STATE OF MINNESOTA
IN COURT OF APPEALS
A10-443

A. L. S., by guardian ad litem, J. P.,
Plaintiff,

vs.

E. A. G., defendant/plaintiff,
Appellant,

vs.

R. W. S., et al.,
Respondents.

Filed October 26, 2010
Affirmed in part and reversed in part
Connolly, Judge

Hennepin County District Court
File No. 27-PA-FA-07-909

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Samantha J. Gemberling, Gemberling Law Office, St. Paul, Minnesota (for appellant)

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Considered and decided by Lansing, Presiding Judge; Wright, Judge; and Connolly, Judge.

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

CONNOLLY, Judge

Appellant entered a traditional surrogacy contract with respondents, became pregnant, gave birth, and surrendered the child to respondents but later tried to assert rights as a parent. The district court ruled that, under Minnesota's Parentage Act, Minn. Stat. §§ 257.51-.74 (2008), respondents are the child's biological and legal parents, that appellant is neither the child's legal nor biological mother, and that it is in the child's best interests for respondents to have sole legal and physical custody of the child. We conclude that, under the Parentage Act, appellant is the child's legal and biological mother and that respondent B.C.F. is neither the child's legal nor biological father. We therefore reverse in part the district court's parentage determination. Because the district court did not abuse its discretion in determining that it is in the child's best interests for respondent R.W.S., the child's legal and biological father, to have sole legal and physical custody of the child, we affirm that part of the district court's decision.

FACTS

In July 2006, E.A.G. posted online an offer of her services as a surrogate. R.W.S. and B.C.F., two men in a committed same-sex relationship, responded to the offer, and the parties entered a traditional surrogacy contract,[1] resulting in the artificial insemination

[1] In "traditional surrogacy," a woman agrees that her own egg will be fertilized by artificial insemination, after which she carries the fetus and gives birth to the child. By contrast, in "gestational surrogacy," a woman is implanted with an embryo created from the egg of one of the parties or a donor and the sperm of the other party or a donor. *Black's Law Dictionary* 1582 (9th ed. 2009); Bridget J. Crawford, *Taxation, Pregnancy, and Privacy*, 16 Wm. & Mary J. Women & L. 327, 328 (2010).

of E.A.G. with R.W.S.'s sperm. E.A.G. gave birth to A.L.S. in July 2007. E.A.G. and R.W.S. then signed a recognition-of-parentage form identifying R.W.S. and E.A.G. as the child's father and mother, respectively. With E.A.G.'s consent, A.L.S. left the hospital and went home with R.W.S. and B.C.F.

Consistent with the parties' expectation of ongoing contact between A.L.S. and E.A.G., E.A.G. twice visited A.L.S. at the home of R.W.S. and B.C.F. Also, R.W.S. and B.C.F. pursued B.C.F.'s adoption of A.L.S., which was to have included E.A.G.'s voluntary termination of her parental rights. E.A.G., however, refused to terminate her parental rights. On E.A.G.'s third visit, she tried to take the child and the police were called. The police left the child with R.W.S. and B.C.F.

Later, R.W.S. and B.C.F. sent E.A.G. an open adoption and contact agreement, proposing ongoing contact between E.A.G. and A.L.S. E.A.G. refused to sign the agreement, revoked her recognition of parentage, and later sued R.W.S. to establish paternity, alleging that A.L.S. was the product of sexual intercourse between R.W.S. and E.A.G. E.A.G. sought sole custody of A.L.S. and child support from R.W.S. R.W.S. admitted paternity and counterclaimed for sole legal and physical custody, "standby custody" with B.C.F., and child support from E.A.G. R.W.S. also sought to enforce the surrogacy contract. In December 2007, R.W.S. was adjudicated the father of A.L.S.

A ten-day bench trial occurred between July 2008 and March 2009.[2] Numerous expert and lay witnesses testified. Both the custody evaluator and the guardian ad litem

[2] Much of the lengthy procedural history of this case is not directly relevant to this appeal. Therefore, it is not discussed in our opinion.

recommended that R.W.S. have sole legal and physical custody of A.L.S. because they believed it was in the child's best interests. R.W.S.'s expert witness, a psychologist, testified that the results of the MMPI test administered to E.A.G. were consistent with problems with authority, anger, inability to accept responsibility and externalization of blame, paranoia and mistrust of others, and difficulty maintaining long-term relationships. E.A.G. also presented expert opinion testimony from a psychologist, who agreed that R.W.S.'s expert's interpretation of the MMPI profile was the "standard interpretation," but questioned the results and the interpretation in this case because E.A.G. answered questions while erroneously focusing on her feelings toward R.W.S. rather than life in general.

