STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0144

In the Matter of the Trust of
Robert W Moreland a/k/a Robert William Moreland.

Filed September 6, 2022
Affirmed
Cochran, Judge

Dakota County District Court
File No. 19HA-CV-20-3440

Robert B. Bauer, Dougherty, Molenda, Solfest, Hills & Bauer, P.A., Apple Valley, Minnesota (for appellant Dean Moreland)

Paul D. Funke, Funke Law Office, St. Paul, Minnesota; and

Michael Kemp, Aaron Ferguson Law, Roseville, Minnesota (for respondent Robert S. Moreland)

Considered and decided by Gaïtas, Presiding Judge; Cochran, Judge; and Halbrooks, Judge.*

NONPRECEDENTIAL OPINION`

COCHRAN, Judge

This appeal arises from appellant's petition in district court to invalidate two amendments to a trust. The district court determined that the first amendment is valid. With respect to the second amendment, the district court issued a decision reforming the

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

amendment by striking an unenforceable provision and retaining the other provisions that it concluded are valid. On appeal, appellant argues that the district court erred by (1) concluding that the first amendment to the trust was properly executed and is valid, (2) failing to expressly consider whether the second amendment to the trust was properly executed, and (3) reforming the second amendment to the trust. We affirm.

FACTS

The following summarizes the district court's findings of fact and the evidence received at the evidentiary hearing. In 2002, Robert W. Moreland (Grantor) created a revocable trust. The 2002 trust named respondent Robert S. Moreland, one of Grantor's sons, as trustee.

The trust agreement provided that, upon Grantor's death, the trust's assets would be distributed according to a "schedule of beneficiaries" contained in "schedule A." Schedule A listed as beneficiaries of the trust a charitable organization and Grantor's seven children, including respondent and appellant Dean W. Moreland. It provided:

> **If estate assets are over $100,000.00 to $200,000.00, Pine Island Methodist Church is to get $1,500.00. If estate is over $200,000.00, then the Pine Island Methodist Church is to get $2,500.00. This bequeath is to be done before percentages are given to the below named children.
>
> | | |
> |---|---|
> | Jon Robert Moreland | 12% |
> | Dean William Moreland | 16% |
> | Scott Allan Moreland | 13% |
> | Robert Scott Moreland | 16% |
> | William Brian Moreland | 14% |
> | Michael John Moreland | 14% |
> | Cheryl Ann Moreland | 15% |

The 2002 trust agreement also reserved to Grantor the right to amend the trust and specified the method for doing so. Article II of the trust agreement provided, in relevant part, that "[t]he Grantor reserves and shall have the exclusive right any time and from time to time during its lifetime *by instrument in writing signed by the Grantor and delivered to the Trustee* to modify or alter this Agreement." (Emphasis added.)

The trust agreement was signed by Grantor, respondent as the trustee, and two witnesses. It was also notarized. Schedule A was also notarized and signed by Grantor and two witnesses.

Following the creation of the 2002 trust, Grantor made two amendments. Grantor made the first amendment in July 2016. At Grantor's request, respondent prepared a written document, which Grantor then read and signed. The first amendment provided that "schedule A should be changed as follows":

> The percentages given to each beneficiary list [sic] should be changed as follows:
>
> | | |
> |---|---|
> | Jon Robert Moreland | 10% |
> | Dean William Moreland | 10% |
> | Scott Allan Moreland | 10% |
> | Robert Scott Moreland | 31% |
> | William Brian Moreland | 13% |
> | Michael John Moreland | 13% |
> | Cheryl Ann Moreland | 13% |
>
> Added beneficiaries:
>
> | | |
> |---|---|
> | Disabled American Veterans | $300 |
> | Community Action Partnership (CAP) | $500 |

This amendment modified Schedule A to increase respondent's share of the trust assets to 31% and reduce the shares of Grantor's other six children to either 10% or 13%. The

amendment also revised the trust's charitable beneficiaries by adding two organizations and appearing to remove Pine Island Methodist Church.

