STATE OF MINNESOTA
IN COURT OF APPEALS
A08-2063

Shawn M. Kostrzewski, petitioner,
Respondent,

vs.

Amy L. Frisinger (n/k/a Budeau),
Appellant.

Filed July 7, 2009
Affirmed
Halbrooks, Judge

Clay County District Court
File No. 14-FX-01-000471

Michael L. Jorgenson, Charlson & Jorgenson, P.A., 119 West 2nd Street, P.O. Box 506, Thief River Falls, MN 56701 (for respondent)

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Considered and decided by Shumaker, Presiding Judge; Halbrooks, Judge; and Crippen, Judge.*

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

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

HALBROOKS, Judge

Appellant challenges the district court's order modifying custody of the parties' minor child. Appellant contends that the district court erred in its analysis and application of Minn. Stat. § 518.18(d) (2008), by issuing a contempt order, in its temporary restriction of her parenting time, and by requiring that she post a $10,000 bond before exercising future parenting time. We affirm.

FACTS

On November 5, 1999, T.M.F. was born to appellant Amy L. Frisinger; respondent Shawn M. Kostrzewski was later adjudicated the child's father. On August 13, 2001, based on an agreement by the parties, the district court awarded the parties joint legal custody and gave sole physical custody to appellant, subject to respondent's parenting time. Respondent was awarded parenting time with T.M.F. on alternating weekends, alternating holidays, shared time at Christmas, and one week in the summer.[1]

This case has involved numerous motions arising out of appellant's noncompliance with district court orders concerning respondent's parenting time. The same district court judge has heard all of the motions since 2004 and, as a result, is well-acquainted with the parties and the issues.

[1] Beginning in 2005, respondent's parenting time was to increase to one week in each of the months of June, July, and August. Beginning in 2010, respondent's parenting time was to increase to a total of six weeks in the summer months.

In 2000, the parties resided together in Minnesota. Sometime in 2001, their relationship ended. On March 21, 2002, respondent moved the district court to hold appellant in contempt for the denial of his parenting time and for compensatory parenting time. He subsequently withdrew his motion, based on the district court's order directing that he be awarded specific compensatory parenting time. On June 6, 2002, respondent again moved the district court to hold appellant in contempt for denying his parenting time. On August 5, 2002, pursuant to the parties' agreement, the district court again ordered specific parenting time for respondent.

In 2003, appellant moved with T.M.F. to Bismarck, North Dakota. After respondent learned of this move, he moved for an amended judgment and compensatory parenting time. Appellant delayed resolution of the matter by requesting continuances from the district court. In addition, in an attempt to prevent the Minnesota district court from ruling on the motion, appellant filed the Minnesota judgment in Burleigh County, North Dakota, as a foreign judgment. Respondent moved the North Dakota court to dismiss the North Dakota action. Following the denial of his motion to dismiss, respondent appealed, and the North Dakota Supreme Court held that North Dakota did not have jurisdiction. Respondent subsequently renewed his motion for an amended judgment and compensatory parenting time in Minnesota, and appellant again requested continuances, delaying resolution of the matter. On September 1, 2004, the district court ordered that respondent would have parenting time on the first weekend of each month, the holiday schedule set forth in the 2001 order, and extended time in the summers. But again, appellant did not provide respondent with all of his court-ordered parenting time.

In 2005, appellant decided to move to Colorado and moved to modify respondent's parenting time. In order to resolve the problems created by the move, the parties stipulated to a modification of respondent's parenting time. The district court issued an order on September 12, 2005, that stated that T.M.F. could receive daily phone calls from the parent she was not with and that there would be a set weekly telephone time each Sunday evening. The order also provided that the parties would continue to have alternating holidays with T.M.F. and that respondent would have extended parenting in the summers, starting with five weeks in 2006 and increasing by one week each year to a total of ten weeks.

When T.M.F. was with respondent, appellant required her to have a cell phone with her at all times and called T.M.F. four to five times per day. On any occasion that T.M.F. forgot her cell phone during respondent's parenting time, T.M.F. became frantic and cried, fearing appellant's anger. If appellant could not make contact with T.M.F., appellant called the police to go to respondent's home to check on T.M.F. This was upsetting to T.M.F. because she thought that the police were there to remove her.

