STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1203

In re the Marriage of:
Kathleen Jean Brandt-Rucker, petitioner,
Respondent,

vs.

Kraig Vernon Rucker,
Appellant.

Filed September 25, 2023
Affirmed
Smith, John, Judge[*]

Olmsted County District Court
File No. 55-FA-14-5800

Jill I. Frieders, Frieders & Kuhn, L.L.P., Rochester, Minnesota (for respondent)

Kirby Erin Marie MacLean, MacLean Family Law & Mediation, P.A., Savage, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Smith, Tracy M., Judge; and Smith, John, Judge.

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We affirm because the district court did not err by amending the parenting-time schedule; by denying appellant-father's motion for modified parenting time; or in

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

calculating the parties' incomes in determining a modification to father's support obligation.

FACTS

Appellant-father Kraig Vernon Rucker and respondent-mother Kathleen Jean Brandt-Rucker share two joint children, G.R., age 20, and M.R., age 14 (collectively, the children). Following the parties' 2016 divorce, mother was awarded sole legal and sole physical custody of the children. Father was awarded parenting time on Thursday evenings and every other weekend. An alternating holiday schedule was implemented. Each parent was allowed two non-consecutive weeks of vacation time. Holidays were prioritized over vacation time and vacation time was prioritized over regularly scheduled parenting time. Father was to pay mother $1,335 in monthly child support.

Following father's motions to modify child support and parenting time, the district court filed a March 2018 order changing father's child support obligation to $1,039 per month.

In July 2021, father moved the district court to review the child support obligation because G.R. reached the age of majority and for the district court to amend parenting time to account for M.R.'s increased age, among other things. Father amended his motion in October 2021. Father argued that a modification to the parenting-time schedule needed to account for M.R. being a teenager, benefitting from fewer transitions, and to allow for longer uninterrupted periods of what he referred to as "quality time."

In November 2021, mother moved for, among other things, a modification to the holiday schedule. Mother argued that father was taking vacation over the Christmas holiday

and that she had only spent one of the previous five Christmases with the children. Mother opposed father's amended motion to modify parenting time, arguing that father's negative behavior would impact M.R. more directly now that G.R. "is not available to act as an emotional buffer between them." Mother proposed a holiday schedule that provided each parent, in alternating years, parenting time for the first half of winter break before M.R. would switch to the other parent.

In a March 2022 order, the district court denied father's motion to modify the parenting-time schedule, determining that "[f]ather's proposed parenting time modification does not serve the best interests of [M.R.]." The district court denied mother's motion to modify holiday parenting time, but concluded that "the vacation provision, however, is modified to exclude the Christmas holiday and school winter break from the vacation schedule. Neither party may elect to use their vacation weeks over the Christmas holiday or winter break." The district court reserved the child-support issue because "both parties failed to provide adequate financial documentation in their submissions to the court."

In his submissions to the district court, father argued that he had a gross monthly income of $4,213.73 compared to mother's gross monthly income of $6,965.33. Father also argued that his income from renting out a family farm should not be included in his income calculation because this income was not relied on at the time the parties divorced. Mother agreed that child support should be modified but stated her gross monthly income as $6,458. Mother also claimed a nonguaranteed annual bonus income of $6,020.19. Mother argued father's gross monthly income was $5,286.40.

In a June 2022 order, the district court determined that, because G.R. reached the age of majority, there had been "a substantial change in circumstances." The district court found that father had a gross monthly income of $4,983 and that mother had a gross monthly income of $6,458. The district court determined that bonus pay was not previously included in the calculation of income while father's farm income had been previously included. The district court declined to modify the approach for calculating income and ordered father to pay $491 in monthly child support. Father appeals.

DECISION

I.

Father argues that the district court's change to the vacation schedule was an abuse of discretion. District courts have broad discretion in deciding parenting-time issues. *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). We will not reverse a parenting-time decision unless the 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." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Father argues that the district court abused its discretion by changing the parenting-time schedule so that vacation could not be taken over M.R.'s winter break from school. Father contends that, because he cannot take vacation over the winter break, the district court "essentially ordered Mother to take all winter breaks, and Father to take none[,] due to Mother's parenting time schedule." Father argues that the "District Court offered no findings on how the new restrictions on vacation time were in the best interest" of M.R.