Three years later, in July 2019, Grantor executed the second amendment to the trust. As with the first amendment, respondent prepared the second amendment at Grantor's request and Grantor signed the document. Respondent prepared the second amendment as "instructed" by his father. The amendment provided that "schedule A should be changed as follows":

> The amounts given to each beneficiary on the list should be changed as follows:
>
> | | |
> |---|---|
> | Jon Robert Moreland | 1% or $5,000.00 |
> | Dean William Moreland | 1% or $5,000.00 |
> | Scott Alan Moreland | 1% or $5,000.00 |
> | Robert Scott Moreland | 94% |
> | William Brian Moreland | 1% or $5,000.00 |
> | Michael John Moreland | 1% or $5,000.00 |
> | Cheryl Ann Moreland | 1% or $5,000.00 |
>
> The above percentages will only be paid out if they start acting light [sic] family again to my son Robert Scott Moreland. Failure to accomplish this will result in the dollar amounts listed next to the percentages being paid.
>
> Added beneficiaries:
>
> | | |
> |---|---|
> | Disabled American Veterans | $300 |
> | Community Action Partnership(CAP) | $500 |
> | Methodist Church- Pine Island | $1500-$2500* |
>
> * Depending on size of estate value when closed.

Under this amendment, Grantor significantly increased respondent's share of the trust assets to 94%, reduced the shares of Grantor's other children to "1% or $5,000.00," and revised the list of charitable beneficiaries to restore the gift to Pine Island Methodist

Church. The second amendment also added a provision—which the parties refer to as the "penalty provision"—under which respondent's six siblings would receive "[t]he above percentages" only "if they start acting li[ke] family again to [respondent]." If that contingency were to fail, the penalty provision provided that the six siblings would each receive "the dollar amounts listed next to the percentages."

Grantor died in July 2020. At the time of his death, the trust contained real property valued at $1.6 million and "bank accounts, mortgages, contracts for deed, notes and cash" valued at approximately $6,000.

In October 2020, appellant petitioned the district court under Minn. Stat. § 501C.0202 (2020) to construe the original trust, invalidate both amendments to the trust, remove respondent as trustee, and appoint a successor trustee. As relevant to this appeal, appellant argued that the first and second amendments are invalid because they were not witnessed and notarized. Appellant also challenged the validity of the second amendment based on the language of the penalty provision, which he asserted constituted "an unclear, typographically flawed statement concerning Trustee, purporting to justify the virtual elimination of the interest in the trust estate of the six other beneficiaries." In addition to challenging the validity of the trust amendments, appellant requested that the district court remove respondent as trustee on the grounds that he unduly influenced Grantor and breached his duties as trustee. Respondent thereafter filed an objection to appellant's petition.

The district court held an evidentiary hearing. The court heard testimony from respondent, appellant, and one of their siblings. The testimony addressed the drafting and

execution of the trust documents, including the amendments. The testimony also focused on Grantor's relationship with his children—the primary beneficiaries of the trust. The testimony indicated that respondent was the only one of Grantor's seven children who had significant contact with Grantor for several years before his death. Appellant last communicated with Grantor in 2013 and last saw him in 2001. Meanwhile, respondent began living with Grantor in 2015 and provided day-to-day care and support for Grantor until his death in 2020. Appellant testified that respondent had some financial difficulties and that Grantor had expressed concern over the years that respondent needed financial and family support. Finally, appellant and respondent both testified about respondent's activities in his role as trustee of the estate after their father's death.

Following the hearing and written arguments by the parties, the district court issued findings of fact, an order, and a memorandum. In the order, the district court denied appellant's motion to invalidate the first amendment, granted his motion to invalidate the second amendment, and granted his motion to remove respondent as trustee. The district court first concluded that the first amendment is valid because the manner in which Grantor executed the amendment—via a signed, written instrument delivered to the trustee—"indicates substantial compliance with a method provided for in the 2002 Trust." Regarding the second amendment, the district court determined that the phrase "acting li[ke] family again" in the penalty provision is "ambiguous and incapable of an objective determination." As a result, the district court concluded that the penalty provision is unenforceable and invalidated the second amendment in its entirety. Finally, the district court removed respondent as trustee due to his "persistent failure to administer the trust

effectively" after Grantor's death. The court ordered the parties to agree on the appointment of a new, independent, non-family-member trustee.

Following the district court's order, respondent filed a motion for partial amended findings. The motion requested that the district court amend its findings invalidating the second amendment in its entirety "[b]ecause the facts underlying the [order] do not match the result ordered." In its filing, respondent did not challenge the district court's conclusion that the phrase "acting li[ke] family again" in the penalty provision was unenforceable. Rather, respondent contended that, to further Grantor's intent, the proper remedy was to reform the second amendment by striking only the penalty provision and the associated dollar amounts listed next to the six siblings' names. Respondent argued that the district court should determine that the second amendment is otherwise valid and give effect to Grantor's unambiguous intent to distribute the trust assets unequally to his children in the percentages listed in the amendment and to restore the charitable gift to Pine Island Methodist Church.