After appellant moved to Colorado with T.M.F., she denied respondent parenting time in the winter of 2005 and the spring and summer of 2006. In May 2006, respondent moved the district court to hold appellant in contempt for denying him parenting time. Appellant sought continuances of the motion, and, without respondent's consent, enrolled T.M.F. in a year-round school that further disrupted respondent's ability to exercise his parenting time. In an order dated July 10, 2006, the district court found appellant in contempt for denying respondent his court-ordered parenting time and ordered her to pay

$500 in attorney fees[2]; respondent was awarded some compensatory parenting time. The district court also modified the summer parenting time to accommodate T.M.F.'s year-round school schedule and ordered that the parties use York, Nebraska as the site to exchange T.M.F. for parenting-time purposes.

Appellant continued to be noncompliant with the district court's orders. She shortened respondent's time with T.M.F. during the summer and holidays of 2007. When the parties were unable to agree on the exchange time for respondent's 2007 winter-break parenting time, the parties again sought and obtained the district court's assistance.

In March 2008, before respondent's scheduled spring-break parenting time with T.M.F., appellant e-mailed respondent to change the parenting-time exchange location to Fargo, North Dakota based on her plans to visit relatives there. The parties were subsequently unable to agree on the cost of transportation or on appellant's request to respondent that he reduce his parenting time. But in reliance on appellant's e-mail message, respondent went to Fargo at the scheduled time to pick up T.M.F.; appellant went to York, Nebraska. As a result, no exchange took place, and respondent had no spring-break parenting time with T.M.F.

In its October 2, 2008 order, the district court found that T.M.F. and respondent enjoyed a close relationship before March 2008. But after the March 2008 missed exchange, T.M.F. refused to talk to respondent on the telephone for their regular Sunday conversations. Appellant did not encourage the telephone conversations between T.M.F.

[2] At the time of the district court's October 21, 2008 order, appellant had not paid the $500 to respondent.

and respondent, telling T.M.F., "If you don't want to talk to your father, you tell him. I'm not going to." As a result, respondent had no contact with T.M.F. after March 2008.

In May 2008, respondent moved to have T.M.F. attend a school with a traditional calendar so that he could have parenting time with her that summer. The district court denied respondent's request but modified his parenting time to allow him to have time with T.M.F. from June 27 to July 11, 2008.

Following this order, respondent e-mailed appellant to confirm the start of his parenting time on June 27, 2008. Appellant responded that she did not intend to comply with the order. Respondent again e-mailed appellant, stating that she had to comply with the district court's order. On June 27, 2008, respondent went to York, Nebraska to pick up T.M.F., but appellant and T.M.F. did not appear. As a result, respondent was denied that segment of his parenting time and incurred unnecessary transportation costs.

On July 10, 2008, respondent moved the district court (1) to hold appellant in contempt for failure to comply with the district court's order, (2) for compensatory parenting time, and (3) for modification of T.M.F.'s custody to give him sole custody or, in the alternative, to require that T.M.F.'s primary residence be Minnesota. Appellant was personally served in Colorado with a combined order to show cause, notice of a *Nice-Petersen* hearing, and ordering appellant to personally appear for the hearing on September 22, 2008. She failed to appear, instead requesting an appearance by phone. Because appellant failed to appear in response to the district court's order to show cause, the contempt hearing was continued to October 10, 2008.

But the district court held a *Nice-Petersen* hearing on September 22, 2008, addressing respondent's request for a change in custody. Following the *Nice-Petersen* hearing and a subsequent evidentiary hearing, the district court determined, among other things, that (1) a change in circumstances had occurred "since the Original Order of August 13, 2001 and the 2004 Order"; (2) T.M.F.'s present environment endangers her emotional health and development because "her primary custodial parent" undermined T.M.F.'s close relationship with her father; (3) it was in T.M.F.'s best interests to be in respondent's care and custody; and (4) the benefits of T.M.F. having contact with both parents outweighed the disadvantages of the move.

