STATE OF MINNESOTA

IN SUPREME COURT

A20-0749

Court of Appeals — Moore, III, J.

In re the Marriage of:

Jonathan Richardson Woolsey,

Appellant,

vs.

Ruthanne A. Woolsey,

Respondent.

Filed: June 15, 2022
Office of Appellate Courts

Kay Nord Hunt, Michelle K. Kuhl, Lommen Abdo, P.A., Minneapolis, Minnesota, for appellant.

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S Y L L A B U S

The district court erred in applying the endangerment standard of Minn. Stat. § 518.18(d)(iv) (2020), to a custody modification motion when the parties had stipulated, as permitted by Minn. Stat. § 518.18(d)(i) (2020), to application of the best-interests standard.

Reversed and remanded.

O P I N I O N

MOORE, III, Justice.

This case asks us to determine whether the district court erred by applying the endangerment standard of the child-custody modification statute, Minn. Stat. § 518.18(d)(iv) (2020), to a noncustodial parent's motion for joint legal custody of the parties' child based on their prior stipulation to apply the statutory best-interests standard, as permitted by Minn. Stat. § 518.18(d)(i) (2020). Minnesota Statutes section 518.18(d) (2020) generally provides that to modify a prior custody order, the court must find a change in circumstances of the child or parties, that modification would serve the child's best interests, and that one of the five additional grounds for modification listed in Minn. Stat. § 518.18(d)(i)–(v) is met. Here, the noncustodial parent's modification motion was expressly predicated on section 518.18(d)(i), which provides that the statutory best-interests standard set forth at Minn. Stat. § 518.17 (2020) applies if the parties previously agreed in a court-approved writing to the application of that standard. The district court instead found that the noncustodial parent failed to establish a prima facie case for a change in custody based on the statutory endangerment standard in section 518.18(d)(iv) and therefore was not entitled to an evidentiary hearing on his motion for custody modification. The noncustodial parent challenged the district court's order, and the court of appeals affirmed. Because we conclude the district court erred by requiring the noncustodial parent to establish a prima facie case of endangerment, we reverse the court of appeals decision and remand to Carver County District Court for further proceedings.

FACTS

Appellant Jonathan Woolsey (Father) and respondent Ruthanne Woolsey (Mother) were married and had one daughter, who was born in March 2014. This appeal concerns Father's motion for joint legal custody of the child.

In July 2014, Father filed a petition for dissolution of the marriage. During the dissolution proceeding, the parties—who were both represented by counsel—negotiated a stipulated custody and parenting time agreement, which was incorporated into the dissolution judgment and decree entered by the district court on December 30, 2015. Under their agreement, Mother was granted sole physical and legal custody of the child. Father was granted parenting time, which would gradually increase according to an eight-phase schedule from 2015 to 2017, so long as he continued to receive psychiatric care, took all prescribed medications, and abstained from alcohol consumption. The parties also agreed that "[t]he issue of legal custody may be reviewed by motion of [Father] no earlier than January 1, 2020, and that review will be based upon the best interest standard set forth in Minn. Stat. § 518.17." If Father did not file his motion by January 31, 2020, the agreement stated that he would "permanently waive[]" his right to have a change in legal custody decided under the best-interests standard.

Four years later, and within the stipulated-to 1-month window, Father filed a motion for joint legal custody. His motion was exclusively based on the parties' stipulation for best-interests review of legal custody. In his supporting affidavit, Father asserted that the parties had "mutually agreed that [he] would be able to file a motion to modify legal

custody, under a de novo standard of review, and the best interest factors pursuant to Minn. Stat. § 518.17, effective January 1, 2020."