After a hearing on the motion, the district court issued amended findings of fact, an order, and a memorandum. In the amended order, the district court reaffirmed its decisions to remove respondent as trustee and to deny appellant's motion to invalidate the first amendment. With regard to the second amendment, the district court reaffirmed its conclusion that the "penalty provision and the dollar amount listed for each child is unenforceable." But the district court agreed with respondent that the remainder of the distribution language in the second amendment is unambiguous and enforceable. With regard to the percentage distribution amounts specified in the second amendment, the

district court found that the language "simply continued the reduction of the percentage distribution of the trust to the children [whom Grantor] hadn't had contact with for almost nineteen years." As a result, the district court amended its order to strike only the penalty provision and the associated dollar amounts rather than invalidating the entire amendment as it had done in the original order. The district court also expressly reformed the second amendment to provide distributions to respondent and his siblings in accordance with the percentages listed in the second amendment, and cash distributions to the three listed charitable organizations as specified in the amendment.[1]

This appeal follows.

DECISION

This case arises from a petition to construe a trust and invalidate trust amendments brought pursuant to Minn. Stat. § 501C.0202. We review a district court's exercise of its equitable jurisdiction in deciding a section 501C.0202 petition for an abuse of discretion. *In re Foley Tr.*, 671 N.W.2d 206, 209 (Minn. App. 2003) (discussing petition pursuant to Minn. Stat. § 501B.16 (2002), later recodified at Minn. Stat. § 501C.0202). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quotation omitted). "Factual issues embedded in a discretionary determination are reviewed for clear error," and legal

[1] The district court concluded that Pine Island Methodist Church would receive $2,500, as provided in Schedule A, "due to the large size of the estate."

issues are reviewed de novo. *In re Ruth Easton Fund*, 680 N.W.2d 541, 547 (Minn. App. 2004).

Appellant raises three arguments on appeal. He contends that the district court abused its discretion in deciding his petition to invalidate the trust amendments because the court erred by (1) concluding that the first amendment was properly executed and is valid, (2) failing to expressly address whether the second amendment was properly executed and is valid, and (3) reforming the second amendment. We address each argument in turn.

I. The district court did not err by concluding that the first amendment was properly executed and is valid.

Appellant first challenges the district court's conclusion that the first amendment was properly executed and is valid.

Appellant argued to the district court that the first amendment is invalid because the amendment was not witnessed and notarized. Appellant maintained that both state law and the 2002 trust agreement itself required any amendment to be witnessed and notarized. The district court rejected appellant's arguments, concluding that Grantor's method of executing the first amendment comported with the law and the terms of the 2002 trust.

We discern no error in the district court's conclusion. As the district court noted, Minn. Stat. § 501C.0602(c) (2020) of the Minnesota Trust Code authorizes amendments to a revocable trust and specifies how the grantor of a revocable trust may amend the trust. That statute provides, in relevant part, that "[t]he settlor may revoke or amend a revocable trust . . . *by substantial compliance with a method provided in the terms of the trust*." Minn.

Stat. § 501C.0602(c)(1) (emphasis added). This version of section 501C.0602(c) was in effect in 2016 when Grantor executed the first amendment, and there is no language in the statute that requires an amendment to be witnessed or notarized. *See* Minn. Stat. § 501C.0602(c).

The 2002 trust agreement, in turn, set forth the method by which Grantor could amend the trust. Article II of the trust stated that "[t]he Grantor reserves and shall have the exclusive right any time and from time to time during its lifetime *by instrument in writing signed by the Grantor and delivered to the Trustee* to modify or alter this Agreement." (Emphasis added.) Here, Grantor executed the first amendment by requesting that respondent draft a written document which Grantor then read, signed, and delivered to respondent in his capacity as the trustee. Based on the requirements of section 501C.0602(c) and the 2002 trust agreement, the manner by which Grantor executed the first amendment was valid because it substantially complied with the method provided in the terms of the trust.