The district court awarded respondent sole physical custody of T.M.F., subject to appellant's reasonable parenting time, and reserved the issue of appellant's parenting time until the court-appointed counselor concluded that T.M.F. had had sufficient time to be integrated into respondent's home. In addition, the district court held appellant in contempt for her willful violation of the June 3, 2008 order; imposed a 30-day jail sentence, stayed on the condition that appellant follow the terms of the order; required her to pay $210.69 for respondent's travel costs associated with his June 27, 2008 trip to York, Nebraska; and ordered appellant to post a $10,000 bond before exercising any future parenting time in order to ensure appellant's compliance with court-ordered parenting time and to pay for respondent's costs and attorney fees incurred as a result of appellant's noncompliance. This appeal follows.

D E C I S I O N

I.

A district court has broad discretion to provide for the custody of the parties' children. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). "Appellate review of custody determinations is limited to [determining] whether the district court abused its 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) (quotation omitted). The law "leaves scant if any room for an appellate court to question the [district] court's balancing of best-interests considerations." *Vangsness v. Vangsness*, 607 N.W.2d 468, 477 (Minn. App. 2000).

A district court shall not modify a custody order

> unless it finds upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order, 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 or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:
>
> . . . .
>
> (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 . . . .

Minn. Stat. § 518.18(d).

Appellant argues that this court should reverse the district court because the district court inappropriately relied solely on evidence that appellant denied respondent parenting time. In support of this argument, appellant cites several cases that state that interference with parenting time is not sufficient by itself to justify a modification of custody. *See Grein v. Grein*, 364 N.W.2d 383, 386 (Minn. 1985); *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 293 (Minn. App. 2007); *Sharp v. Bilbro*, 614 N.W.2d 260, 263 (Minn. App. 2000), *review denied* (Minn. Sept. 26, 2000); *Dabill v. Dabill*, 514 N.W.2d 590, 595 (Minn. App. 1994).

Appellant is correct that a district court cannot rely solely on the denial of parenting time to modify custody. The cases cited by appellant hold that to modify custody, the district court must make findings related to a change in circumstances, the child's best interests, and endangerment to the child, and must weigh the harm of a change of environment with the advantage of a change to the child. *See Grein*, 364 N.W.2d at 385. The district court here carefully considered the record in the context of the statute and reached conclusions related to a change in circumstances, T.M.F.'s best interests, impairment to T.M.F.'s emotional health, and the harm/benefit balancing. The district court made factual findings related to these four factors that are well-supported by the record. Based on our exhaustive review of this record, we conclude that the district court made detailed findings that are well-supported by this record and reached decisions that are based on the statutory requirements.

A. Change in circumstances

As a threshold matter, appellant asserts that the district court erred in considering events that occurred before its May 27, 2008 order. When determining whether a change of circumstances has occurred under Minn. Stat. § 518.18 (2008), the change is measured "from the time when the original or amended custody order was issued." *Taflin v. Taflin*, 366 N.W.2d 315, 320 (Minn. App. 1985) (quoting *Nice-Petersen v. Nice-Petersen*, 310 N.W.2d 471, 472 (Minn. 1981)). Here, custody was determined in the August 13, 2001 judgment. None of the subsequent orders modified custody; they modified parenting time and addressed other issues, such as permitting appellant's out-of-state moves. Therefore, the district court focused on the correct period of time in its change-of-circumstances analysis.

Appellant next argues that there is insufficient evidence to support a finding of a change in circumstances. "Factors constituting a significant change in circumstances are determined on a case-by-case basis." *Lilleboe v. Lilleboe*, 453 N.W.2d 721, 723 (Minn. App. 1990). "A change in circumstances must be significant and must have occurred since the original custody order; it cannot be a continuation of conditions existing prior to the order." *Geibe v. Geibe*, 571 N.W.2d 774, 778 (Minn. App. 1997). In *Myhervold v. Myhervold*, the supreme court held that the district court did not abuse its discretion by concluding that a sufficient change in circumstances had occurred when there had been numerous parenting-time problems, there was a lack of a normal family life due to the work schedules of the parents, and relationships between the children and family members had deteriorated. 271 N.W.2d 837, 838 (Minn. 1978).

The district court here determined that a change in circumstances had occurred because appellant

> has engaged in a pattern of behavior intended to interfere with and completely undermine [respondent's] relationship with the minor child. This behavior includes denying [respondent] court-ordered parenting time; shortening court-ordered parenting time; speaking negatively about [respondent] in front of the child; not encouraging telephone contact between [respondent] and the child, if not outright denying said telephone contact; interfering with [respondent's] parenting time by having the child carry a cell phone with her at all times, calling repeatedly, and calling law enforcement to investigate [respondent] whenever telephone calls are missed by the child.