Father's affidavit discussed in detail what had occurred between the parties and the child over the years since the entry of the judgment and decree. Father stated that he had complied with all terms of the judgment and decree and as a result his parenting time had "steadily and consistently expanded." Father further asserted that the parties had been able to "largely agree and peaceably coexist for the best interest of our daughter" and asserted that "[t]here are no current or pending disagreements regarding any legal custody issues" with respect to the "core elements that make up legal child custody": "health care; religion; education." Father's affidavit alleged that the parties had "always agreed" on their daughter's medical care and education, and that the parties had been able to "amicably" agree on matters such as attending church, swapping holidays, and funding the child's birthday celebrations. Father's affidavit discussed each of the statutory joint legal custody and best-interests factors, and argued that under a "de novo" review, an award of joint legal custody would be in their daughter's best interest and would "acknowledge and perfect that joint decision making that is already in place between the parties." Father's affidavit did not specifically allege he had satisfied the Minn. Stat. § 518.18(d) requirement of a change in circumstances of the parties or their child, nor did he allege that the child's present environment endangered her in any way under section 518.18(d)(iv). Mother opposed Father's motion, submitting a responsive affidavit alleging that the parties were "unable to make major joint decisions" due in part to an inability to verbally communicate.

The district court denied Father's motion. In its order, citing exclusively to the endangerment criterion in section 518.18(d)(iv), the court stated that Father, as the party moving for custody modification, had the burden to show that (1) a change in circumstances had occurred; (2) modifying the current custody arrangement is necessary to serve the best interests of the child; (3) the present environment endangers the child's physical or emotional health; and (4) the harm likely to be caused by the change in environment is outweighed by the advantage of a change to the child. The court noted that to modify custody there must be a significant change in circumstances such as a custodial parent's impairment of a child's emotional health and development and not a continuation of ongoing problems that existed before the original order.

In its analysis of Father's motion, the district court considered assertions from both parties' affidavits, and found (1) that there had been "no significant change in circumstance for the minor child or [Father] that would support a change in legal custody that is in the best interest of the child"; (2) that Father had "presented no evidence that the current status of sole legal custody to [Mother] endangers the minor child's physical or emotional health or emotional development"; and (3) given the parties' history of communication challenges, Father had not shown that the benefits of a joint custody arrangement outweighed the harms. This analysis led the court to conclude that Father failed to set forth a prima facie case for custody modification based on endangerment. Therefore, the court denied Father's request for an evidentiary hearing.

Father appealed, arguing that the district court erred by applying the wrong standard to his custody modification motion. Specifically, Father argued that, pursuant to the parties' stipulation, the district court should have considered his motion exclusively under the best-interests standard as section 518.18(d)(i) allows. Therefore, according to Father, the district court's application of the endangerment standard was incorrect.

The court of appeals affirmed. *Woolsey v. Woolsey*, No. A20-0749, 2020 WL 7689614, at *4 (Minn. App. Dec. 28, 2020). The court of appeals did not reach the issue of the correct legal standard—that is, whether the parties' agreement to the best-interests standard under section 518.18(d)(i) or the endangerment standard of section 518.18(d)(iv) applied—because it determined a change in circumstances was a "prerequisite" to granting a motion to modify custody, "even if the proposed modification is to be based on the child's best interests" as stipulated. 2020 WL 7689614, at *2. The court of appeals concluded that Father's failure to make the threshold showing of changed circumstances was "fatal to [his] motion regardless of his allegations regarding the child's best interests." *Id.* at *3.

We granted review to determine whether the district court erred in applying the endangerment standard of section 518.18(d)(iv) to a custody modification motion when the parties had agreed, as permitted under section 518.18(d)(i), to application of the best-interests standard.

ANALYSIS

Determining the proper legal standard to be applied to a child-custody modification motion presents a question of law that we review de novo. *Crowley v. Meyer*, 897 N.W.2d 288, 293 (Minn. 2017). We review a district court's decision to deny a motion to modify

custody without an evidentiary hearing under an abuse-of-discretion standard. *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008). "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) (citation omitted) (internal quotations omitted).

Minnesota Statutes section 518.18(d) governs the district court's modification of an existing child custody order. That statute prescribes the reasons a court can modify a custody order and establishes the findings it must make to do so. It provides in relevant part:

> [T]he court shall not modify a prior custody order . . . unless it finds . . . that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement . . . established by the prior order unless:
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> (i) the court finds that a change in the custody arrangement . . . is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;
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> (ii) both parties agree to the modification;
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> (iii) the child has been integrated into the family of the petitioner with the consent of the other party;
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> (iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

> (v) the court has denied a request of the primary custodial parent to move the residence of the child to another state . . . .