After trial, the district court concluded that E.A.G. was not a legal parent of A.L.S. and declared the nonexistence of a mother and child relationship. The district court joined B.C.F. as a party on its own motion and adjudicated him a legal parent of A.L.S.,[3] basing its determinations of parentage on its interpretation of the Parentage Act. The district court, based on its perception of A.L.S.'s best interests, also awarded sole legal and physical custody of A.L.S. to R.W.S. and B.C.F. E.A.G. appeals but does not dispute that R.W.S. is the child's biological and legal father.

[3] On appeal, the parties do not challenge the district court's sua sponte decision to join B.C.F., and we express no opinion on the point.

D E C I S I O N

I. The district court erred in its interpretation of the Parentage Act by concluding that E.A.G. is not the biological mother, and that B.C.F. is a biological father, of A.L.S.

A. Parentage Act

The interpretation and application of statutes, including the Parentage Act, present questions of law and are reviewed de novo. *Lewis-Miller v. Ross*, 710 N.W.2d 565, 568 (Minn. 2006); *Zentz v. Graber*, 760 N.W.2d 1, 4 (Minn. App. 2009), *review denied* (Minn. Mar. 31, 2009). The goal of statutory interpretation is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2008). "When the language of a statue is plain and unambiguous, it is assumed to manifest legislative intent and must be given effect." *Burkstrand v. Burkstrand*, 632 N.W.2d 206, 210 (Minn. 2001). A statute is ambiguous only when its text is susceptible to more than one reasonable meaning. *Brayton v. Pawlenty*, 781 N.W.2d 357, 363 (Minn. 2010). Generally, words and phrases are construed according to their plain and ordinary meaning. *Am. Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001). Although technical words are construed according to their technical meaning, non-technical words are construed according to their "common and approved usage and the rules of grammar." *State by Beaulieu v. RSJ, Inc.*, 552 N.W.2d 695, 701 (Minn. 1996). If a statute is ambiguous, we apply canons of construction to discern the intention of the legislature. *Brayton*, 781 N.W.2d at 363; *see also* Minn. Stat. §§ 645.08 (describing canons of construction), .16 (listing factors that may be relevant to discerning legislative intent), .17 (stating presumptions in ascertaining legislative intent) (2008).

1. Mother and Child Relationship: E.A.G. argues that she is A.L.S.'s biological and legal mother under Minnesota's Parentage Act. We agree. The Parentage Act defines the parent and child relationship as "the legal relationship existing between a child and the child's biological or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations." Minn. Stat. § 257.52. The parent and child relationship between a child and the child's biological mother "may be established by proof of her having given birth to the child." Minn. Stat. § 257.54(a). Here, it is undisputed that E.A.G. gave birth to A.L.S.

The parent and child relationship between a child and the child's biological mother can also be established "under [the Parentage Act.]" *Id.* When addressing the existence of the mother and child relationship under the Parentage Act, "[i]nsofar as practicable, the provisions of [the Parentage Act] applicable to the father and child relationship apply." Minn. Stat. § 257.71. In ruling that E.A.G. is not A.L.S.'s parent, the district court relied on two provisions of the Parentage Act that explicitly address children produced through assisted reproduction and artificial insemination. *See* Minn. Stat. §§ 257.56, subds. 1, 2, .62, subd. 5.

Under Minn. Stat. § 257.62, subd. 5, the results of blood or genetic tests can prompt a determination that an alleged father is the biological father, but

> [a] determination under this subdivision that the alleged father is the biological father does not preclude the adjudication of another man as the legal father under section 257.55, subdivision 2, nor does it allow the donor of genetic material for assisted reproduction for the benefit of a recipient parent, whether sperm or ovum (egg), to claim to be the child's biological or legal parent.