We are not persuaded otherwise by appellant's arguments that Grantor's method of executing the first amendment contravened state law and the language of the 2002 trust agreement. Specifically, appellant argues that (1) a different section of the trust code requires that amendments to a written trust be witnessed by two people, and (2) the trust agreement itself required any amendments to be witnessed by two people and notarized. We consider each argument in turn.

A. Minn. Stat. § 501C.0407 (2020) does not require amendments to a trust to be witnessed.

In his appellate brief, appellant disregards the requirements set forth in section 501C.0602(c) for amending a revocable trust and instead argues that a different section of the trust code, Minn. Stat. § 501C.0407, requires all amendments to a written trust to be witnessed by two people. Appellant conceded this issue at oral argument, but we address it here.

To address appellant's argument, we interpret section 501C.0407. We review questions of statutory interpretation de novo. *State by Smart Growth Minneapolis v. City of Minneapolis*, 954 N.W.2d 584, 590 (Minn. 2021). The object of statutory interpretation "is to ascertain and effectuate the intention of the legislature." *Id.* (quotation omitted). The first step "is to determine whether the statute's language, on its face, is ambiguous." *Hagen v. Steven Scott Mgmt., Inc.*, 963 N.W.2d 164, 169 (Minn. 2021) (quotation omitted). In making that determination, we "construe the statute's words and phrases according to their plain and ordinary meaning." *Id.* (quotation omitted). If the meaning of the statute is unambiguous, its plain language controls. *Hall v. City of Plainview*, 954 N.W.2d 254, 269 (Minn. 2021).

Section 501C.0407 provides in its entirety: "*The formal expression of intent to create a trust can be either written or oral subject to the requirements of sections 513.04 and 524.2-502*. The creation of an oral trust and its terms must be established by clear and convincing evidence." Minn. Stat. § 501C.0407 (emphasis added). The first sentence of section 501C.0407 refers to two different statutes. The first, section 513.04, is the statute

of frauds. *See* Minn. Stat. § 513.04 (2020) (requiring, in relevant part, "any trust . . . concerning lands" to be declared "in writing [and] subscribed by the parties . . . declaring the same, or by their lawful agent"). The second, section 524.2-502, sets forth the requirements for executing a will. It states that a will generally must be (1) in writing, (2) signed by the testator, and (3) witnessed by two people. Minn. Stat. § 524.2-502 (2020). Appellant contends in his brief that section 501C.0407, by referencing section 524.2-502, requires all amendments to a written trust to comply with the formalities for executing a will, including the requirement that the document be witnessed by two people. We are not persuaded.

The plain language of section 501C.0407 demonstrates that it does not apply to trust amendments. The first sentence of the statute, upon which appellant relies, uses the phrase "[t]he formal expression of intent *to create* a trust." Minn. Stat. § 501C.0407 (emphasis added). There is no reference to an expression of intent *to amend* a trust. *See id.* Because section 501C.0407 expressly refers to trust creation and not trust amendment, the section most reasonably applies only to the creation of a trust.

Appellant's contrary interpretation of section 501C.0407 is not reasonable. His assertion that section 501C.0407 requires any amendments to a written trust to comply with strict formalities is at odds with the plain meaning of section 501C.0602(c). Section 501C.0602(c)(1) sets forth a liberal standard that a grantor of a revocable trust can amend the trust by *any method*, so long as that method substantially complies with a method provided in the trust. Minn. Stat. § 501C.0602(c)(1) (providing that "[t]he settlor may revoke or amend a revocable trust . . . by substantial compliance with a method provided

in the terms of the trust"). Appellant's interpretation of section 501C.0407 would render section 501C.0602(c)(1) meaningless and make it impossible to harmonize these two sections, which are part of a coherent legislative policy regarding the governance of trusts. *See Smart Growth*, 954 N.W.2d at 590-91 (describing supreme court's "general policy of harmonizing statutes dealing with the same subject matter," particularly where the statutes "are part of a coherent legislative policy" (quotation omitted)).

We conclude that section 501C.0407 applies to the creation of a trust and not to its amendment. Section 501C.0407 therefore unambiguously does not require trust amendments to be witnessed by two people. As appellant conceded at oral argument, no section of the trust code imposes such a requirement. We therefore conclude that the district court did not err by applying section 501C.0602(c) to determine whether the first amendment was properly executed.

