this court in support of his argument. We note that unpublished opinions of this court are not precedential and, thus, do not bind the court. *See* Minn. Stat. § 480A.08, subd. 3(c) (2018); *Vlahos v. R & I Constr., Inc.*, 676 N.W.2d 672, 676 n.3 (Minn. 2004); *State v. Porte*, 832 N.W.2d 303, 312 n.1 (Minn. App. 2013). In any event, two of the unpublished opinions cited by Thornton are consistent with our analysis because, in each case, the party who engaged in domestic abuse was the party who requested an award of joint custody. *See J.S.S. v. G.I.S.*, No. A16-1334, 2017 WL 1210146, at *1, 4 (Minn. App. Apr. 3, 2017); *In re Custody of A.J.O.*, No. A15-0353, 2015 WL 8548953, at *4-5 (Minn. App. Dec. 14, 2015) (applying identical language in Minn. Stat. § 518.17, subd. 2 (2014)). In another unpublished opinion cited by Thornton, the opinion does not state whether a party requested an award of joint custody. *See Connery v. Connery*, No. A10-0531, 2011 WL 206139, at *1-2 (Minn. App. Jan. 25, 2011) (applying identical language in Minn. Stat. § 518.17, subd. 2 (2010)). Two unpublished opinions cited by Thornton provide some support for his argument. In *Caudullo v. Caudullo*, A15-0314, 2016 WL 687350 (Minn. App. Feb. 22, 2016), we imposed a rebuttal burden on the father, who had engaged in domestic abuse but had requested sole custody, instead of the mother, who was the victim of the domestic abuse and had requested joint legal custody. *Id.* at *1, 4 (applying identical language in Minn. Stat. § 518.17, subd. 2 (2014)). Similarly, in *Burnett v. Parra*, A17-1107, 2018 WL 817783 (Minn. App. Feb. 12, 2018), we stated in a footnote that "the requirement for courts to consider the nature of domestic abuse is for the benefit of the victim of the abuse, not the abuser." *Id.* at *3 n.6. In a parenthetical phrase, we described the presumption in section 518.17, subdivision 1(b)(9), as "creating a rebuttable presumption that a domestic abuser should not have joint custody of a child." *Id.* Another unpublished opinion cited by Thornton is consistent with our analysis. In *In re Custody of A.M.W.*, A16-1825, 2017 WL 4341789 (Minn. App. Oct. 2, 2017), the father, who had engaged in domestic abuse, sought sole physical custody and sole legal custody. *Id.* at *1, 6. The district court awarded the parties joint physical custody and awarded the father sole legal custody. *Id.* at *5. On appeal, the mother argued that the district court misapplied the presumption against joint custody. *Id.* at *6. In our analysis, we recited the language of the statute and refrained from imposing on either party a burden to rebut the presumption. *Id.* We concluded simply that the district court "did not err in applying the rebuttable presumption or abuse its discretion in awarding father sole legal custody." *Id.*

B.

Thornton next argues that the district court erred by concluding that, based on all relevant factors, an award of joint physical custody and sole legal custody to Bosquez is in the child's best interests.

In its analysis of the best-interests factors, the district court found that four of the 12 statutory factors (the first, seventh, ninth, and tenth) favored the position of the guardian *ad litem*, who recommended that the parties share joint physical custody and joint legal custody. The district court found that three factors (the sixth, eighth, and twelfth) favored an award of joint physical custody and sole legal custody to Bosquez. The district court found that only one factor (the fourth, which concerns domestic abuse) favored Thornton. The district court also found that three factors (the second, third, and fifth) were neutral and that one factor (the eleventh) is inapplicable.

On appeal, Thornton challenges the district court's findings with respect to eight of the 12 statutory factors. We will address each of those eight factors in turn. Before doing so, we address Thornton's recurring contention that the district court erred by not placing greater weight on the domestic abuse by Bosquez against him. For example, in challenging the district court's discussion of the first factor, Thornton contends that the district court erred by stating that he had failed to propose a parenting-time plan and that he is unable to visualize parenting time for Bosquez. Thornton contends that, because he is a victim of domestic abuse, he "need not be disposed to support any relationship between" Bosquez and the child. For this proposition, Thornton cites the eleventh statutory factor, which generally concerns "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" but, by its own terms, does not apply "in cases in which domestic abuse as described in clause (4) has occurred." Minn. Stat. § 518.17, subd. 1(a)(11). Thornton makes a similar contention in his challenge to the district court's discussion of the seventh, ninth, tenth, and twelfth factors. Thornton's contention fails to appreciate that the eleventh factor is unique in focusing on a party's ability and willingness to foster a relationship between the child and the other parent. In contrast, the first, seventh, ninth, and tenth factors simply inquire into the effect on the child of each party's proposal for custody and parenting time. The district court did not fail to make these distinctions. Accordingly, we reject Thornton's recurring argument that the existence of domestic abuse relieved him of any responsibility to persuade the district court that the statutory factors (other than the eleventh factor) favors the result that he sought.

First factor: child's physical, emotional, cultural, spiritual, and other needs. The district court found that the first factor favors the guardian *ad litem*'s recommendation of equal parenting time. Thornton contends that the district court erred by identifying changes that each party must make in the future. The district court's discussion of the parties' parenting responsibilities is appropriately focused on the child's needs. The district court did not clearly err in its analysis of this factor.

