STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1448

In Re the Custody of: C.A.C. and P.M.C.;

Brian Adam Castagneri, petitioner,
Respondent,

vs.

Ashley Jo Klingbeil,
Appellant.

Filed June 2, 2025
Affirmed
Smith, John, Judge[*]

Douglas County District Court
File No. 21-FA-18-389

Matthew P. Franzese, Wheaton, Minnesota (for respondent)

John E. Mack, New London Law P.A., New London, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Harris, Judge; and Smith, John, Judge.

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

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We affirm the district court's order modifying physical custody because the district court did not abuse its discretion by construing respondent-father's motion to modify parenting time as a motion to modify physical custody.

FACTS

Appellant Ashley Jo Klingbeil (mother) and respondent Brian Adam Castagneri (father) have two joint minor children. C.A.C. was born in 2013, and P.M.C. was born in 2015. The district court filed its first temporary order regarding custody and parenting time in 2018.

In 2021, the parties, who were both living in Alexandria at the time, stipulated to joint-physical and joint-legal custody of their children. As part of that stipulation, the parties agreed that the children would remain enrolled in the Alexandria School District, where they were living at the time, unless the parties agreed otherwise. As set out district court's July 12, 2022, order which incorporated the parties' stipulation, father would have parenting time every other Thursday through Monday and "an overnight commencing no later than Thursday at 7:00 p.m. until Friday at 5:00 p.m." on the weeks in between his weekend parenting time. The children would spend the remaining time with mother. And in the summer, the parties would share a week on, week off parenting-time schedule.

In August 2023, while this plan was in place, mother moved to Kerkhoven, about 75 miles away from Alexandria. She unilaterally removed C.A.C. and P.M.C. from St. Mary's, where they were attending school at the time, and enrolled them in an online

program. After father initiated contempt proceedings against mother, the district court ordered mother to re-enroll the children at St. Mary's and directed the parties to meet with a parenting time expeditor (PTE) to resolve their issues.

In early 2024, after an unsuccessful meeting with the PTE, mother moved the court to grant her "sole discretion in district choice and school enrollment of the joint children" and to modify the existing parenting-time schedule that would decrease father's parenting time. Part of mother's argument for modification was that the children should not attend St. Mary's because they had "expressed extreme frustration, discomfort and displeasure with the requirement to drive to Alexandria every day to go to school," "stated that they would prefer to go to school in Kerkhoven," and were "not happy at St. Mary's." Mother stated that "it is an endangerment to [the] children's mental health and developmental well-being to be forced to continue to attend St. Mary's" because of the long commute.

In response, father filed a motion to modify parenting time that would grant him additional (55% total) parenting time. Specifically, father requested "parenting time every Monday after school to Friday morning when [he] drops off the children at school. [Mother] shall have parenting time Friday after school through Monday morning when [she] drops off the children at school." Father also asked the district court to require that the children attend St. Mary's until sixth grade, after which they would attend "in person school in Alexandria School District 206," unless the parties agreed otherwise in writing. As to mother's motion, father argued that it requested a de facto modification of physical custody.

On March 15, 2024, the district court held a hearing "to address the basis for an evidentiary hearing pursuant to *Nice-Petersen*" based on the requested modifications by both parties. At the hearing, the district court signaled that would consider whether to construe the parties' motions as ones to modify physical custody, as opposed to a motion to modify parenting time, which is governed by a different statutory standard:

> [T]here are some guidelines . . . where I'm supposed to make a determination if one or both parties are making requests such that it would result in what we call a de facto change in custody, in other words, regardless of the label that we've put on it, or whether we say, well, I'm not asking for a change in custody, . . . [s]o that's kind of the threshold determination.
>
> In the event that I make a decision that you've met the legal standards and it is a request for a change in custody, then the next stage would actually be an evidentiary hearing where both parties would have the opportunity to present witnesses and information in court.

In its April 1, 2024 order, the district court concluded that the requested modifications would result in a de facto change in physical custody and the primary residence of the children, so an evidentiary hearing was required. The evidentiary hearing took place on June 26, 2024. Mother and father testified, as did the principal from St. Mary's. The principal testified about his involvement in the children's educational and developmental history during their time at St. Mary's and his belief that the children would benefit from continuing to attend school there.

