STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1823

In re the Matter of:

Allan Hassan Taylor, petitioner,
Appellant,

vs.

Kali Beth Kimbrell,
Respondent.

Filed December 16, 2024
Affirmed in part, reversed in part, and remanded
Segal, Chief Judge

Hennepin County District Court
File No. 27-FA-17-3454

Katherine M. Ray, Laurie A. Cylkowski, Cylkowski Law Office, P.C., Eagan, Minnesota (for appellant)

Rodney H. Jensen, Madeline C. Jensen, Jensen Law Offices, P.L.L.P., Edina, Minnesota (for respondent)

Considered and decided by Schmidt, Presiding Judge; Segal, Chief Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

SEGAL, Chief Judge

In this appeal, appellant-father argues that the district court abused its discretion by (1) denying his motion to modify custody of the parties' child; (2) excluding certain impeachment and rebuttal evidence; and (3) failing to make findings to support the denial

of other relief sought by father, including a request that mother be ordered to cooperate in obtaining a passport for the child. We affirm the district court's denial of father's motion on all issues except the denial of father's passport request, which we reverse and remand for further findings.

FACTS

Appellant Allan Hassan Taylor (father) and respondent Kali Beth Kimbrell (mother) are the parents of one minor child born in 2017. The parties were never married. Since the child's birth, the child has lived with mother in Minnesota and father has lived in Colorado. Father filed a petition in the Minnesota courts within months of the child's birth to obtain custody, along with other relief. At the evidentiary hearing on the petition, both parties accused the other of domestic abuse and having mental- and chemical-health issues, among other allegations. The district court, in an October 2018 order (the 2018 order), granted mother and father joint legal and joint physical custody of the child. The court determined that neither party established that the other had committed domestic abuse or had mental- or chemical-health issues. Because of the child's young age and the fact that father lived in Colorado, the district court ordered parenting time for father in Minnesota every other weekend for three overnights. The district court also ordered that father have five overnight trips with the child in Colorado spaced throughout the year, along with other provisions such as regular "Facetime/Skype" visits with the child.

In May 2022, father filed a motion to modify custody seeking sole legal and sole physical custody. He alleged that the child was endangered while in mother's care. Father also sought reimbursement from mother for various travel expenses father incurred when

traveling for parenting time that he claimed she denied him; an order directing that the child may attend therapy and enroll in school in Colorado; an order directing mother to cooperate in obtaining a passport for the child; and conduct-based attorney fees.

In support of his motion to modify custody, father alleged in an affidavit that, since the 2018 order: (1) mother had deprived father of his parenting time on an escalating scale; (2) numerous incidents had occurred between the parties that resulted in police involvement in the child's presence, including an incident at the Minneapolis-St. Paul Airport in December 2021 during which the parties had an allegedly physical altercation involving the child; (3) mother failed to ensure that the child was provided treatment with a therapist after an incident in Colorado in February 2022 when a car crashed into a donut shop and almost hit the child who was inside the shop with his father; (4) mother had been insensitive to the child's racial identity as a mixed-race Black child by dressing the child in a monkey costume for Halloween and mishandling a young cousin's racial remarks; and (5) mother allegedly mishandled or neglected the child's medical needs, such as having the child's stitches removed by mother's sister.[1] The district court found that father had established a prima facie case for modification of custody based on endangerment and scheduled an evidentiary hearing.[2]

[1] Mother's sister was a licensed, registered nurse.

[2] Before scheduling an evidentiary hearing on a motion to modify custody, the district court must first determine whether the moving party's allegations, accepting the allegations as true, state a prima facie case for modification. *See Crowley v. Meyer*, 897 N.W.2d 288, 293-94 (Minn. 2017). Only if the allegations are sufficient, is a moving party entitled to an evidentiary hearing on the motion. *Id.*

The district court held an evidentiary hearing on four nonconsecutive days between November 2022 and April 2023. During the third day of the evidentiary hearing, in February 2023, while mother was testifying, she denied that she had called the police on father in 2019. Father then asked to present additional witnesses and exhibits for the purpose of impeaching mother and rebutting her denial. The district court declined father's request because father had failed to disclose the witnesses and exhibits prior to the start of the evidentiary hearing, as required by the district court's Order for Trial.[3]

On September 1, 2023, after the conclusion of the evidentiary hearing, mother filed an ex parte emergency motion alleging that father failed to return the child to Minnesota after a scheduled visit and had enrolled the child in school in Colorado. On September 6, father filed a response in which he explained that he had kept the child in Colorado so that the child would not lose out on a spot in a Colorado school if father succeeded on his motion, and that he had since returned the child to Minnesota. On September 7, the district court issued a temporary order directing that the child be returned to Minnesota immediately.[4]

Approximately one month later, the district court issued its order denying father's motion to modify custody and for other relief. The district court determined that father

[3] The Order for Trial required the parties to disclose all witnesses and exhibits, including "anticipated rebuttal evidence," by November 15, 2022, approximately two weeks before the start of the evidentiary hearing.