Minn. Stat. § 257.62, subd. 5(c). The Parentage Act does not define "donor of genetic material," but "egg donation" is generally defined as "[a] type of assisted-reproductive therapy in which eggs are removed from one woman and transplanted into the uterus of another woman who carries and delivers the child," which usually involves in vitro fertilization. *Black's Law Dictionary* 592 (9th ed. 2009). Given this definition, we cannot agree with the district court that E.A.G. is an egg donor and is therefore precluded from being a biological or legal parent. E.A.G.'s egg was neither fertilized in vitro nor implanted into another woman's uterus. Instead, E.A.G. was artificially inseminated, her own egg was fertilized, and she carried the resulting fetus, giving birth to A.L.S. Thus, E.A.G. is not an egg donor and the prohibition on egg donors becoming parents does not apply to her.

The Parentage Act also states that, if certain prerequisites are satisfied, the husband of a woman artificially inseminated with a donor's sperm is treated in law as the biological father of the child thereby conceived, and that the sperm donor is treated in law as if he were not the biological father of the child. Minn. Stat. § 257.56, subds. 1, 2. Because this provision addresses the rights of a mother's spouse and the rights of a sperm donor rather than the rights of the mother herself, it provides limited guidance in addressing the rights of E.A.G. Further, the Parentage Act assumes one biological mother and one biological father rather than multiple biological mothers or fathers. *See, e.g.*, Minn. Stat. § 257.54 (describing how to establish parent and child relationship between child and "the biological mother" or "the biological father"). E.A.G. gave birth to A.L.S., Minn. Stat. § 257.54(a) indicates that giving birth is sufficient to establish the

parent and child relationship, and the statutory provisions of the Parentage Act explicitly addressing assisted reproduction and artificial insemination do not preclude a parent and child relationship between E.A.G. and A.L.S. Therefore, we reverse the district court's ruling that E.A.G. is not a legal parent of A.L.S.

2. Father and Child Relationship: E.A.G. argues that the district court erred in concluding that B.C.F. is the child's biological and legal father under the Parentage Act. The Parentage Act's definition of the parent and child relationship bases the legal existence of that relationship on either or both of two kinds of parenthood: adoptive and biological. *See* Minn. Stat. § 257.52 (defining the parent and child relationship as "the legal relationship existing between a child and the child's biological or adoptive parents"), .54 (stating that the parent and child relationship is created by establishing the biological or adoptive relationship between the parent and the child). B.C.F. has not adopted A.L.S. Therefore, any parent and child relationship he might have with A.L.S. must be as a biological parent within the meaning of the statute. *But cf. In re Welfare of C.M.G.*, 516 N.W.2d 555, 560 n.8 (Minn. App. 1994) (suggesting that basing parent and child relationships solely on biology, in some contexts, is not the proper objective).

It is undisputed that, genetically, R.W.S. is and B.C.F. is not A.L.S.'s father. Under Minn. Stat. § 257.62, subd. 5(c), a determination that someone is a child's biological father does not preclude a ruling under Minn. Stat. § 257.55, subd. 2, that another man is the child's legal father. Under Minn. Stat. § 257.55, subd. 2:

> A presumption [of paternity created] under [subdivision 1 of] this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

This statute addresses the rebuttal of a presumption of paternity and resolution of conflicting presumptions of paternity. Here, however, B.C.F. did not attempt to rebut any presumption of paternity favoring R.W.S.; indeed, R.W.S. had been previously adjudicated A.L.S.'s father in December 2007. And no party asserted the existence of conflicting paternity presumptions. Thus, Minn. Stat. § 257.55, subd. 2 does not create a parent and child relationship between B.C.F. and A.L.S.

A presumption of paternity arises if a man receives a minor child into his home and openly holds the child out as his biological child. Minn. Stat. § 257.55, subd. 1(d). Even if B.C.F. were the beneficiary of a presumption of paternity under this provision, a presumption "is rebutted by a court decree establishing paternity of the child by another man." *Id.*, subd. 2. Here, the district court adjudicated R.W.S. the father of A.L.S. before trial. Thus, the district court's reliance on this presumption in ruling that B.C.F. was a legal parent of A.L.S. was in error. Further, nearly all of the paternity presumptions in Minn. Stat. § 257.55, subd. 1 expressly involve a biological mother and a presumed father, and nothing in the statute suggests that B.C.F., as someone who is not the child's biological father, can, after paternity has been adjudicated, raise a presumption of paternity *as against the child's biological mother*. We find nothing in the statute creating

a presumption of parentage favoring intended parents. The plain language of the Parentage Act leads us to conclude that B.C.F. is not a biological father of A.L.S., and we decline to read into the statute the additional language that would be necessary to reach a contrary result. *See Willmus v. Comm'r of Revenue*, 371 N.W.2d 210, 214 (Minn. 1985) (stating that the court will not supply a statute with additional language where the legislature has intentionally omitted or inadvertently overlooked including that language).[4]