Minn. Stat. § 518.18(d).[1]

This case involves application of the best-interests custody modification provision from Minnesota Statutes section 518.18(d)(i), which was added to the statute in 2000. Act of Apr. 27, 2000, ch. 444, art. 1, § 5, 2000 Minn. Laws 980, 984. This provision allows parties in a child custody case to stipulate in writing to a best-interests standard of review for future motions to modify custody.[2] We have not had occasion to consider the provision since it was added, as all of our custody-modification cases since then have involved endangerment allegations under section 518.18(d)(iv). *See In re M.J.H.*, 913 N.W.2d 437, 440 (Minn. 2018) (considering whether the best-interests standard of Minn. Stat. § 518.175, subd. 5(b) (2020), or the endangerment standard in section 518.18(d)(iv) applied to a motion to increase parenting time); *Crowley*, 897 N.W.2d at 294 (determining the district court erred in failing to make factual findings of endangerment as section

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[1] The best-interests standard in Minn. Stat. § 518.17 (2020) applies here because the custody determination comes within a marital dissolution proceeding. The best-interests standard in Minn. Stat. § 257.025 (2020) governs unmarried parents and is therefore inapplicable here. Section 518.17, subd. 1 requires the court to consider "all relevant factors," including 12 specified factors which address the needs and preferences of the child, as well as the history of the parents' relationships with each other and the child.

[2] Minnesota Statutes section 518.18(d)(i) superseded our decision in *Frauenshuh v. Giese*, 599 N.W.2d 153, 154 (Minn. 1999), where we held that the then-existing requirements of Minn. Stat. § 518.18 (1998) governed even when the parties' dissolution decree stipulated to a different standard of review for custody modification. *See Goldman*, 748 N.W.2d at 284.

518.18(d)(iv) requires); *Goldman*, 748 N.W.2d at 285 (examining whether a parent had established a prima facie case of endangerment under section 518.18(d)(iv) entitling her to an evidentiary hearing).[3]

We begin our analysis with a review of the requirements section 518.18(d) imposes on the parties and the district court. Under section 518.18(d), the district court must first determine whether the party seeking to modify the custody arrangement has made a prima facie case by alleging facts that, if true, would provide sufficient grounds for modification. *Crowley*, 897 N.W.2d at 293; *Nice-Peterson v. Nice-Peterson*, 310 N.W.2d 471, 472 (Minn. 1981). Specifically, the movant must make a prima facie showing that: (1) the circumstances of the child or the parties have changed; (2) modification would serve the child's best interests; and (3) one of the five specific additional grounds for modification as set out in Minn. Stat. §§ 518.18(d)(i)–(v) exists. *Cf. Crowley*, 897 N.W.2d at 293 (presenting a prima facie case for modification based on endangerment as being comprised of the requirements of section 518.18(d)—change of circumstances and the child's best interests—plus those in the endangerment standard in section 518.18(d)(iv)). The district court must make specific findings on these requirements to comply with section 518.18(d)

[3] The court of appeals has issued rulings in cases concerning section 518.18(d)(i), though not in any precedential cases. *See, e.g.*, *Olinger v. Beckham*, No. A04-2363, 2005 WL 1389952, at *1, *3–4 (Minn. App. June 14, 2005) (concluding that petitioner who had stipulated to best-interests review of parenting plan modification under section 518.18(d)(i) was still required to satisfy the requirements in section 518.18(d), including changed circumstances); *Suess v. Suess*, No. A11-129, 2011 WL 5829114, at *1, *3–4 (Minn. App. Nov. 21, 2011) (holding that the district court erred in finding that the petitioner, who had stipulated to best-interests review of custody modification under section 518.18(d)(i), was not required to allege a prima facie case for modification to obtain an evidentiary hearing).

and to aid appellate review. *Gunderson v. Preuss*, 336 N.W.2d 546, 548 (Minn. 1983). If the movant establishes a prima facie case, the district court must hold an evidentiary hearing on the motion, during which the parties may present evidence on each factor. *Crowley*, 897 N.W.2d at 293–94.