[4] It is not clear in the record whether the district court had access to father's response before issuing its September 7 order. Father contends that, while he filed his response on September 6, it was not accepted for filing by the court administrator until after the district court issued its order.

failed to prove a change in circumstances, finding that father's allegations were a continuation of the discord between mother and father that had existed at the time of the 2018 order and thus did not qualify as a subsequent change. The district court further determined that father failed to prove that the child was endangered while in mother's care. The district court, however, ordered some modifications to the parenting-time schedule, such as allowing father to have a monthly visit with the child in Colorado. The district court denied "[a]ll remaining requests for relief."

DECISION

Father asserts four challenges to the district court's order. First and foremost, he argues that the district court's denial of his request for a modification of custody is contrary to the record and misapplies the law. Father's remaining three challenges relate to the district court's exclusion of certain impeachment and rebuttal witnesses and exhibits, a reference in the district court's order to father's actions outlined in mother's emergency posttrial motion, and the district court's denial of his requests for other relief without specific findings of fact. We address each in turn.

I. The district court did not abuse its discretion in denying father's motion to modify custody.

We review a district court's custody modification decision for an abuse of discretion. *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008). A district court has broad discretion in deciding issues of child custody. *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." *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quotation omitted). We review de novo an appellant's claim that the district court misapplied the law. *Ramirez v. Ramirez*, 630 N.W.2d 463, 465 (Minn. App. 2001).

A district court's "findings are clearly erroneous when they are 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) (quotation omitted); *see also Bayer v. Bayer*, 979 N.W.2d 507, 513 (Minn. App. 2022) (citing *Kenney* in a family-law appeal). In reviewing findings of fact, appellate courts defer to a district court's credibility determinations and cannot reweigh the evidence presented to the district court. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988).

To prevail on a motion to modify custody based on endangerment, a party must establish each of the following: "(1) the circumstances of the child[] or custodian have changed; (2) modification would serve the child[]'s best interests; (3) the child[]'s present environment endangers their physical health, emotional health, or emotional development; and (4) the benefits of the change outweigh its detriments with respect to the [child]." *Crowley*, 897 N.W.2d at 293-94; *see also* Minn. Stat. § 518.18(d)(iv) (2022). Father challenges the district court's findings and determinations on all four factors.

A. Changed Circumstances

We address first father's argument challenging the district court's determination that father failed to establish a change in circumstances. He maintains that the district court erred by ignoring caselaw to the effect that an escalation of preexisting conduct can constitute a change in circumstances.

The statute provides that changed circumstances must "have arisen since the prior order or . . . were unknown to the court at the time of the prior order." Minn. Stat. § 518.18(d) (2022). In its findings on this issue, the district court cited father's evidence of a change in circumstances, including mother's alleged interference with his parenting time and the altercation at the airport that father alleged caused the child to exhibit negative behavioral traits. The district court, however, also referenced mother's testimony that she has complied with her obligations and that it is father who has not kept her informed and has kept the child beyond his allotted parenting time without her permission. The district court found that, "[u]ltimately, the parties have had largely continuous disagreements since the last Court order was issued; however, it appears this is a continuation of existing circumstances rather than a new development that is a legitimate change in circumstances." The district court thus considered father's evidence but ultimately was not persuaded that it demonstrated a change from the conditions that existed at the time of the 2018 order.

Father cites our decision in *Tarlan v. Sorensen* as support for his argument that the district court misapplied the law. 702 N.W.2d 915 (Minn. App. 2005). In that case, we reversed the district court's determination that the mother failed to assert a prima facie case for a change in circumstances and remanded the matter for an evidentiary hearing. *Id.* at 923, 925. Mother had alleged in support of her motion that, since the original custody order, father had engaged in concerning behavior related to their daughter's weight, including weighing the child daily when she was with father. *Id.* In holding that mother's allegations set out a prima facie case of a change in circumstances, we pointed to the fact that the father's "concern had escalated in recent years" and that, while he had previously

expressed a concern about the child's weight, he began "to regularly weigh his daughter at home only after the initial custody determination was made." *Id.*

Father argues that, similarly here, the parties had a contentious relationship at the time of the 2018 order, but mother's parenting-time interference and other concerning behaviors had escalated since the 2018 order and that the district court ignored our holding in *Tarlan* when it found that father had not established a change in circumstances. But father's argument confuses questions of law with the district court's findings based on its assessment of the evidence presented at the hearing.