On July 18, 2024, the district court filed an order that included extensive findings of fact on the children's history at St. Mary's, how they were handling the existing schooling and parenting arrangements, and the parties' relationship and their respective

living situations. Based on its finding that "limiting the children's commute time" while keeping them enrolled at St. Mary's was in their best interest and that the "parties acknowledge the commute had an adverse effect on the children's emotional and physical welfare," the district court ultimately found that the existing parenting-time schedule, which necessitated the long commute, was not in the children's best interest. The district court ordered that "the children shall continue to attend St. Mary's School . . . and otherwise shall remain in Alexandria School District 206" and that "the children shall be with [father] from after school on Monday until the beginning of school on Friday morning" and "with [mother] from after school on Friday until the beginning of school on Monday."

DECISION

Mother challenges the district court's order modifying custody and parenting time, arguing that the district court abused its discretion by construing father's motion to modify parenting time as a motion to change physical custody without adequate notice and by making a finding of endangerment and other findings of fact.

I.

As an initial matter, mother argues that the district court improperly construed father's motion to modify parenting time as a motion to change physical custody. Alternatively, she argues that the district court should have informed the parties that it planned to do so.

District courts have "broad discretion in determining custody and parenting time matters." *See Christensen v. Healey*, 913 N.W.2d 437, 443 (Minn. 2018) (citing *Goldman v. Greenwood*, 748 N.W.2d 279, 282 (Minn. 2008)). This includes the authority to consider "whether a motion to modify parenting time is a de facto motion to modify physical custody." *Id.* When making that determination, which affects "whether the endangerment standard applies," a district court must consider "the totality of the circumstances to determine whether the proposed modification is a substantial change that would modify the parties' custody arrangement." *Id.* A non-exhaustive list of factors for the district court's consideration includes "the apportionment of parenting time, the child's age, the child's school schedule, and the distance between the parties' homes." *Id.* A district court's application of the *Christensen* factors is reviewed for abuse of discretion. *Bayer v. Bayer*, 979 N.W.2d 507, 512 (Minn. App. 2022).

Christensen forecloses mother's argument that the district court was not permitted to consider whether father's motion to modify parenting time was a de facto motion to modify physical custody. *See Christensen*, 913 N.W.2d at 443. It can; and, in deciding to treat father's motion as a motion to modify custody, the district court made findings on the *Christensen* factors, including "the apportionment of parenting time, the child's age, the child's school schedule, and the distance between the parties' homes." *Id.*

The district court also found that the parties' requests for changes to parenting time were "significant" because they were "primarily during the school year" and "would alter the children's daily routine and control." *See id.* at 441-42. This was supported by the record. Under father's proposal, mother's parenting time would be reduced "from 243

overnights (67%) to 164 overnights (45%)," rendering father "the children's primary physical custodian during the school year" and "chang[ing] the children's primary residence during the school year." On the face of father's proposal, the district court's decision to construe father's motion to modify parenting time as a motion to change physical custody, because it resulted in a significant enough change in the children's "routine daily care and control and residence," was not an abuse of discretion. *See id.* at 441-43.

We are also unpersuaded by mother's argument that the district court erred because it "did not inform the parties that it was considering a change of custody." Mother alleges that she suffered prejudice from the district court's decision because "if she had been aware that such a serious possibility [of a change of custody] was being considered, she might well have hired a lawyer," which "would probably have made a good deal of difference in the outcome." Aside from the fact that mother does not specify how the outcome might have been different, she had notice of this possibility when father filed his memorandum arguing that her motion should be treated as a de facto modification of physical custody. And the district court informed the parties it would treat the motions as motions to change physical custody, first at the March hearing and again in its April 1, 2024 order, well before the evidentiary hearing in June.

The district court did not abuse its discretion because it had the authority to construe father's motion to modify parenting time as a motion to change physical custody and notified the parties that it would do so.

II.

Next, mother argues that the district court clearly erred by making a finding of endangerment, as required for a modification of physical custody.

"Appellate review of custody modification . . . cases is limited to considering whether the trial court abused its discretion." *Goldman*, 748 N.W.2d at 282 (quotation omitted). "A district court abuses its discretion by making findings unsupported by the evidence or improperly applying 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) (quoting *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022)).

An appellate court will set aside a district court's factfinding "only if clearly erroneous." *Id.* (citing Minn. R. Civ. P. 52.01; *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988)). A finding of fact is clearly erroneous if it is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021).