The record supports these findings. In respondent's affidavit, he stated that appellant has created situations that resulted in the denial of his parenting time, including, most recently, refusing to provide him with parenting time in the summer of 2008. Respondent stated that when he has been able to exercise his parenting time, appellant has interfered by requiring T.M.F. to carry a cell phone, becoming angry when T.M.F. forgets the cell phone, and by calling the police when appellant has been unable to contact T.M.F. Respondent also stated that he has developed "a very loving and close relationship with [his] daughter," that he and T.M.F. have participated in many activities together, and that T.M.F. has also developed a close relationship with his wife, their daughter, and his parents and siblings, all of whom live in Minnesota. The record also contains the affidavit of respondent's wife, who reaffirmed the difficulties respondent has encountered in his efforts to have time with T.M.F.

Based on appellant's actions to reduce or eliminate respondent's parenting time with T.M.F. during the past six years, in addition to the fact that respondent had no contact with T.M.F. for the ten months preceding the 2008 hearing, there is sufficient evidence to support the district court's finding that there has been a significant change in circumstances.

B. Best interests

Regarding T.M.F.'s best interests, the district court's findings correspond to the factors outlined in Minn. Stat. § 518.17, subd. 1(a) (2008). The district court found:

> 7. It is in the best interest of the minor child that she be in the care and custody of [respondent]:
>
> A. Both parties wish to have custody of the minor child.
>
> B. The child is not old enough to express a preference as to a custodial parent.
>
> C. Although [appellant] has been the primary caretaker of the child, both parents have demonstrated the ability to care for the child and provide for all the basic needs of the child when the child is in their respective care.
>
> D. Each parent has had a close and loving relationship with the child, but due to the actions of [appellant], [respondent] has been denied any contact with the child for 10 months.
>
> E. The child has siblings, both with [respondent] and [appellant], with whom she has a close relationship. The child, however, appears to have a closer relationship with [respondent's] extended family and relatives, as well as [respondent's] wife's extended family and relatives, than the child has with [appellant's] relatives. The child's close family support from her extended family in Minnesota is important to the child's emotional and psychological well being.
>
> F. The child has been adjusted to both the home of [respondent] and [appellant]. However, a complete transition from Colorado to her father's home in Minnesota will take

some further adjustment time, because the child has been attending school in Colorado for the last three years.

G. [Respondent] has been more stable than [appellant]. [Appellant] has moved several times, living in three different states since this action started. [Respondent] has lived in the State of Minnesota his entire life. He is able to provide a satisfactory environment for the child. There is some evidence, on the other side, that [appellant's] home environment has had domestic conflict, if not violence.

H. Both [respondent] and [appellant] have stable, permanent, family units.

I. All individuals involved have good mental and physical health.

J. Both parties have the capacity and disposition to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion, if any. However, [appellant] has been unable to give or does not have the capacity or disposition to give the child appropriate guidance as regarding the child's relationship with her father.

K. The child's cultural background is not a factor in this case.

L. There is some evidence of domestic abuse in [appellant's] home, between [appellant] and her husband.

M. It is in the best interests of the minor child to have an ongoing relationship with both of her parents; however, given the history of the parties and [appellant's] repeated interference with, and outright denials of, [respondent's] parenting time, [respondent] is the parent most likely to insure that the child has a continued, ongoing relationship with both of her parents. While [respondent] is willing to allow the child to maintain a relationship with both parents, [appellant] lacks the disposition to encourage and permit frequent and continuing contact between [respondent] and the child. In fact, it is clear to this Court that [appellant] has attempted to destroy [respondent's] relationship with the child. This factor, more than any other, forms the basis for modifying custody: without a change in custody, the child would be denied any meaningful relationship with her father.

Appellant contends that the district court abused its discretion by not giving sufficient weight in its best-interests analysis to the allegation that respondent was abusive to her. Minn. Stat. § 518.17, subd. 1(a), states that

> all relevant factors [are] to be considered and evaluated by the court including:
>
> . . . .
>
> (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent[.]