B. The 2002 trust agreement did not require amendments to be witnessed or notarized.

Appellant next argues that the 2002 trust agreement itself required any amendments to the trust to be witnessed by two people and notarized. We review de novo the district court's interpretation of a written document—in this case, the trust agreement—with the purpose of giving effect to the grantor's intent. *In re Stisser Grantor Tr.*, 818 N.W.2d 495, 502 (Minn. 2012). In conducting this review, an appellate court "must consider the grantor's dominant intention, which [it] must gather from the instrument as a whole, not isolated words." *Id.* (quotation omitted). "When the trust agreement is unambiguous,

[courts] will ascertain the grantor's intent from the language of the agreement, without resort to extrinsic evidence." *Id.*

Article II of the 2002 trust agreement provided that Grantor could "modify or alter" the trust "by instrument in writing signed by the Grantor and delivered to the Trustee." Aside from those requirements, neither Article II nor any other provision of the trust agreement required amendments to the trust to have any particular formalities. Despite this, appellant asserts that by using the word "instrument"—which is not defined in the document—Grantor intended to require any amendment to the trust to be witnessed by two people and notarized. Again, we are unpersuaded.

First, while the trust agreement does use the word "instrument" several times, nowhere does the trust agreement expressly provide that an "instrument" must be witnessed or notarized.

Second, appellant's interpretation of "instrument" does not comport with the common meaning of the term. We "generally construe words and phrases according to their common and approved usage." *Stisser*, 818 N.W.2d at 502. Black's Law Dictionary defines "instrument" as "[a] written legal document that defines rights, duties, entitlements, or liabilities, such as a statute, contract, will, promissory note, or share certificate." *Black's Law Dictionary* 952 (11th ed. 2019). The American Heritage Dictionary provides a similar definition: "[a] legal document, especially one that represents a right of payment or conveys an interest, such as a check, promissory note, deed, or will." *The American Heritage Dictionary of the English Language* 910 (5th ed. 2018). Under these definitions,

the word "instrument" does not necessarily imply a document that is witnessed and notarized.

Appellant makes no persuasive argument that Grantor intended the word "instrument" to have a different meaning than its common and approved usage. He emphasizes that the 2002 trust agreement refers to itself as an "instrument" and was *itself* witnessed by two people and notarized. He further notes that the trust agreement occasionally uses the terms "agreement" and "declaration," in addition to "instrument," and therefore contends that Grantor must have intended all references to an "instrument" in the trust agreement to require "more formalities than a declaration or agreement."[2] But there is no indication in the language of the trust agreement that Grantor intended to use the term "instrument" to require two witnesses and notarization. It is not reasonable to make such an inference simply because the trust agreement referred to itself as an "instrument" and was witnessed and notarized. And, even if we were to accept appellant's assertion that Grantor intended an "instrument" to have more formalities than an "agreement" or "declaration," it does not follow that an "instrument" specifically requires witnesses and notarization. Based on the plain language of Article II of the trust agreement, and considering the trust agreement as a whole, Grantor unambiguously did not intend amendments to the trust to be witnessed or notarized to be valid.

[2] Appellant's counsel also argued for the first time at oral argument that the first amendment is not an "instrument" because the typed document contains handwritten "dashed lines," "circles," and "underlines." We do not consider arguments raised for the first time during oral argument. *Getz v. Peace*, 934 N.W.2d 347, 353 n.3 (Minn. 2019).

In sum, neither the trust code nor the 2002 trust agreement required amendments to the 2002 trust to be witnessed by two people or notarized. We therefore conclude that the district court did not err by determining that the first amendment is valid because Grantor made the amendment by substantially complying with the method provided in the terms of the trust. *See* Minn. Stat. § 501C.0602(c)(1) (providing that a grantor "may revoke or amend a revocable trust . . . by substantial compliance with a method provided in the terms of the trust").

II. The district court's failure to expressly conclude that the second amendment was properly executed does not require reversal.

Before the district court, appellant argued that both the first and second amendments are invalid because neither amendment was witnessed or notarized. As discussed above, the district court expressly rejected appellant's argument that the first amendment required witnesses and notarization and concluded that the first amendment is valid because it was executed in a manner that substantially complied with the provision in the trust governing amendments. Appellant now argues that the district court erred by ruling that the second amendment is valid, subject to the court's reformation, because the court did not expressly address appellant's argument that the *second* amendment required witnesses and notarization and did not expressly conclude that the *second* amendment substantially complied with the method provided in the terms of the trust.