In its August 2022 order granting father an evidentiary hearing, the district court ruled, consistent with our opinion in *Tarlan*, that father had alleged facts in his motion papers that, if true, would constitute a change of circumstances. The district court thus correctly applied the law. It was only *after* the evidentiary hearing, when the district court had the opportunity to hear testimony from both parties, that the district court determined that father failed to prove a change in circumstances. The district court's determination was thus based on its assessment of the evidence and witness testimony, not a misapplication of the law. *See Sefkow*, 427 N.W.2d at 210 (appellate courts defer to a district court's credibility determinations).

Father also argues that the district court erred by failing to evaluate whether circumstances had changed since the prior 2018 order rather than only more recently. But there is nothing in the district court's order to support father's argument. Father points out that the district court mentioned that some events father referenced happened "as early as the beginning of 2020," but we fail to see how this demonstrates that the district court

applied an incorrect time frame in its analysis. We thus discern no abuse of discretion in the district court's determination that father failed to establish that there had been a change of circumstances.

B. Best Interests

We turn next to father's challenge to the district court's best-interests findings. Father argues that the district court abused its discretion because it should have placed greater weight on the first best-interests factor—"the child's physical, emotional, cultural, spiritual, and other needs." Minn. Stat. § 518.17, subd. 1(a)(1) (2022). This was the only factor that the district court weighed in father's favor and, even then, the court weighed it only as "slightly" in his favor. Father also argues that, of the four factors that the court weighed as being in mother's favor, three were due solely to her status as primary caregiver and the fourth was contrary to the record.

Father's challenge to the district court's weighing of the first factor focuses on the child's biracial identity and the benefits of a stronger cultural connection that father could offer as a Black man. The district court expressly referenced father's concerns and stated in its findings that "Mother would benefit from embracing the Minor Child's cultural heritage and understanding the importance of his connection to Father and Father's side of the family." Father argues that the district court abused its discretion because the first factor should have been weighed, essentially, as the determinative factor. This argument, however, is contrary to the statute, which prohibits reliance on "one factor to the exclusion of all others." Minn. Stat. § 518.17, subd. 1(b)(1) (2022). And, as an appellate court, we

have "scant if any room . . . to question the [district] court's balancing of best-interests considerations." *Vangsness v. Vangsness*, 607 N.W.2d 468, 477 (Minn. App. 2000).

As to father's argument that the district court abused its discretion by weighing factors in favor of mother because she has been the child's primary caregiver, father cited no caselaw to support that this is an improper consideration on a motion to modify custody. The case fathers cites, *Vangsness*, involved an initial custody determination. *Id.* at 475-77 (discussing amendment to the custody statute that eliminated a presumption in favor of a primary caretaker). On a motion to *modify* custody, the district court must assess the child's best interests based on the status quo as weighed against the proposed change. Thus, in this case, the district court was required to evaluate factors such as the nature of each parent's participation and the effect on the child of a change to home, school, and community, in light of the fact that mother has been the child's primary caregiver. We therefore discern no abuse of discretion by the district court in its weighing of these factors as being in mother's favor.

Finally, father argues that the district court's weighing of the parents' ability to cooperate in favor of mother is contrary to the record. We agree with father that the order does not satisfactorily explain the basis for this finding. The court's findings related to this factor suggest equal difficulties between the parties with regard to cooperation. But even if we were to conclude that the district court clearly erred in connection with this finding, that would not change the outcome. The district court still weighed three other factors in mother's favor and only one factor as "slightly" in father's favor. In addition, the district court also determined that father failed to establish that there was a change in circumstances

or endangerment. Thus, at most, any such error would be harmless. *See Goldman*, 748 N.W.2d at 285 (citing Minn. R. Civ. P. 61) (stating harmless error must be ignored).