In altering the holiday schedule, the district court considered that the original parenting-time schedule did not allow for vacation over the Christmas holiday but that "[d]espite this, the parties have allowed for vacation time to be taken over the Christmas holiday and have continued conflict over this issue." In arguing that this determination was an abuse of discretion, father relies on *Suleski v. Rupe*, 855 N.W.2d 330, 338 (Minn. App. 2014). In *Suleski*, we reversed a district court order that gave the noncustodial parent exclusive parenting time during every break from school in the fall, winter, and spring and remanded for the district court to "explain[] whatever parenting schedule it sets." *Id.* at 338. We held that "[w]hen a modification of a parenting schedule treats holidays and other special days differently from the rest of the parenting schedule, resulting in the non-custodial parent having exclusive parenting time during all school breaks[,] . . . the district court must make findings adequately explaining its apportionment." *Id.* at 332. Father's comparison to *Suleski* is unpersuasive.

Here, the district court did not award one parent all holidays in the school year and instead stated that neither party could take vacation during M.R.'s winter break. And the district court explained the change to the vacation provision as responding to "the continued conflict over this issue." Father claims that this limitation "essentially ordered Mother to take all winter breaks." This claim is not supported by the record. Under the district court's schedule, each parent still has parenting time on either Christmas or Christmas Eve and father still has his normal parenting time during winter break unless those days fall on one of the holidays.

The district court therefore did not abuse its discretion by altering the vacation provision to disallow vacation during M.R.'s winter break from school.

II.

Father also seeks reversal and remand of the district court's denial of his motion to modify parenting time, asserting that the district court failed to make sufficient written findings about the "best-interests" factors.

Minnesota law provides that a district court shall grant a motion to modify parenting time if modification would serve the "best interests" of the children and would not change the children's primary residence. Minn. Stat. § 518.175, subd. 5(b) (2022). In evaluating a child's best interests for determining parenting time, a district court "must consider and evaluate *all relevant factors*," including the 12 best-interests factors listed in the statute. Minn. Stat. § 518.17, subd. 1(a) (2022) (emphasis added). The district court is required to "make detailed findings on each of the [enumerated] factors . . . based on the evidence presented and explain how each factor led to its conclusions and to the determination of . . . parenting time." *Id.*, subd. 1(b)(1) (2022).

Father cites *Hansen* to argue that the district court was "required to consider the relevant best interest factors." In *Hansen*, which concerned a request to modify an existing "parenting plan" under Minn. Stat. § 518.175, subd. 8 (2016), the supreme court determined "that the district court was required to consider only the *relevant* best-interest[s] factors" and to make findings sufficient for appellate review. *Hansen,* N.W.2d at 597, 597 n.2.

Father argues that the district court "did not identify the relevant best interest factors for a modification" and "did not take into account the changing developmental needs of the child." Father therefore contends that this matter must be remanded to the district court for additional findings on the best interests of M.R. This argument is unpersuasive for three reasons.

First, the district court expressly articulated and considered the proper legal standard for modification of parenting time. The district court determined that Minn. Stat. § 518.175, subd. 5(b), requires modification of parenting time if modification "would serve the best interests of the child." Second, the district court found that "[f]ather's proposed parenting time modification does not serve the best interests of the child."

Third, while the district court did not make express findings on the best-interest factors, the district court's findings still relate to the relevant best-interest factors. The district court considered an affidavit by G.R. which stated that she wished she would have had equal time with her parents. The district court found that this affidavit "from the joint child of two parties who have not been able to co-parent in a healthy, considerate, or efficient manner for a large part of that child's youth, is especially troubling considering" father's history of negatively influencing the children's perception of mother. This finding relates to the following best-interest factors in Minn. Stat. § 518.17, subd. 1(a): the child's physical, emotional, and other needs and development; "the history and nature of each parent's participation in providing care for the child"; and "the effect of the proposed arrangement [] on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life." Minn. Stat. § 518.17, subd. 1(a)(1), (6),

(9). The district court also expressly considered mother's claim that "the children have a skewed understanding of the situation, colored by their own emotional history." Again, this relates to the child's emotional needs and development. Minn. Stat. § 518.17, subd. 1(a)(1).