B. Traditional Surrogacy Agreement

E.A.G. asks this court to rule that the traditional surrogacy agreement between her and R.W.S. and B.C.F. is unenforceable and void as against public policy. There is currently no legislation or caselaw in Minnesota establishing the legal effect of traditional

[4] It is possible that surrogacy arrangements were not contemplated by the legislature when it enacted the Parentage Act in 1980. *See* 1980 Minn. Laws ch. 589, §§ 1-24, at 1070-79 (codifying Parentage Act). If so, omission of surrogacy arrangements from the Parentage Act, at least arguably, might be neither intentional nor inadvertent. For two reasons, however, we would still decline to read the additional language into the Parentage Act that would make B.C.F. a biological father. First, doing so would constitute an improper extension of existing law by this court rather than a correction of a district court error. *See Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) ("The function of the court of appeals is limited to identifying errors and then correcting them."); *Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987) ("[T]he task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court"). Second, much of the parties' dispute regarding the parentage aspects of this case revolves around the weight the Parentage Act gives the existence or absence of a biological connection between a child and an adult. In *C.M.G.*, this court noted the possible staleness of biologically based portions of the Parentage Act and encouraged the legislature to amend the Act. 516 N.W.2d at 560 n.8. In the 16 years since *C.M.G.*, the legislature has not done so.

or gestational surrogacy agreements.[5] Surrogacy arrangements involve questions of public policy that are best resolved by the legislature. *See, e.g.*, *Johnson v. Calvert*, 851 P.2d 776, 784 (Cal. 1993) ("We are all too aware that the proper forum for resolution of this issue is the Legislature, where empirical data, largely lacking from this record, can be studied and rules of general applicability developed.").

Here, the district court grounded its decisions that E.A.G. is not a legal parent of A.L.S. and that B.C.F. is a legal parent of A.L.S. on its interpretation of the Parentage Act, and it disclaimed any reliance on the potential validity or enforceability of the parties' traditional surrogacy contract. Because the district court did not address the enforceability of surrogacy contracts, that question is not properly before this court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts generally address only questions that have been presented to and considered by the district court). Further, the enforceability of surrogacy contracts implicates significant questions of public policy. We decline to address a question of public policy that is not properly before this court. *See Sefkow*, 427 N.W.2d at 210; *Tereault*, 413 N.W.2d at 286.

II. The district court did not abuse its discretion in awarding sole legal and physical custody to R.W.S.

The guiding principle in all custody determinations is the best interests of the child. Minn. Stat. § 518.17 (2008); *Durkin v. Hinich*, 442 N.W.2d 148, 152 (Minn.

[5] We are aware of no precedent applying Minnesota law to a surrogacy agreement. One unpublished opinion of this court, which is not precedential, Minn. Stat. § 480A.08, subd. 3 (2008), concluded that a gestational surrogacy agreement was enforceable under a foreign statute because of a choice-of-law clause in that agreement. *In re Baby Boy A.*, No. A07-452, 2007 WL 4304448, at *3-8 (Minn. App. Dec. 11, 2007).

1989). In making its best-interests determination, the district court must consider all relevant factors, including 13 nonexclusive, statutorily enumerated factors. Minn. Stat. § 518.17, subd. 1(a) (listing factors that must be considered). The district court must make detailed findings with respect to each factor, "may not use one factor to the exclusion of all others," may not use the primary-caretaker factor "as a presumption in determining the best interests of the child," and must explain its reasoning. *Id.* Appellate review of custody awards is limited to determining whether the district court abused its broad discretion by making findings unsupported by the evidence or by improperly applying the law. *Goldman v. Greenwood*, 748 N.W.2d 279, 281-82 (Minn. 2008). A district court's findings of fact will be sustained unless they are clearly erroneous. *Durkin*, 442 N.W.2d at 151-52. Findings of fact are clearly erroneous if the appellate court is left with the definite and firm conviction that a mistake has been made. *SooHoo v. Johnson*, 731 N.W.2d 815, 825 (Minn. 2007). Because there is no "articulated, specific standard of law" for reviewing best-interest determinations, the "law leaves scant if any room for an appellate court to question the trial court's balancing of best-interests considerations." *Vangsness v. Vangsness*, 607 N.W.2d 468, 477 (Minn. App. 2000).