Appellant is correct that the district court did not explicitly address those issues. But that does not compel the conclusion that the district court erred. Where a district court fails to explicitly address each of a party's arguments, this court does not assume error but

rather assumes that the district court implicitly rejected the argument. *Palladium Holdings, LLC v. Zuni Mortg. Loan Tr. 2006-OA1*, 775 N.W.2d 168, 177-78 (Minn. App. 2009) (citing *Loth v. Loth*, 35 N.W.2d 542, 546 (1949)), *rev. denied* (Minn. Jan. 27, 2010). Here, the district court's consideration and rejection of appellant's arguments regarding the execution of the second amendment is implicit in its analysis of the validity of the first amendment and its conclusion that the second amendment, as reformed, is valid. Indeed, the district court acknowledged appellant's argument that the second amendment "fails to comply with the execution requirements of a will to be witnessed by two people and notarized" before it determined that the second amendment, after striking the penalty provision, is valid. Accordingly, reversal is not warranted simply because the district court did not expressly analyze appellant's arguments concerning the execution of the second amendment.

Moreover, the district court did not err by implicitly concluding that the second amendment comported with the requirements for amending the trust. Grantor executed the second amendment in the same manner as he made the first amendment: he requested that respondent draft a written document, which Grantor then signed and delivered to respondent in his capacity as trustee. As with the first amendment, this method comported with the requirements of section 501C.0602(c) because it substantially complied with the method for modifying the trust set forth in Article II of the 2002 trust agreement. We therefore conclude that the district court did not err by determining that the second amendment was properly executed.

III. The district court did not err by reforming the second amendment.

Appellant next argues that the district court erred by reforming the second amendment.

As explained earlier, the second amendment revised the list of trust beneficiaries by increasing respondent's share of the trust assets to 94% and reducing the shares of each of Grantor's other six children to "1% or $5,000.00." Following this list of beneficiaries, the second amendment included a penalty provision which stated: "The above percentages will only be paid out if they start acting light [sic] family again to [respondent]. Failure to accomplish this will result in the dollar amounts listed next to the percentages being paid." The district court determined that the penalty provision—and specifically the meaning of the phrase "acting li[ke] family again"—is "too ambiguous to enforce" and "entirely subjective." But the district court determined that the remainder of the distribution language in the second amendment is "clear and not capable of more than one interpretation." Citing its authority to reform the terms of a trust under Minn. Stat. § 501C.0415 (2020), the district court struck the penalty provision from the amendment and ruled that the "penalty provision and the dollar amount listed for each child is unenforceable." The court then enforced the remainder of the amendment, ordering the trust assets to be distributed as follows: 1% to each of respondent's siblings, 94% to respondent, and the specified cash amounts to the three listed charitable organizations (with the distributions to the charitable organizations being made first).

Appellant does not challenge the district court's conclusion that the penalty provision is unenforceable. Rather, appellant asserts that the *entire* second amendment is unenforceable and that the district court erred by reforming it. We disagree.

Section 501C.0415 provides that

> [t]he court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proved by clear and convincing evidence [1] what the settlor's intention was and [2] that the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

In determining whether the district court properly exercised its discretion in reforming the second amendment under section 501C.0415, we review factual issues for clear error and legal issues, such as the district court's interpretation of a trust agreement, de novo. *See Ruth Easton Fund*, 680 N.W.2d at 547 (providing that "[f]actual issues embedded in a discretionary determination are reviewed for clear error," and legal issues are reviewed de novo); *Stisser*, 818 N.W.2d at 502 (stating that a district court's interpretation of a written document is reviewed de novo). For the following reasons, we conclude that the requirements of section 501C.0415 were met and that the district court therefore did not err by reforming the second amendment.

First, the record supports the district court's conclusion that clear and convincing evidence proved that Grantor intended via the second amendment to substantially increase respondent's share of the trust assets and decrease the shares of Grantor's other six children. Grantor's intent to distribute the trust assets unequally among his children is apparent beginning in the 2002 trust agreement, in which Grantor's seven children received