The district court's finding on this factor focused on the evidence in the record of abuse between appellant and her husband. The evidence supporting this finding is contained in respondent's wife's affidavit, who repeated what T.M.F. told her. While appellant takes issue with the hearsay nature of the evidence, its ultimate impact on the district court appears to have been negligible. The district court does not rely on that finding in its conclusions.

Appellant's primary argument regarding the emphasis to place on domestic abuse is based on an incident that occurred between the parties in June 2000. In 2001, appellant told the court-appointed guardian ad litem (GAL) that respondent became jealous of her ex-husband and, as a result, pulled her down some stairs, threw her against a wall, and pounded her head on the floor. Respondent's affidavit also addresses this incident. Respondent stated that appellant initially thought that her ex-husband was T.M.F.'s father. After paternity testing established that respondent was T.M.F.'s father, respondent and appellant moved back in together. One day, respondent came home after

work and found appellant in the shower with her ex-husband. Respondent became angry and told appellant that their relationship was over and that he was taking the car and leaving. According to respondent, appellant shoved him, and he shoved her in return and left. The next day, respondent was arrested at work and charged with fifth-degree assault. He was ordered to complete an anger-management class, which he did.

In her report to the district court, the GAL stated that

> [respondent] had alternate visitation weekends with [T.M.F.] until December 2000. Although the domestic assault occurred in June of that year, [appellant] apparently continued to feel comfortable enough with [T.M.F.] in [respondent's] care to continue to allow visitation. Appropriately, she does wish to be allowed contact with the grandparents when [T.M.F.] is there. [Appellant] does not express concern about unsupervised visitation after [respondent] completes the court ordered treatment program. In addition, she expresses no concern for [T.M.F.'s] safety while in the care of the paternal grandparents.
>
> [Respondent] has, according to the program coordinator, very successfully completed all but nine weeks of the treatment program. It appears likely that he will complete it successfully. Observation indicates [respondent] and [T.M.F.] share an intimate bond. It is my opinion that [respondent] is capable of appropriately caring for his daughter, keeping her happy and safe from harm.

The GAL recommended that respondent have unsupervised visitation with T.M.F. on alternate weekends, extended summer visitation, and alternating holidays.

T.M.F. was approximately seven months old when this incident occurred, and there is no evidence of any other domestic abuse involving respondent that would have potentially had an effect on T.M.F. Therefore, to the extent the district court omitted this

incident from its analysis under Minn. Stat. § 518.17, subd. 1(a)(12), it was not an abuse of discretion.

Appellant also argues that the district court erroneously considered her criminal history. The district court found that appellant had been convicted of embezzlement in North Dakota and had embezzlement charges pending in Colorado at the time of the October 21, 2008 order. Appellant has provided no argument as to why pending or prior criminal matters are irrelevant to a custody determination. When analyzing the best-interests factors, the district court is required to make a finding relating to "the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity." Minn. Stat. § 518.17, subd. 1(a)(7). A person's criminal history and pending criminal cases are relevant to this factor. Accordingly, it is within the district court's discretion to consider this evidence.

Finally, appellant argues that the district court abused its discretion by not reappointing a GAL or receiving testimony from a neutral third party. Appellant cites no legal authority requiring the district court to take these actions. The appointment of a GAL is only required if the district court has reason to believe that a child has been the victim of domestic child abuse or neglect, neither of which applies in this case. Minn. Stat. § 518.165, subd. 2 (2008).

C. Impairment of T.M.F.'s emotional health

Appellant argues that the district court had insufficient evidence to make a finding of impairment or endangerment. "The existence of endangerment must be determined on the particular facts of each case." *Sharp*, 614 N.W.2d at 263 (quotation omitted). "While

[t]he concept of 'endangerment' is unusually imprecise[,] . . . in the context of child custody, the legislature likely intended to demand a showing of a significant degree of danger." *Id.* (alterations in original). "[T]he danger may be purely to emotional development." *Geibe*, 571 N.W.2d at 778.

The district court found that

> [i]t is [respondent's] position that it harms the emotional health of the child for the child not to have contact with both parents. In [appellant's] testimony, she agreed with this position. However, [appellant] has not been able to give an adequate explanation of why she has sought to deny [respondent] parenting time with the child. The Court specifically finds that the child's emotional health has been impaired in [appellant's] custody.