An endangerment-based modification of custody requires a finding that "the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development." Minn. Stat. § 518.18(d)(iv) (2024). The endangerment standard also applies when, as here, a request for modification of parenting time would effectively modify the parties' physical custody arrangement. *Christensen*, 913 N.W.2d at 442. Endangerment requires a showing of "a significant degree of danger." *Ross v. Ross*, 477 N.W.2d 753, 756 (Minn. App. 1991). It includes "endangerment to a child's health or emotional well-being."

Here, the record supports the district court's findings relating to endangerment. There is no dispute that the parties' children "spent approximately 2.5-3 hours each day going to and from school" and that the "physical and emotional drain on the children was likely substantial." In an affidavit, mother herself submitted that the commute presents an "endangerment to [the] children's mental health and developmental well-being" because the children must "wake up at 530 am so they can get to school on time" and "don't get home until after 5pm." Mother also stated that the children have "expressed extreme frustration, discomfort and displeasure with the requirement to drive to Alexandria every day to go to school." In a span of a few months, the children had spent "over 160 hours" in the car. Mother's own affidavit contradicts her argument now that the commute to and from school is a mere inconvenience.

There was also ample evidence that the parties' children have benefitted a great deal from attending St. Mary's and would continue to benefit from remaining in a familiar, supportive environment where they have established relationships with friends and staff. The children have expressed that they no longer want to attend St. Mary's, which they previously enjoyed attending and have been thriving at, because of the long commute. Testimony by the principal at St. Mary's suggests that the adverse effects will be exacerbated if the current arrangement were to continue. Contrary to mother's claim that "[c]hildren often have to be transported more than 55 miles," which "was particularly true over 75 years ago when the school consolidation movement became common," there is evidence of adverse effects to C.A.C. and P.M.C.'s emotional well-being. *Id.* at 756.

Because the record supports the district court's finding of endangerment, we discern no clear error and therefore no abuse of discretion.

III.

Lastly, mother challenges most of the district court's factfinding. As stated earlier, district courts have "broad discretion on matters of custody and parenting time," and its decisions in such matters are reviewed for abuse of discretion. *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). "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." *Woolsey*, 975 N.W.2d at 506 (quotation omitted). When the district court's decision involves weighing multiple factors, we generally do not "question the trial court's balancing of . . . considerations." *See Vangsness v. Vangsness*, 607 N.W.2d 468, 476-77 (Minn. App. 2000).

Specifically, mother challenges the district court's finding that the parties' children "are not of sufficient age or maturity to express a parental preference" and that the district court was otherwise "made aware of any supposed preference of the children." She argues that the children "should have been consulted by the judge in chambers and without the presence of counsel" because children their age "regularly testify in court in criminal cases involving child abuse." For one, mother never made that request to the district court. But even if she had, the decision to interview children in custody proceedings "is a discretionary choice for the trial judge" because "[a]n interview is not the only way to determine a child's preference." *Madgett v. Madgett*, 360 N.W.2d 411, 413 (Minn. App.

1985). The district court did not clearly err by finding that the parties' children could not express a parental preference and by not interviewing them.

Mother's remaining challenges to the district court's factfinding are inadequately briefed or lack a legal basis. For example, in response to the district court's finding that father's proposal "is not optimal in all respects[] but . . . meets one of the primary needs for the children to remain in their present school," mother says, "To put it in the vernacular, 'If it ain't broke, don't fix it.'" Other responses include that the district court's decision "only serves to inflame matters" between the parties, that mother would weigh a certain fact differently, or that the district court could have done something differently without explaining how its course of action constituted an abuse of discretion. The brief also makes personal attacks on father's character, emphasizes facts that are not relevant to the issues, and poses other rhetorical questions and remarks (e.g., "If the district court had done this . . ."; "This factor favors the mother."; "But did [father] complete anger management?").

In making those arguments, mother does not cite pertinent legal authority or explain how the district court "ma[de] findings of fact that are unsupported by the evidence, misappl[ied] the law, or deliver[ed] a decision that is against logic and the facts on record." *Woolsey*, 975 N.W.2d at 506. We decline to address such arguments. *See State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address an inadequately briefed issue); *Brodsky v. Brodsky*, 733 N.W.2d 471, 479 (Minn. App. 2007) (applying *Wintz* in family-law appeal). As we have previously explained, Minnesota "law leaves scant if any room for an appellate court to

question the trial court's balancing of best-interests considerations." *Vangsness*, 607 N.W.2d at 477.

Because we discern no abuse of discretion, we affirm.

Affirmed.