STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0466

In re the Custody of: K. M. A.
Daniel Cory Johnson, petitioner,
Appellant,

vs.

Erica Rose-Lynne Arends,
Respondent.

Filed November 5, 2018
Affirmed
Schellhas, Judge

Yellow Medicine County District Court
File No. 87-FA-13-377

Daniel Cory Johnson, Granite Falls, Minnesota (pro se appellant)

Erica Rose-Lynne Arends, Fairmont, Minnesota (pro se respondent)

Considered and decided by Larkin, Presiding Judge; Cleary, Chief Judge; and Schellhas, Judge.

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

SCHELLHAS, Judge

Appellant challenges the district court's denial of his request for an order requiring respondent to transport the parties' minor child to him for his parenting time because of appellant's medical travel restriction. We affirm.

FACTS

Appellant-father Daniel Johnson and respondent-mother Erica Arends are the parents of K.M.A., born in 2012. The parties never married. In April 2014, the district court granted the parties joint legal custody of K.M.A., mother physical custody and residence, and father parenting time of "eight weeks consisting of four hours at [mother]'s home or [D.N.]'s home." The district court also ordered that father was "responsible for transportation for these visits." At the time of the order, mother resided in Lakefield and father resided in Clara City. In January 2015, the court amended the parenting-time schedule, granting father "parenting time for eight hours every other weekend" until "further order of the Court."

In October 2017, father moved the district court for parenting-time assistance, requesting that mother be ordered to transport K.M.A. to him "due to [his] travel restrictions due to [his] back injury." Mother moved for a complete cessation of father's parenting time, claiming that "[i]t has been a little over 2 years since [father]'s last visit," and that "[father] has made no effort to come see [K.M.A.] since his last visit and makes no effort to even have any communication." Following a hearing, the district court found that requiring mother to provide transportation for father's parenting time "would not be in the child's best interest," and denied father's motion.

This appeal follows.

D E C I S I O N

A parent may move for parenting-time assistance to review compliance with a district court's order. Minn. Stat. § 518.178 (2016). A district court has broad discretion when deciding parenting-time matters. *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn.

2018). We will not reverse a district court's decision regarding parenting-time matters, absent an abuse of discretion. *Id.* A district court abuses its discretion if its decision is based on a misapplication of the law or is contrary to the facts or logic. *Shearer v. Shearer*, 891 N.W.2d 72, 77 (Minn. App. 2017).

Here, father sought to modify an existing parenting-time order to change the transportation responsibility for the exercise of his parenting-time with K.M.A. from him to mother. Generally, modification of a parenting-time order is governed by Minn. Stat. § 518.175, subd. 5 (2016). "Minnesota Statutes § 518.175, subd. 5(b), applies the best-interests-of-the-child standard to modifications of 'an order granting or denying parenting time, if the modification *would not* change the child's primary residence.'" *In re Custody of M.J.H.*, 913 N.W.2d 437, 440 (Minn. 2018) (alteration in original) (quoting Minn. Stat. § 518.175, subd. 5(b)). When a district court decides a request to modify parenting time that would not change a child's primary residence, the court is not required to make detailed findings on *each and every* best-interest factor under Minn. Stat. § 518.17, subd. 1 (2016). *See Hansen*, 908 N.W.2d at 599 ("[T]he Legislature did not intend to require detailed findings on *each and every* best-interest factor when a court decides a request to modify parenting time.").

Father argues that, in denying his motion for parenting-time assistance, the district court ignored his evidence when it "refused to take [his] doctor's note regarding [his] travel restriction due to physical pain." But father's argument is not supported by the record. At the motion hearing, the court placed the parties under oath, and father testified extensively about his physical condition and the contents of the doctor's letter. The court thereafter

specifically found that father "submitted a letter from his physician recommending that his car travel be limited to 30 minutes." The court also found that father "injured his back in a motor vehicle accident in approximately 2012"; he "suffers from degenerative disc disease"; he has "been diagnosed with depression and anxiety"; and his physicians "are treating his condition conservatively . . . to see if there is improvement before scheduling any additional treatment." The court found credible father's claim that his ability to visit his daughter is adversely impacted by his back problems. The court did not ignore father's evidence.

Father argues that in light of his physical limitations, the district court abused its discretion by denying his motion for parenting-time assistance. We disagree. The district court expressed concern about father's ability to supervise "a very active" K.M.A. "given his physical limitations." The court noted that father had had no contact with K.M.A. since September 2015, he had seen her "only about 12 times in 5 years," and he had not sent her birthday or Christmas cards. The court found that requesting mother to transport K.M.A. to father's residence would "be inequitable to mother," and would place the child in a "strange surrounding" with an "unfamiliar" individual. And, while acknowledging father's travel restrictions due to his back pain, the court noted that father "offered no compromise on the issue of transportation," and that his "position appears to be that mother should provide all transportation, or it will not take place."

In addressing K.M.A.'s best interests, the district court found that K.M.A.'s best interests would not be served by requiring mother to transport her to father's residence in order to facilitate father's parenting time. The district court's findings are supported by the

record, and father has not established that the court misapplied the law or made a decision that is contrary to the facts or logic. *See Midway Ctr. Assocs. v. Midway Ctr., Inc.*, 237 N.W.2d 76, 78 (Minn. 1975) ("[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal. Not only that, but the burden of showing error rests upon the one who relies upon it." (quotation omitted)). We conclude that the court did not abuse its discretion by denying father's motion for parenting-time assistance.

Affirmed.