The district court further determined that T.M.F.'s environment

> endangers her emotional health or impairs her emotional development as demonstrated in part by eight-year-old [T.M.F.'s] apparent refusal to speak with her father with whom she has had a close relationship and the father's having been denied any meaningful contact with his daughter since last Christmas, and by her mother's inability to support and foster [T.M.F.'s] relationship with her father.

Appellant herself testified after being asked if she believed that T.M.F. was being emotionally harmed by the lack of contact with respondent: "I think it's emotional harm to all of us involved, myself and her father and her."

The district court concluded:

> [T.M.F.'s] present environment endangers her emotional health and development in that her primary custodial parent has managed to undermine her close, bonded relationship with her father, who was previously able to be an active and stable parent, to the point where the child most

> recently went for approximately ten months without any meaningful contact with her father.

There is sufficient evidence in this record to support the district court's findings that T.M.F.'s environment was endangering her emotional development as a result of the loss of her formerly loving relationship with her father. Therefore, the district court did not abuse its discretion by reaching this conclusion.

D. Balancing the harm versus the benefits of change.

Appellant contends that the district court did not balance the benefits and harms of modifying custody. "Minnesota law rests on a presumption that stability of custody is in a child's best interests." *Geibe*, 571 N.W.2d at 780. The balance of harms "may sometimes be implicit in the other factors." *Id.* at 778.

The district court made the following findings:

> 33. [Respondent] married his wife Tara Kostrzewski "Tara") in 2003. Tara has known [T.M.F.] since 2002, and they had also developed a close relationship. [T.M.F.] confided in Tara about her desires and fears. [T.M.F.] told Tara that [appellant] and her current husband fight often in front of her; that there have been occasions when they have had to leave [appellant's] home for days; that during one fight [appellant] gave her husband a bloody nose. [T.M.F.] also has told Tara that [appellant] forbids [T.M.F.] from calling [respondent] "Dad", or Tara "Mom", or referring to her other relatives in Minnesota as "Grandma" or "Grandpa", etc. [T.M.F.] has told Tara that [appellant] has said [respondent's] parenting time visits are too much work, and [appellant] wants them to stop.
>
> 34. Tara engages in all activities [respondent] engages in with [T.M.F.]. Furthermore, appropriate affection and guidance is shown between Tara and [T.M.F.].
>
> 35. [Respondent] and Tara have another child, [S.], who is now two years old. [T.M.F.] loves [S.] and loves the

> idea of being a big sister. [T.M.F.] helps care for [S.] when she is in [respondent's] home by helping make bottles, feeding [S.], etc.
>
> 36. [T.M.F.] has many other relatives, on [respondent's] side of the family, as well as Tara's side of the family, in the Stephen, Minnesota area, with whom she associates when she is in Minnesota. . . .
>
> 37. [Appellant] has been the custodial parent of [T.M.F.] since her birth. [Appellant] has a close relationship with [T.M.F.] and has engaged [T.M.F.] in many activities in Colorado, including dance, gymnastics, and horseback riding.
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> 38. [Appellant] married Robert Budeau ("Robert"). Robert claims that [T.M.F.] calls her dad and claims to have a close relationship with [T.M.F.]. Robert admits, however, that his job requires him to travel and that he is away from the home four to twenty weeks per year.
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> 39. [Appellant] and Robert have two boys, both younger than [T.M.F.].
>
> 40. Robert's parents live in Bismarck, North Dakota. His parents provided affidavits and testified at the evidentiary hearing.
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> 41. [Appellant] did not provide any affidavits from her side of the family, nor did she present any evidence of [T.M.F.'s] relationship with them.

The district court explicitly addressed the harms and the benefits of custody modification, stating:

> The court specifically finds that the harm likely to be caused by a change of environment is outweighed by the advantage of such a change to [T.M.F.] . . . namely that she will be able to have a relationship with both of her parents and their families. Additionally, such harm may be partially alleviated by the intervention of counseling and therapeutic services.

(Ellipsis in original.) The district court also determined that "[w]hile it may be a disruption to the child to move her back to Minnesota, the benefits to the child by having

contact with both parents outweighs the disadvantages to the child of the move." These findings are supported by the record. We therefore conclude that the district court did not abuse its discretion in determining that the benefits of custody modification outweigh the harm.

II.