Thus, the district court did not abuse its "broad discretion" in deciding parenting time questions. *Hansen*, 908 N.W.2d at 596.

Additionally, any error by the district court in failing to specifically address each of the enumerated "best-interests" factors was harmless. The district court expressly stated that its decision was based on M.R.'s "best-interests." Therefore, remanding to the district court for additional factual findings on the best-interests factors would not change the district court's decision. *See* Minn. R. Civ. P. 61 (requiring harmless error to be ignored); *Grein v. Grein,* 364 N.W.2d 383, 387 (Minn. 1985) (declining to remand in a child-custody case when "from reading the files, the record, and the [district] court's findings, on remand the [district] court would undoubtedly make findings that comport with the statutory language" and reach the same result); *Tarlan v. Sorensen,* 702 N.W.2d 915, 920 n.1 (Minn. App. 2005) (declining to remand in a custody dispute when doing so "would be futile at this juncture" (citing *Grein*, 364 N.W.2d at 387)).

III.

Father challenges the district court's calculation of the parties' incomes in determining his child-support obligation. "A court's determination of income must be based in fact and will stand unless clearly erroneous." *Newstrand v. Arend*, 869 N.W.2d 681, 685 (Minn. App. 2015) (quotation omitted), *rev. denied* (Minn. Dec. 15, 2015). Whether a source of funds is considered to be income for child-support purposes is a

question of law reviewed de novo. *Sherburne Cnty. Soc. Servs. ex rel. Schafer v. Riedle*, 481 N.W.2d 111, 112 (Minn. App. 1992).

"[M]odification of support is generally retroactive to the date the moving party served notice of the motion on the responding party[,]" and when no statutory exception to the general rule applies and there is no indication that the district court had exercised its discretion to make a child-support modification effective as of some other date, modification is effective as of the date the motion was served. *Bormann v. Bormann*, 644 N.W.2d 478, 482-83 (Minn. App. 2002).

On appeal, father argues that the district court erred by (1) "including income that should not be included in Father's gross income" and (2) "excluding Mother's regular bonuses from her gross income." Each argument is addressed in turn.

First, father argues that the district court wrongly calculated his gross income by including rental income from a property "acquired . . . after the motion [to amend child support] was brought." Father contends that, because he "did not have this business at the time of the dissolution or at the time of [the] motion" the district court's finding that his income was "above and beyond" the correct calculation. Father argues that it is not in the child's interest "to fail to consider income at a snapshot in time based on when the motion was brought." Father, however, does not challenge the district court's determination of the amount of the rental income from the property. Under Minn. Stat § 518A.39, subd. 2(f) (2022), "modification of support or maintenance . . . may be made retroactive only with respect to any period during which the petitioning party has a pending motion for modification." *See also Bormann*, 644 N.W.2d at 482 ("A modification of support is

generally retroactive to the date the moving party served notice of the motion on the responding party."). Father's motion to modify his support obligation was filed July 1, 2021, the same date on which the district court made father's child-support obligation retroactive. The district court did not err by making the child-support obligation retroactive to the date of father's motion because the appellant has failed to show any prejudice in its order for child support modification.

Second, father argues that the district court erred by determining that mother's bonus income received in the last two years was not included in her total gross income calculation. Father contends that because mother's bonuses in 2020 and 2021 "varied by less than $100 dollars" the bonuses should have been included in mother's income. As mother argues on appeal, the district court declined to find mother's bonus income to be a "form of periodic payment." Minn. Stat § 518A.29(a) (2022). Father only supplied evidence on mother's last two years of bonus income. The district court's factual finding that this did not constitute dependable income is not clearly erroneous because of the limited amount of evidence on the bonus income. *See Haasken v. Haasken*, 396 N.W.2d 253, 261 (Minn. App. 1986) (stating that bonus income may be included if the district court finds that it is "the type of income which could or should provide a dependable source of child support"). In conclusion, the district court did not err by determining that mother's bonus income should be excluded from her income calculation.

Affirmed.