C. Endangerment

Father also challenges, as contrary to the evidence, the district court's determination that father failed to prove that the child was endangered in mother's care. Whether endangerment has occurred depends on the particular facts of a case. *Sharp v. Bilbro*, 614 N.W.2d 260, 263 (Minn. App. 2000), *rev. denied* (Minn. Sept. 26, 2000). A showing of endangerment requires a "significant degree of danger." *Goldman*, 748 N.W.2d at 285.

Father generally contends that he presented evidence of "significant, shocking conduct" by mother. The district court, however, reviewed each of father's allegations and considered mother's explanations as noted in its order. Ultimately, the district court found that there was not sufficient evidence to establish that the child was endangered in mother's care. As an appellate court, we are not at liberty to reweigh the evidence or to "reconcile conflicting evidence." *Kenney*, 963 N.W.2d at 221-22. Because the record contains evidence from mother that opposes father's claims of endangerment, we discern no clear error by the district court in its endangerment determination.

D. Balance of Benefits and Detriments

The fourth criteria for establishing a basis for a modification of custody requires the district court to weigh the benefits of a change in custody against the detriments for the child. *Crowley*, 897 N.W.2d at 293-94. As to this criterion, father points to the following sentence in the district court's order: "After hearing all facts and evidence presented at trial, the Court believes that the harm to the Minor Child by a change of environment would not

outweigh any advantage that the Minor Child is given because of that change." Father argues that this sentence establishes that he prevailed on this criterion. We reach a different conclusion—that the inclusion of the word "not" in the sentence is a clerical error. *See* Minn. R. Civ. App. P. 110.05 (providing that this court may direct that errors be corrected either by motion of a party or on its own initiative); *Wilson v. City of Fergus Falls*, 232 N.W. 322, 323 (Minn. 1930) (characterizing a clerical error as an error of form that "includes one made by the court which cannot reasonably be attributed to the exercise of judicial consideration or discretion"); *see also Olson v. Olson*, 392 N.W.2d 338, 340 (Minn. App. 1986) (construing one word as another when it reflected what the district court "clearly intended").

We reach this conclusion because the two sentences that follow the quoted sentence support a determination that a change in custody *would be* outweighed by the harm, not the reverse. The district court's reasoning as set out in those two sentences notes that the child "has lived in Minnesota as his primary residence for the majority of his life" and that, "[w]hile the . . . Child has family and friends in Colorado that would love and support him, the depth and longevity of the relationships cultivated in Minnesota underpin a healthy, stable, and loving environment in this state." A conclusion that the word "not" was a clerical error is also consistent with the district court's other findings in the order, including those related to the best-interests factors. For example, the district court stated in its best-interests findings:

> Given that the Minor Child has resided in Minnesota for his entire life and is comfortable in this community and school, the Court does not find that changing his residence to another state

> would be in his best interests. The Court finds that it is in the best interests of the Minor Child to remaining in his current home school and community in Minnesota.

We thus conclude that the finding contains a clerical error and reject father's argument that the district court found this criteria as favoring father.

For the above reasons, we discern no abuse of discretion by the district court in denying father's motion for a modification of custody.

II. The district court did not abuse its discretion in denying father's request to offer additional witnesses and exhibits for purposes of rebuttal and impeachment.

Father argues that the district court abused its discretion when it rejected his request to submit three new exhibits and testimony by two witnesses because he did not disclose them before the start of the evidentiary hearing. The district court's Order for Trial directed the parties to exchange exhibits and witness lists no later than November 15, 2022, before the start of the evidentiary hearing. The order specified that the "parties' witnesses will be limited to the parties and the persons identified in their submissions" and that it "cover[ed] anticipated rebuttal exhibits as well."

The district court has broad discretion in making evidentiary rulings, and we will not reverse a district court's evidentiary ruling absent an abuse of that discretion. *Melius v. Melius*, 765 N.W.2d 411, 417 (Minn. App. 2009). "[T]he district court has the duty to supervise and control trials conducted before it." *In re Conservatorship of Smith*, 655 N.W.2d 814, 820 (Minn. App. 2003). "We view the record in the light most favorable to the district court's ruling." *Id.*

On the third day of the evidentiary hearing, mother's attorney questioned mother on direct examination whether she had called the police on father while he had parenting time with the child at a hotel in Minnesota in 2019, and whether she had ever reported father to child protection. Mother denied both allegations. Father then amended his witness and exhibit list to include three exhibits to impeach mother's denial: a police report he asserted was from the incident, a string of text messages between the parties from the day of the incident, and a redacted child-protection report. Father also identified two police officers as impeachment witnesses. Father argues that the district court abused its discretion in denying his additional witnesses and exhibits because he could not have anticipated that mother would deny his accusations in her testimony.