This court reviews a district court's invocation of contempt powers for an abuse of discretion. *Mower County Human Servs. v. Swancutt*, 551 N.W.2d 219, 222 (Minn. 1996). "Every court and judicial officer may punish a contempt by fine or imprisonment, or both." Minn. Stat. § 588.02 (2008). The sanction of a civil contempt order "is inflicted primarily as inducement for future compliance with the order and in vindication of the opposing party's rights." *Minn. State Bar Ass'n v. Divorce Assistance Ass'n*, 311 Minn. 276, 285, 248 N.W.2d 733, 741 (1976).

Appellant argues that the conditions imposed upon her by the contempt order amount to a parenting-time restriction that violates Minn. Stat. § 518.175, subd. 1(e) (2008), which provides, in part, that "*[i]n the absence of other evidence*, there is a rebuttable presumption that a parent is entitled to receive at least 25 percent of the parenting time for the child." (Emphasis added.) But appellant's argument ignores the district court's broad discretion in determining parenting time. *See Matson v. Matson*, 638 N.W.2d 462, 465 (Minn. App. 2002).

> If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court shall restrict parenting time with that parent as to

> time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant.

Minn. Stat. § 518.175, subd. 1 (2008). "A substantial alteration of visitation rights amounting to a restriction of visitation requires findings that the existing arrangement is likely to endanger the child's health or development." *Anderson v. Archer*, 510 N.W.2d 1, 4 (Minn. App. 1993) (quotation omitted). In addition, Minnesota law provides:

> In a proceeding brought for custody, . . . the court may grant a temporary order pending the final disposition of the proceeding to . . .
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> . . . .
>
> (j) Require one . . . of the parties to perform or to not perform such additional acts as will facilitate the just and speedy disposition of the proceeding, or will protect the parties or their children from physical or emotional harm.

Minn. Stat. § 518.131, subd. 1 (2008).

The district court's findings support the temporary restriction of appellant's parenting time. Because appellant's actions have eroded T.M.F.'s relationship with respondent, the district court concluded that T.M.F. needed time to adjust to her new home and "to be integrated fully into the home of [respondent] without her mother's interference." This temporary circumstance seems reasonable, given this record, and it is well within the district court's authority.

Appellant also argues that the district court abused its discretion by appointing a counselor to assist the district court in its determination that T.M.F. had been sufficiently integrated into respondent's home such that appellant's parenting time could begin. Under Minn. Stat. § 518.175, subd. 6(c) (2008), a district court may impose any of the statutorily listed remedies or "award any other remedy that the court finds to be in the

best interests of the [child] involved." Here, the district court determined that part of the remedy calculated to best protect T.M.F.'s best interests is to allow a neutral third party to evaluate the circumstances of T.M.F.'s adjustment to respondent's custody. This use of a third party to assist the court is consistent with the district court's power (1) to "order an investigation and report concerning custodial arrangements for the child" in contested-custody proceedings, Minn. Stat. § 518.167, subd. 1 (2008), and (2) to "require a third party, including the local social services agency, to supervise the parenting time or . . . [to] restrict a parent's parenting time if necessary to protect the other parent or child from harm," Minn. Stat. § 518.175, subd. 5 (2008). The district court appointed a third party to investigate T.M.F.'s custodial arrangement with respondent and to identify when it would be appropriate to allow appellant to have parenting time. The district court's decision to use the court-appointed counselor for this purpose is proper.

III.

Appellant contends that the district court abused its discretion when it ordered her to post a $10,000 bond before exercising her parenting time. This court reviews the requirement of a bond to exercise parenting time for abuse of discretion. *Meier v. Connelly*, 378 N.W.2d 812, 817 (Minn. App. 1985).

Under Minnesota law:

> If the court finds that a party has wrongfully failed to comply with a parenting time order or a binding agreement or decision under section 518.1751, the court may:
>
> . . . .
>
> (2) require the party to post a bond with the court for a specified period of time to secure the party's compliance . . . .

Minn. Stat. § 518.175, subd. 6(c) (2008).

The district court expressed its "concerns that [appellant] may further refuse to return the child to the State of Minnesota and to [respondent] after her parenting time, given her past refusals to present the child for parenting time visits." In addition, appellant has a history of violating district court orders and failing to satisfy a past judgment. On this record, we conclude that the district court acted within its discretion by requiring appellant to post a bond.

Affirmed.