Fourth factor: domestic abuse. The district court found, after an extended discussion of the parties' relationship, that this factor favors an award of sole legal custody to Thornton. Thornton nonetheless contends that the district court erred in its analysis of this factor. For example, Thornton contends that the district court erred by finding that

Bosquez did not intentionally violate the temporary *ex parte* OFP. The district court's finding on that issue is supported by Bosquez's testimony, which the district court found credible, that she had not opened the envelope that was served on her before she made contact with Thornton at the home they shared. Thornton also contends that the district court erred by finding that Thornton, an attorney, created a "dossier" on Bosquez for the purpose of developing his legal strategy, not for the purpose of protecting the child. The district court's finding is a rational inference from the evidence in the record. Thornton also appears to contend that the district court erred by "minimiz[ing] the nature of [Bosquez's] four-year pattern of domestic violence." The district court was obligated by statute to consider the "nature and context of the domestic abuse" as well as "the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs." *Id.*, subd. 1(a)(4). The district court discussed at length the complicated relationship between the parties and, in short, found fault in both of them, in ways that we need not repeat here. But the district court specifically found that Bosquez had not engaged in domestic abuse against the child and had not engaged in domestic abuse since the issuance of the OFP. The district court did not clearly err in its analysis of this factor.

Fifth factor: physical, mental, or chemical health issue of a parent. The district court found, after an extensive discussion of the issue, that this factor favors an order with significant parenting time for both parents, so long as each parent engages in therapy and communicates with the other. Thornton contends that the district court erred by not finding that Bosquez's mental-health issues will expose the child to a risk of harm. The district

court acknowledged Bosquez's history of mental illness as a legitimate concern but also noted evidence that Thornton was partially responsible for their unhealthy relationship. The district court also noted the evidence that Bosquez's mental-health issues have subsided since she and Thornton separated, that Bosquez has established a stable daily routine, that she has stable employment, and that she would not pose a risk to the child's safety. The district court did not clearly err in its analysis of this factor.

Sixth factor: history and nature of each parent's participation in providing care for the child. The district court found that the sixth factor favors an order with significant parenting time for both parents and sole legal custody for Bosquez. Thornton contends that the district court erred by not recognizing that he was the child's "primary caretaker" before the parties separated. Thornton supports his argument by citing the supreme court's statement in *Pikula* that custody presumably should be awarded to the "primary caretaker," absent a showing of unfitness. 374 N.W.2d at 713. Thornton's reliance on *Pikula* is misplaced because, since the *Pikula* opinion, the legislature has amended the best-interests statute to remove *Pikula*'s presumption that custody should be awarded to the primary parent. 1990 Minn. Laws ch. 574, § 13, at 2131-32; 1989 Minn. Laws ch. 248, § 2, at 835-36; *see also Vangsness*, 607 N.W.2d at 476. Thornton also contends that the district court erred by relying on evidence of Bosquez's limited interactions with the child when she had temporary parenting time. The district court relied on evidence provided by Bosquez's therapist and by a child-care provider who witnessed each parent's interactions with the child. Based on that evidence, the district court found that "[b]oth parties are capable,

loving parents who can and do provide for all the child's needs." The district court did not clearly err in its analysis of this factor.

Seventh factor: willingness and ability of each parent to provide ongoing care for the child. The district court found that this factor favors an order providing for equal parenting time. Thornton contends that the district court erred by not recognizing that he is "the more stable parent" and "can better provide continuing and ongoing care" for the child. The district court found that both parents are willing and able to provide ongoing care for the child, but it expressed concern about Thornton's tendency to "curtail any meaningful participation" by Bosquez in the child's life. The district court expressed concern that, if Thornton were granted sole legal custody, he might limit Bosquez's input into important decisions in the child's upbringing. These findings are supported by the parenting assessments in the guardian *ad litem* report. The district court did not clearly err in its analysis of this factor.

Ninth factor: effect on ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life. The district court found that this factor does not favor either party and that the child should develop relationships with relatives on both sides, so long as Bosquez supervises any contact between the child and one relative who has a criminal record. Thornton contends that the district court erred by not finding that the child should be shielded from several of Bosquez's relatives. The district court acknowledged various troubles affecting Bosquez's relatives but was concerned that forbidding contact with them would isolate Bosquez from her extended family. After careful consideration of the child's safety and development, the district court

concluded that the child should have contact with the extended families of both parents. The district court did not clearly err in its analysis of this factor.

Tenth factor: benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent. The district court found that this factor favors an order providing for equal parenting time. Thornton contends that the district court erred by reiterating that Thornton appears disinclined to recognize a healthy relationship between Bosquez and the child. Again, the district court relied on the guardian *ad litem*'s report, which indicates that continued parenting time with both parents would be in the best interests of the child. Specifically, the report suggests that both parents are loving, responsive, and fully capable of acting as a responsible parent for the child. The district court did not clearly err in its analysis of this factor.

Twelfth factor: willingness and ability of parents to cooperate in the rearing of their child. The district court found that this factor favors an order for equal parenting time and an award of sole legal custody to Bosquez with a mechanism for Thornton to have input into important decisions concerning the child. Thornton asserts that the parties are unable to cooperate and communicate but contends that the district court erred by emphasizing his refusal to support Bosquez's relationship with the child. He essentially asserts that, given the circumstances, the district court should have awarded him sole legal custody simply because he is a victim of domestic abuse by Bosquez. Thornton's contention is contrary to the statutory admonition that the district court "may not use one factor to the exclusion of all others." *See* Minn. Stat. § 518.17, subd. 1(b)(1). The guardian *ad litem*'s report concluded that it is in the best interests of the child to have both parents in her life and

suggested that the parents utilize an online tool for communication. This recommendation was incorporated into the district court's conclusion that a "mechanism" be used to ensure that Thornton has input into parental decision-making. The district court did not clearly err in its analysis of this factor.

We conclude that the district court did not clearly err in any of its findings on the best-interests factors that Thornton has challenged on appeal and that the district court did not abuse its discretion in its ultimate custody decision.

In sum, the district court did not err by awarding the parties joint physical custody and by awarding Bosquez sole legal custody.

Affirmed.