We are not persuaded for two reasons. First, as noted above, a district court has broad discretion to control trials. *Id.* Second, we are not convinced that father suffered any prejudice as a result of the district court's ruling. *See Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 46 (Minn. 1997) (ruling that a party is not entitled to relief based on improperly considered or omitted evidence unless the evidentiary ruling resulted in prejudice to them). As father notes, this was rebuttal evidence related to a single incident of father's many allegations against mother, and father had the opportunity to counter the evidence through his testimony. Additionally, given that the district court found that father failed to establish endangerment or that modification of custody was in the child's best interests, father would not have prevailed on his motion even if this evidence had been allowed.

III. The district court's reference to mother's posttrial emergency motion seeking return of the child to Minnesota is not reversible error.

In its order, the district court referenced information it received as part of mother's posttrial emergency motion seeking the return of the child to Minnesota. The reference is contained in the district court's discussion of the eleventh best-interests factor set out in Minn. Stat. § 518.17, subd. 1(a)(11) (2022)—"the disposition of each parent to support the child's relationship with the other parent." In its analysis of that factor, the district court stated:

> Additionally, at the time of writing this order, Mother filed an Emergency Motion with the Court stating that Father had custody of the Minor Child in Colorado and had refused to return the Minor Child to Minnesota . . . . Through texts submitted to the Court by Mother, Father stated that he had enrolled the Minor Child in school in Colorado and would be keeping him enrolled there until the issuance of this Court's order to preserve the Minor Child's enrollment at a prestigious school . . . . This Court finds it extremely disappointing and disconcerting to learn that a party has resorted to self-help efforts regarding the Minor Child.

But despite referencing the emergency motion, the district court still found this factor to be neutral, favoring neither mother nor father.

Father argues that the district court abused its discretion in referencing mother's emergency motion because mother's motion occurred after the hearing record had closed. Father contends the record was closed on the last day of trial, April 6, 2023. However, when concluding the last day of the evidentiary hearing, the district court indicated it was going to leave the record open for an indeterminate amount of time until it issued an order on exhibit admissibility and the parties submitted proposed findings and orders. No such

order on exhibit admissibility is included in the record and both parties submitted proposed findings on July 7, 2023. Nothing else in the record indicates a particular date the trial record closed. Thus, it is unclear whether the trial record remained open when mother filed her motion on September 1.

But even if the district court erred in considering evidence outside of the record, its reference to this evidence shows it afforded it little, if any, weight in its analysis. The district court still deemed this factor neutral and discussed other relevant facts before the reference to the emergency motion. Moreover, father had the opportunity to respond to mother's allegations and did so via his own responsive affidavit filed five days after mother's, which was nearly a month before the district court's denial of the custody modification motion at issue here.[5] Father has not demonstrated that he was prejudiced by the reference.

IV. The district court's order contains sufficient findings to support its denial of father's requests for other relief, except as to the district court's denial of father's request for an order requiring mother to cooperate in obtaining a passport for the child.

Finally, father argues that the district court erred by failing to make findings on his requests for other relief, namely, his requests (1) for conduct-based attorney fees, (2) that

[5] Father argues, as noted above, that although his responsive pleadings were filed on September 6, they were not "accepted" until after the district court issued its temporary order on September 7, 2023, and thus he did not have the opportunity to be heard with respect to mother's ex parte allegations. However, father is not challenging the district court's temporary order stemming from the ex parte motion, he is challenging the district court's order issued on October 1, 2023. Father gives no reason why the district court would not yet have reviewed his response by the time it issued the challenged order nearly a month later.

mother reimburse him for the child's medical expenses, (3) that mother reimburse him for various travel costs pertaining to times that he claims mother prevented him from seeing the child, (4) that the order include a provision allowing law enforcement to facilitate parenting time if needed, and (5) that mother cooperate in obtaining a passport for the child.[6]

"Effective appellate review of the exercise of [a district court's] discretion is possible only when the trial court has issued sufficiently detailed findings of fact to demonstrate its consideration of all factors." *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989). But when "the record is reasonably clear and the facts [are] not seriously disputed, the judgment of the trial court can be upheld in the absence of trial court findings." *Roberson v. Roberson*, 206 N.W.2d 347, 348 (Minn. 1973). And remand is unnecessary "when we are able to infer the findings from the trial court's conclusions." *Welch v. Comm'r of Pub. Safety*, 545 N.W.2d 692, 694 (Minn. App. 1996) (applying rule 52.01).

