

STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1235



In re the Marriage of:

Catrina M. Rued, petitioner,

ORDER OPINION

Respondent,

Hennepin County District Court
File No. 27-FA-16-6630

vs.

Joseph D. Rued,

Appellant.

Considered and decided by Schmidt, Presiding Judge; Worke, Judge; and Klaphake, Judge.*

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Appellant Joseph D. Rued (father) and respondent Catrina M. Rued (mother) married in 2014. Mother gave birth to a child in 2014. Mother petitioned for divorce in 2016. In 2020, the district court granted sole legal and physical custody of the child to mother, and we affirmed. *Rued v. Rued*, No. A21-0798 (Minn. App. June 27, 2022), *rev. denied* (Minn. Sept. 28, 2022), *cert. denied*, 143 S. Ct. 1082 (2023).

2. Beginning in 2016, and continuing to the present, father and father's parents (grandparents) reported that the child had told them that mother, mother's first husband,

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

and the child's half-brother had abused the child. None of these allegations have ever been substantiated. In addition, father and grandparents alleged that the child was allergic to wheat and dairy, that mother fed the child foods containing those ingredients, and that her doing so constituted child abuse. Allergy tests have shown that the child is allergic to neither wheat nor dairy.

3. Father and grandparents continued to question the child about abuse by mother during father's parenting time. The district court determined that this had created a source-monitoring problem for the child, whom a different district court had found "highly suggestible," such that the child has trouble differentiating fact from fiction.

4. Based on father's continued questioning of the child, mother moved for father's parenting time to be reduced and supervised in November 2021. Following an evidentiary hearing, the district court ordered father's parenting time reduced and to be supervised.

5. The district court also ordered father to pay conduct-based attorney fees in the amount of \$28,177.50.

6. The district court stated that father's conduct "has included unreasonable conduct during parenting time, inappropriate behaviors toward the daycare provider, taking unreasonable and unfounded positions relative to parenting-time schedules, and sabotaging the Special Master process." The district court also stated that father "has continued to act in bad faith, making unfounded allegations which have been repeatedly refuted by professionals and seeking unfounded protection orders which directly involved the parties'

7-year-old child, requiring [mother] to seek help from the Court and adding substantially to the length and expense of this proceeding.”

7. Father asks this court to reverse the district court’s order that he pay conduct-based attorney fees, arguing that the district court abused its discretion by ordering the fees.

8. Conduct-based attorney fee awards “are discretionary with the district court.” *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 295 (Minn. App. 2007); *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010). “[A] district court abuses its discretion if it acts against logic and the facts on record, or if it enters fact findings that are unsupported by the record, or if it misapplies the law.” *T.A.M.*, 791 N.W.2d at 578 (quotations and citations omitted).

9. The district court can award conduct-based attorney fees if a party “unreasonably contributes to the length or expense of the proceedings.” Minn. Stat. § 518.14, subd. 1 (2022).

10. Father relies on *Buckner v. Robichaud* to argue that the district court abused its discretion by awarding conduct-based attorney fees. 992 N.W.2d 686, 687 (Minn. 2023). *Buckner* is inapposite, however, because the award of attorney fees in *Buckner* was based on the district court’s inherent authority, not the party’s conduct. *Id.* at 689 (“In this case, however, the district court did not rely on section 518.14 . . . in awarding fees. Instead, the court relied on its inherent authority.”).

11. We determine that the record supports the district court’s determination that father’s conduct “add[ed] substantially to the length and expense of this proceeding.”

12. For example, father filed an affidavit accompanied by 213 pages of exhibits that was largely duplicious of exhibits father previously filed with the district court. Grandparents and father's sister also filed affidavits and exhibits totaling 119 pages that were largely duplicious of exhibits previously filed with the district court.

13. Father continued to argue that the child had suffered substantial abuse at the hands of mother and that the child had allergies, when the district court had repeatedly determined that neither of those claims were true.

14. By attempting to relitigate issues already decided by the district court and by attacking the integrity of the decisions of other district courts, father extended the proceeding, causing both parties to incur heightened legal fees, and expending judicial resources on issues already litigated.

15. In sum, the record amply supports the district court's determination that father's conduct "add[ed] substantially to the length and expense of this proceeding."

IT IS HEREBY ORDERED:

1. The district court's order for conduct-based attorney fees is affirmed.
2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: April 29, 2024

BY THE COURT

/s/

Judge Roger Klaphake