In this case, the parties in 2015 entered into a lengthy and detailed stipulated agreement—with both parties represented by counsel—that granted Mother sole legal custody of the parties' daughter but provided that Father would have a 1-month window to request review of sole legal custody 4 years after the agreement was entered. The agreement provided:

> The issue of legal custody may be reviewed by motion of [Father] no earlier than January 1, 2020, and that review will be based upon the best interest standard set forth in Minn. Stat. § 518.17. . . . [Father] shall have a time frame of 30 calendar days from January 1, 2020 to file a motion to request review of sole legal custody, but his motion shall not be filed earlier than January 1, 2020. If no motion is filed within the 30 day calendar window, the right to request joint legal custody, as reviewed under a best interest standard, is permanently waived.

In his motion to the district court seeking joint legal custody, Father did not specifically allege a change in circumstances supporting a modification of the parties' custody decree, although his supporting affidavit detailed the expansion of his parenting time over two years since the decree due to his compliance with the parties' agreement. Instead, he asserted that the parties' agreement required the district court to conduct a "de novo" review of whether it was in the best interests of the child for the parties to share joint custody under the best interest factors in section 518.17. Father's motion relied on the claim that he had complied "without exception" with all terms of the judgment and decree,

particularly those relating to parenting time, child support obligations, and financial support. Father further asserted that he and Mother had "always agreed" on the important joint custody factors. In response, Mother argued that Father had not alleged that circumstances had changed to make joint legal custody in their child's best interest. She cited ongoing conflict between the parties and an inability to communicate and make parenting decisions together.

Father now agrees that section 518.18(d) requires him to make a threshold showing of changed circumstances, notwithstanding the parties' agreement to apply the best-interests standard under section 518.18(d)(i).[4] Still, he argues the district court erred by improperly applying the endangerment standard in section 518.18(d)(iv) to his custody modification motion rather than the parties' stipulated standard. According to Father, the fact that the parties had previously agreed to a best-interests analysis placed his request squarely under section 518.18(d)(i), which expressly contemplates such agreements. Father therefore argues that the district court misapplied the law when it analyzed his request for custody modification under the statutory endangerment standard.

[4] Father has not always agreed that section 518.18(d) requires him to make a threshold showing of changed circumstances to obtain a modification of custody. Both before the district court and court of appeals, Father maintained that because the parties had stipulated to review under the best-interests standard, he was entitled to a "de novo" review of the custody modification solely under the best-interests factors in section 518.17, without needing to meet the changed circumstances requirement from section 518.18(d). Before this court, however, Father conceded that he must satisfy the changed-circumstances requirement in section 518.18(d) as part of his prima facie case, notwithstanding a stipulation to best-interests review.

We agree. The parties previously stipulated that "review [of custody modification would] be based upon the best interest standard set forth in Minn. Stat. § 518.17." The district court accepted the stipulation and incorporated it into the final dissolution judgment and decree. The parties do not dispute that they validly agreed to best-interests review as permitted by section 518.18(d)(i), and both were represented by counsel in entering this agreement. The district court was aware of the parties' agreement because it included the best-interests-review provision from the dissolution judgment and decree in its order denying Father's motion. Where, as here, the statutory requirements for applying section 518.18(d)(i) are met—the parties previously agreed in a court-approved writing in which both were represented by counsel to apply the best-interests standard in section 518.17—the court is required to apply the best-interests standard found in that section when the movant seeks modification on that basis.

Here, the district court erred because, even though the parties agreed to use the best-interests standard rather than the endangerment standard and Father was not alleging endangerment, several parts of the order make clear that the district court analyzed Father's motion solely through the lens of endangerment under section 518.18(d)(iv). First, the district court explicitly stated that Father "bears the burden of proving . . . the present environment endangers the child's physical or emotional health, or emotional development, and the harm likely to be caused by the change in environment is outweighed by the advantage of a change to the child." These are the endangerment elements from section 518.18(d)(iv).

Second, the legal authorities the district court cited in its order were endangerment cases, which, in addition to reflecting application of the incorrect modification standard, affected the factual analysis of other parts of the order. For example, in describing how Father could meet the changed-circumstances element, the district court cited *Spanier v. Spanier*, 852 N.W.2d 284, 288 (Minn. App. 2014) in conjunction with an endangerment case, *Coady v. ViRay*, 407 N.W.2d 710, 713 (Minn. App. 1987)—making it clear that the court considered changed circumstances against the backdrop of the endangerment standard. Specifically, the district court cited *Coady* for the general proposition that a custodial parent's impairment of a child's emotional health and development can be considered a change in circumstances. 407 N.W.2d at 713. The district court then cited to competing statements from both parties' affidavits about their ability—or inability—to communicate and cooperate to make decisions about the child's needs.