Father is correct that the district court did not delineate specific findings in its order related to his requests for other relief. The order provided simply that any requests not granted by the order were denied. But, with the exception of the district court's denial related to obtaining a passport for the child, the record is sufficient to allow us to assess the district court's basis for denying father's requests for other relief.

[6] Father also challenges the district court's lack of findings in support of the district court's denial of mother's motion for child-support modification. But mother did not seek review of this denial. Thus, the issue is not before us and we need not address it.

We address first father's argument that the district court erred by failing to make findings in denying his conduct-based attorney-fees request. A district court may, in its discretion, award conduct-based attorney fees if a movant shows that the other party "unreasonably contribute[d] to the length or expense of the proceeding." Minn. Stat. § 518.14, subd. 1 (2022); *see also Szarzynski v. Szarzynski*, 732 N.W.2d 285, 295 (Minn. App. 2007). "Generally, conduct-based attorney fees are to be based on the party's behavior during the litigation process." *Baertsch v. Baertsch*, 886 N.W.2d 235, 238 (Minn. App. 2016). We review a decision to award or not award conduct-based attorney fees for abuse of discretion. *Haefele v. Haefele*, 621 N.W.2d 758, 767 (Minn. App. 2001), *rev. denied* (Minn. Feb. 21, 2001).

When a district court denies a motion for conduct-based attorney fees, findings are generally "needed to permit meaningful appellate review on the question whether attorney fees are appropriate because of a party's conduct." *Kronick v. Kronick*, 482 N.W.2d 533, 536 (Minn. App. 1992). However, a party cannot take issue with the district court's lack of findings when that party failed to provide evidence necessary to make those findings. *Tuthill v. Tuthill*, 399 N.W.2d 230, 232 (Minn. App. 1987). And specific findings may not be necessary if "the language used by the [district] court reasonably implies" a finding that gives sufficient basis for the district court's disposition of a motion for attorney fees. *Gully v. Gully*, 599 N.W.2d 814, 825-26 (Minn. 1999); *see Eisenschenk v. Eisenschenk,* 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that "[o]n appeal, a party cannot complain about a district court's failure to rule in her favor when one of the reasons it did not do so is because that party failed to provide the district court with the evidence that would allow

the district court to fully address the question"), *rev. denied* (Minn. Nov. 25, 2003); *Hesse v. Hesse*, 778 N.W.2d 98, 104 (Minn. App. 2009) (citing *Eisenschenk*).

Father submitted little evidence to the district court to support his request for conduct-based attorney fees. His testimony regarding his attorney-fee motion was sparse and related mainly to mother's alleged unwillingness to cooperate with him in making decisions for the child and his allegations of parenting-time interference, all of which occurred prior to the date father filed his motion. Though the district court did not make specific findings on father's request for conduct-based attorney fees, it did find that "each party has made numerous claims that the other parent has attempted to (or has) interfered with their ability to exercise their rights as a parent" and that "both parties have a highly distrustful and contentious relationship." We can discern from these findings that the district court did not find a sufficient basis to award conduct-based attorney fees to father because he pointed to no conduct by mother occurring *during* the litigation to support his motion. The cited conduct occurred before his motion was filed.

With regard to father's requests for medical-expense reimbursement and for law-enforcement assistance during exchanges of the child, we conclude that father did not adequately present these issues to the district court to warrant findings. Though father testified briefly about both issues and referenced them in his proposed order, he did not specifically include them as items of requested relief in his motion. Moreover, on the last day of the evidentiary hearing, the district court listed each issue it would be deciding following trial and did not include these two issues. Father did not object to their omission and we generally do not address issues for the first time on appeal. *See Thiele v. Stich*, 425

N.W.2d 580, 582 (Minn. 1988) (stating that generally a reviewing court may "consider only those issues that the record shows were presented [to] and considered by the trial court" (quotation omitted)).

As to father's request for travel-expense reimbursement based on interference with his parenting time, we can infer from the district court's findings that the district court was not persuaded that father had established entitlement to such reimbursement.

We come to the same conclusion as to father's other requests for relief, except as to father's request that mother be ordered to cooperate in obtaining a passport for the child. The order contains no basis for us to assess the district court's reasons for its denial of the passport request. We therefore reverse and remand this matter to the district court to make findings on the passport issue. On remand, the district court may, in its discretion, reopen the record as to this issue.

Affirmed in part, reversed in part, and remanded.