shares ranging from 12% to 16%. The first amendment significantly increased the variance between respondent's share of the trust assets (31%) and the shares of Grantor's other six children (10% to 13%). And the second amendment followed that trend by further substantially increasing respondent's share (94%) and reducing the shares of each of his siblings ("1% or $5,000.00"). Moreover, the testimony at the evidentiary hearing provides further evidence of Grantor's intent. The testimony supports the district court's finding that respondent lived with and provided day-to-day care for Grantor from 2015 until Grantor's death in 2020. Appellant testified that he last communicated with Grantor in 2013 and last saw him in 2001. Respondent testified that neither appellant nor Grantor's other children had been in contact with Grantor or respondent for many years. This testimony supports the district court's determination that the second amendment "simply continued the reduction of the percentage distribution to the trust to the children he hadn't had contact with for almost nineteen years, during which time [respondent] continued to maintain contact and to provide care for the grantor." Accordingly, the hearing testimony and language of the trust agreement and amendments provide clear and convincing evidence that Grantor intended to give the bulk of the trust assets to respondent. The first requirement of section 501C.0415 is therefore met.

Second, clear and convincing evidence demonstrates that the terms of the trust were affected by a mistake of law. Section 501C.0415 does not define "mistake of law." But Black's Law Dictionary defines the term as "[a] mistake about the legal effect of a known fact or situation." *Black's Law*, *supra*, at 1200. Here, the record reflects that a mistake of law occurred because Grantor was mistaken about the legal effect of the penalty

provision: he believed the penalty provision was legally enforceable, but it was not. We are therefore satisfied that the second requirement of section 501C.0415 is met.

Because clear and convincing evidence establishes both Grantor's intent and a mistake of law in the trust terms, the district court was authorized to reform the second amendment under section 501C.0415. Moreover, the manner in which the district court reformed the amendment comported with its duty to give effect to Grantor's dominant intent. *See Stisser*, 818 N.W.2d at 502. Because the penalty provision is unenforceable, it was proper to strike that provision and the dollar amounts that were contingent upon it and otherwise give effect to the unambiguous portions of the second amendment. The district court's reformation honored Grantor's intent to the greatest extent possible by providing a 94% distribution to respondent and distributions of 1% to each of Grantor's other six children.

Appellant makes two arguments to support his position that the district court erred by reforming the second amendment, neither of which is availing. First, appellant contends that "[t]he district court erred by holding the [s]econd [a]mendment was valid despite findings of fact that it was vague, ambiguous, and incapable of implementation." Appellant ultimately argues that "[t]here is no authority . . . that allows a district court to strike a provision in order to make the remaining trust instrument unambiguous." In this argument, appellant appears to assert that the district court erred by reforming the second amendment because it first concluded that the *entire* amendment is incapable of being implemented and *then* struck the penalty provision for the purpose of making the rest of the amendment enforceable.

Appellant mischaracterizes the district court's order. Contrary to his assertions, the district court did not make an initial determination that the entire second amendment is unenforceable. Instead, the district court determined that only the *penalty provision* of the second amendment is ambiguous, subjective, and unenforceable. And it concluded that the remaining "distribution language" in the second amendment "is clear and not capable of more than one interpretation." Accordingly, the district court did *not*, as appellant contends, "strike a provision in order to make the remaining trust instrument unambiguous"; it struck a provision of the second amendment that is both ambiguous and sufficiently discrete that it is severable.

Second, appellant argues that the district court committed reversible error by not expressly determining that the second amendment contained a mistake of fact or law. While appellant is correct that the district court did not expressly determine that the second amendment contained a mistake of fact or law, the district court's order indicates that it implicitly made that determination. *See Modaff v. Comm'r of Pub. Safety*, 664 N.W.2d 400, 402 (Minn. App. 2003) (explaining that implicit findings may be inferred from the district court's final resolution of a matter), *rev. denied* (Minn. Sept. 16, 2003). Even if we were to assume the district court erred by failing to make such an express determination, any such error is harmless because the record reflects that the second amendment contained an identifiable mistake of law, and a remand is not necessary here. *See* Minn. R. Civ. P. 61 (requiring courts to disregard harmless error); *Grein v. Grein*, 364 N.W.2d 383, 387 (Minn. 1985) (declining to remand when doing so

would not change the result); *Tarlan v. Sorensen*, 702 N.W.2d 915, 920 n.1 (Minn. App. 2005) (citing *Grein* and refusing to remand when doing so would be "futile").

Accordingly, we conclude that the district court did not err by reforming the second amendment to give effect to its unambiguous terms.

Conclusion

In sum, we conclude that the district court did not err by determining that both amendments to the trust were properly executed. We also conclude that the district court did not err by reforming the second amendment. We therefore affirm the district court's decision to deny appellant's petition to invalidate the amendments to the trust.

Affirmed.