The district court made detailed findings regarding each statutory best-interests factor. For purposes of this appeal, four factors are of little or no relevance: the parents' wishes, the child's reasonable custodial preference, the child's cultural background, and domestic abuse. *See* Minn. Stat. § 518.17, subd. 1(a)(1), (2), (11), (12). The district court concluded that the remaining statutory factors favor awarding permanent legal and physical custody of A.L.S. to R.W.S. *See id.* (3)-(10), (13).

The district court found that R.W.S. and B.C.F. share primary caretaking responsibilities for A.L.S., who "recognizes [them] as her parents" and "is always happy to see them and transitions easily and freely between them." By contrast, E.A.G. has not participated in any caretaking and "is not sensitive to the child's moods during supervised visits." The district court found that R.W.S. and B.C.F. both share a much more intimate relationship with the child than E.A.G., describing R.W.S.'s and B.C.F.'s relationships with A.L.S. as "warm and securely attached." The court found that A.L.S. is well adjusted to her daycare environment, and that R.W.S. and B.C.F.'s home is "clean and inviting and appropriate for a young child" and "the only home A.L.S. has ever known." The court found that R.W.S. and B.C.F. are in a committed long-term relationship which is more stable than E.A.G.'s family unit. It also found that E.A.G.'s actions "raise questions about . . . her ability to place the child's best interests above her own wants and needs."

The district court observed:

> [E.A.G.'s] lies, omissions and misrepresentations to the court, the police, the media, politicians, celebrities and anonymous individuals on the Internet regarding the circumstances of this child's conception and the reason that [R.W.S.] and B.C.F. even had custody of this child all evidence a certain amount of cunning and manipulation of facts that actually indicate that [E.A.G.] believed that she could pull out the "biological mother" and "only mother" card, keep the contract money and obtain further monies from these Intended Parents in the form of child support. These facts place into issue the state of [E.A.G.'s] mental health, her motive in pursuing this litigation and cause concern over any unsupervised contact she may have with A.L.S.

The district court noted that even E.A.G.'s own expert opined that her MMPI profile is consistent with a mistrustful, immature, narcissistic, and self-indulgent individual, and it found that E.A.G. "lacks emotional stability and insight and seeks attention for herself through her children in the public domain." The court placed heavy weight on E.A.G.'s "demonstrated . . . inability to separate her personal issues from A.L.S.'s emotional and developmental needs." While R.W.S. and B.C.F. put the child's best interests first, E.A.G. put her own emotional needs first, thus "call[ing] into question her capacity and ability to provide positive guidance" because she "made it clear that she will never give up trying to take A.L.S. from her Intended Parents to whom A.L.S. is obviously bonded."

When, as here, joint custody is contemplated or sought, the district court must also consider (a) the parents' ability to cooperate in raising the child, (b) the availability of and parents' willingness to use dispute-resolution methods regarding major decisions about the child's upbringing, (c) whether sole authority with one parent over the child's upbringing would be detrimental to the child, and (d) whether domestic abuse between the parents has occurred. Minn. Stat. § 518.17, subd. 2. When joint legal custody is requested by either party, the district court must employ a rebuttable presumption that it is in the best interests of the child. *Id.*

The district court made detailed findings regarding each statutory joint-custody factor. It found that E.A.G.'s negative attitude toward R.W.S. and B.C.F. indicated that she would not be willing to cooperate with them in raising A.L.S. in the future, and that R.W.S. showed "conciliatory" behavior but E.A.G. remained "combative." The court also found that R.W.S. and B.C.F. attempted good-faith settlement negotiations, whereas

E.A.G. refused to participate in the alternative dispute resolution required by family court rules, failed to respond to any settlement offer (including offers providing her parenting time), and refused to make any settlement proposal of her own. The court found that it would be detrimental to the child if E.A.G. had sole authority over her upbringing, but that it would not be detrimental to A.L.S. if R.W.S. had sole authority over her upbringing.

All of the district court's findings are supported by sufficient evidence in the record, including E.A.G.'s conduct during the course of this litigation, testimony from the parties, expert opinion testimony, and the observations and recommendations of the guardian ad litem and the custody evaluator. The district court's decision regarding A.L.S.'s best interests rested heavily on (1) the child's attachment to her father and lack of attachment to her mother, which was caused by the assumption of all caretaking responsibilities by R.W.S. and B.C.F., and (2) R.W.S.'s willingness and E.A.G.'s unwillingness or inability to prioritize A.L.S.'s needs, happiness, and well-being. The district court made the required findings and explained its reasoning, and the mere possibility that the record could have supported a different determination does not indicate that the district court abused its discretion. *Chamberlain v. Chamberlain*, 615 N.W.2d 405, 412 (Minn. App. 2000), *review denied* (Minn. Oct. 25, 2000).