The apparent purpose of these paragraphs was to suggest that the absence of facts alleging a custodial parent's adverse treatment of the child demonstrated, on its own, an inadequate showing of changed circumstances. The fact that the district court seemed to be considering whether the child's current environment impaired her emotional health and development in a way it previously did not demonstrates that the district court was analyzing changed circumstances through the framework of the endangerment elements in section 518.18(d)(iv). In other words, the district court was looking for endangerment in the changed circumstances allegations, even though endangerment was not the basis for Father's motion and the parties had previously stipulated to the best-interests standard under section 518.18(d)(i).

Similarly, in reaching its conclusion that Father failed to demonstrate that the harm caused by a change in custody would outweigh the advantage to the child, the district court relied on its finding that "Father will be able to maintain and grow his relationship with the minor child through the parenting time already provided." Courts are required to engage in this harm-versus-advantage assessment when considering modification of a prior custody order based on endangerment allegations, but they are not explicitly directed to do so under the best-interests factors under section 518.17, subd. 1. The district court also cited Mother's efforts to include Father in decisions about the child to support its conclusion that Father had not established how the current sole custody arrangement endangered the child. It is therefore clear from the district court's analysis that it was focused entirely on endangerment and not on a best-interests analysis.

We have emphasized that the "explicit language [in section 518.18(d) providing] that a custody change is not to be made unless certain specific factors are considered is indicative of a legislative intent to impart a measure of stability to custody determinations in most circumstances." *Gunderson*, 336 N.W.2d at 548. Because of the importance of this "explicit statutory directive" in section 518.18(d), district courts are required to make specific findings on the elements of the statute to comply with the statute and aid appellate review. *Id.* The district court did not comply with that requirement because it failed to make specific findings on the best-interests standard under section 518.18(d)(i) that applied to Father's motion. Mother's assertion that the district court did apply the best-interests standard pursuant to the agreement is an overstatement. Though it is true the district court made some passing references to best interests, these were merely tangential to and

inextricably intertwined with the endangerment discussion. We have rejected similar attempts to construe district court orders as making "implicit findings" about whether a party satisfied the requirements of section 518.18(d), *Gunderson*, 336 N.W.2d at 548, n.1, and we do so again here. There is simply no indication in the order that the district court considered section 518.18(d)(i) or its application to the agreed-upon best-interests standard when it denied an evidentiary hearing on Father's motion.[5]

Because the district court's analytical lens considering Father's motion was irreparably tainted by its exclusive focus on endangerment,[6] we conclude the district court erred as a matter of law when it applied section 518.18(d)(iv) to Father's motion.[7]

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[5] Notably, the district court's order does not contain a single reference or citation to section 518.18(d)(i)—only to section 518.18(d)(iv).

[6] The court of appeals' resolution of this appeal on the threshold changed-circumstances analysis does not eliminate the need for remand here. Whatever the particular requirements of the changed-circumstances analysis where, as here, a motion for modification satisfies the requirements under section 518.18(d)(i) for being based upon the best-interests standard, it is legal error to conduct that changed-circumstances analysis exclusively through an endangerment lens.

[7] In light of this ruling, we do not reach Father's argument that the district court erred in requiring him to establish a "significant" change in circumstances to establish a prima facie case for modification of custody under section 518.18(d).

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals and remand to the Carver County District Court for reconsideration consistent with this opinion and the parties' agreement.[8] We leave to the district court's discretion whether to reopen the record or consider the record as it existed when Father filed his motion.

Reversed and remanded.

[8] This case was venued in Hennepin County District Court at the time of the custody modification motion, but venue was transferred to Carver County in 2020 after Mother and the child moved there. Although Mother originally asked for any remand to be back to Hennepin County, both parties now reside in Carver County and agree that the remand should be to the Carver County District Court.