The district court made the required findings, those findings are not clearly erroneous on this record, and the district court did not otherwise misapply the law. Therefore, the district court did not abuse its discretion in awarding sole legal and physical custody of A.L.S. to R.W.S., and we affirm that award. Legal and physical

custody of A.L.S. is solely with R.W.S.; while B.C.F. is and will continue to be an important person in the child's life, he is not a legal or biological parent of A.L.S. under Minnesota law and is not entitled to custody of the child on the facts of this case.

III. E.A.G.'s remaining arguments are without merit or irrelevant.

E.A.G. raises several other issues. We conclude that these arguments are either irrelevant or without merit.

A. Attorney-Client Privilege

E.A.G. argues that the district court improperly authorized access to privileged attorney-client communications "through direct access to [her] email account," citing the district court's instruction that she provide to R.W.S.'s attorney her user name and password for a social networking account. In district court, E.A.G. *agreed* to the arrangement she now challenges. Therefore, this issue is not properly preserved for appeal and we decline to address it. *Thiele*, 425 N.W.2d at 582.

B. Evidentiary Rulings

E.A.G. challenges the district court's ruling that she could not question the custody evaluator about an alleged source of possible bias in favor of R.W.S. and B.C.F.[6] The record, however, does not show the existence of the offer of proof that E.A.G. alleges she made to the district court. Absent an offer of proof, E.A.G. cannot allege error based on this ruling. *See* Minn. R. Evid. 103(a)(2) (stating that error may not be

[6] E.A.G.'s related assertion that the district court refused to allow questioning of the evaluator about whether the evaluator had engaged in certain activism is incorrect. The district court ruled that E.A.G. *could* ask questions on the topic.

predicated on an exclusion of evidence unless "the substance of the evidence was known to the court by offer").

E.A.G. challenges the district court's exclusion from evidence of an Internet posting occurring before A.L.S. was born in which B.C.F. allegedly sought group sex. B.C.F. denied that he posted the item on the Internet, and the district court found that the sexual history of R.W.S. and B.C.F. was not relevant. On this record, we conclude that the district court did not abuse its discretion by excluding this evidence. *See Colby v. Gibbons*, 276 N.W.2d 170, 175 (Minn. 1979) (stating that an evidentiary ruling is not a ground for a new trial unless the ruling was an abuse of the district court's discretion).

C. Prohibition of Identifying A.L.S.

Alleging a prior restraint of speech, E.A.G. argues that the district court erred by prohibiting the parties, attorneys, and others involved in this case from engaging in discussions of this case that might identify the parties or the child to others.

An injunction constituting a prior restraint on speech must be narrowly tailored to serve a compelling state interest, and the best interests of the child can be a compelling state interest. *Geske v. Marcolina*, 642 N.W.2d 62, 68 (Minn. App. 2002). *Geske* upheld the injunction in that case, noting that the "most important[]" factor was that the injunction did not restrict dissemination of information by the media. *Id.* at 69. It also observed that injunctions have been reversed if a district court's best-interests findings were clearly erroneous but that an injunction can be affirmed if the district court's findings on harm to the child are not rejected. *Id.* at 69-70. Here, however, E.A.G. does not even *allege* that the district court clearly erred in finding that identification of A.L.S.

would be harmful to her, and the record does not show this finding to be clearly erroneous. Therefore, E.A.G. cannot show reversible error by the district court with respect to the injunction.

D. Substantive Due Process

E.A.G. argues that the district court's determination that she is not the mother of A.L.S. violates her right to substantive due process of law. Because we reverse that part of the district court's decision and conclude that E.A.G. is the biological and legal mother of A.L.S. under Minnesota law, we need not address this issue.

E. Reassignment on Remand

E.A.G. asks us to reassign this matter to a different judge on remand to the district court; she appears to allege that the district court judge was biased against her. While we do not believe that E.A.G. has shown bias, because our disposition of this appeal does not include a remand, we decline to address the question.

Affirmed in part and reversed in part.