STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1137

In the Marriage of:

Allison Baron Bonnett, petitioner,
Respondent,

vs.

Theodore James Bonnett,
Appellant.

Filed April 28, 2025
Affirmed in part and remanded
Harris, Judge

Hennepin County District Court
File No. 27-FA-22-355

Joani C. Moberg, Susan A. Daudelin, Michelle L. Travers, Henschel Moberg, P.A., Minneapolis, Minnesota (for respondent)

Denis E. Grande, DeWitt LLP, Minneapolis, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Ede, Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this marital dissolution appeal, appellant argues that the district court erred by (1) "restricting" his parenting time below 25 percent; (2) awarding respondent conduct-based attorney fees; (3) dividing marital and nonmarital property and calculating the cash property-equalization payment owed to respondent; (4) valuing his business and the

parties' four 529[1] accounts; and (5) not disqualifying the special master. We conclude that appellant's challenge regarding the valuation of his business and the parties' 529 accounts are not properly before us. We also conclude that the district court's calculation of the cash property-equalization payment was not clearly supported by the record and we therefore remand for further findings. But because we discern no abuse of discretion by the district court as to the remaining issues, we affirm in part and remand for further findings only regarding the cash property-equalization payment.

FACTS

Appellant Theodore James Bonnett (husband) and respondent Allison Baron Bonnett (wife) married in November 2012 and share two minor children, P.B. and T.B. The parties separated in October 2021. Soon after, the parties agreed to an informal parenting time and alternating holiday schedule. Wife filed a petition for dissolution of marriage in January 2022, requesting, in part, joint legal custody of the children and reserving the issue of physical custody. In August 2022, wife filed an amended petition requesting sole legal and sole physical custody of the children. Due to high conflict over vacation, holiday time, and parenting time with the children, the district court ordered a custody and parenting time (CPT) evaluation and modified the parenting schedule.

Throughout the two years of litigation, wife's attorney submitted several affidavits to the district court requesting conduct-based attorney fees under Minnesota Rule of Civil

[1] A 529 account is a type of savings plan for a child's higher education.

Procedure 37 and Minnesota Statutes section 518.14, subdivision 1 (2022).[2] Wife's attorney's affidavit from July 2022 explains that wife had incurred costs because of husband's conduct related to parenting time conflicts, taking unilateral vacations, refusing to communicate through Our Family Wizard,[3] and selecting and scheduling a mediator. The affidavit also mentions that wife incurred nearly $20,000 in attorney fees to defend against husband's "baseless claim via his Order for Protection."

In August 2023, the district court filed an order scheduling the case for a January 2024 trial as well as setting deadlines for both parties to submit witness lists, exhibit lists and expert reports. In December 2023, husband's attorney filed a notice of withdrawal based on a breakdown in the attorney-client relationship. In addition to his withdrawal, husband's attorney requested a continuance on husband's behalf. Wife timely submitted her witness and exhibit lists; husband filed none.

Trial

The matter proceeded to a three-day trial in January 2024. Husband was self-represented at trial. The district court heard testimony from husband; wife; wife's expert witness, Mr. Hiley; and J.H., a principal at the children's school. In addition, the court

[2] Minnesota Statutes section 518.14 was amended in 2024. *See* 2024 Minn. Laws ch. 101, art. 1, § 5 at 862. Because the 2024 amendment does affect the resolution of the case or a party's vested interest, we would typically cite the current statute. But because the 2022 version of the statute was in effect at the time of the district court's order and the statute was renumbered, we cite to the 2022 version for clarity.

[3] "Our Family Wizard" is a court-ordered communication platform for co-parenting purposes. *Winkowski v. Winkowski*, 989 N.W.2d 302, 306 (Minn. 2023).

received 91 exhibits.[4] Wife testified about husband's conduct throughout the proceedings and the negative impact it has had on their children.

Wife also retained Mr. Hiley to prepare an analysis of her nonmarital property claims, prepare property division schedules, and prepare income and child support calculations. Mr. Hiley testified generally about property division schedules, marital and nonmarital property of husband and wife, and the sources he used to valuate certain assets.

In May 2024, the district court filed its findings of fact, conclusions of law, order for judgment, and judgment and decree, dissolving the parties' marriage. The district court awarded wife sole legal and sole physical custody of the children. The district court also noted that it was restricting husband's parenting time to less than 25 percent.

The district court awarded husband parenting time on alternating weekends and one weekday every other week and ordered a holiday parenting time schedule. The district court also divided the parties' marital property and ordered husband to pay wife a cash equalizer payment of $790,887. Finally, the district court ordered husband to pay wife conduct-based attorney fees of $193,794.78. Neither party filed any post-trial motions.

Special Master

In December 2023, wife's attorney filed a motion requesting the appointment of a special master. In February 2024, the district court appointed S.L. as a special master under Minnesota Rule of Civil Procedure 53.01. When S.L. was appointed, J.S. worked at S.L.'s

[4] The exhibits consisted of 90 exhibits disclosed in wife's exhibit list and an additional amended expert report disclosed in an amended exhibit list. Husband did not object to these exhibits. Because husband failed to comply with trial disclosure deadlines, he was precluded from offering any exhibits at trial and from calling any witnesses except himself.

firm as a paralegal. Because J.S. formerly worked on the Bonnett case as a paralegal at wife's attorney's firm, wife's attorney inquired with S.L. about a potential conflict of interest. S.L. provided the details of her firm's screening procedures and stated that J.S. "does not work on ADR files. She will be locked out of accessing files for this matter on the firm's file share system and she will not be included on any communication or discussion of this matter within the office." Husband wrote to the district court "strongly disagree[ing]" with the appointment of S.L. Husband explained that even though "access to files has been limited . . . there is no proof that conversations would not happen that would completely taint any objectiveness."

In April 2024, S.L. informed the district court that she did not believe that J.S.'s employment at her law firm disqualified her from serving as a special master and explained her firm's screening procedures. One month later, husband's newly retained counsel objected in writing to S.L.'s appointment, arguing that J.S.'s previous employment at wife's attorney's firm "create[d] a relationship between her and [wife's] counsel, which could interfere with the Special Master's role." In June 2024, the district court issued an order deciding that S.L. was not disqualified and could proceed as special master.

Husband appeals.

DECISION

I. Husband raises two claims that are not properly before us.

Husband first argues that the district court erred when it adopted wife's proposed values of two businesses, Limpro Inc. and Northeast LLC, because it did not consider the Revenue-Ruling 59-60 factors under *Nardini v. Nardini*, 414 N.W.2d 184, 189-90 (Minn.

1987). He also argues that the district court abused its discretion in awarding the parties' four 529 accounts to wife.

As a threshold matter, husband failed to file post-trial motions. Absent a motion for a new trial, our scope of review is limited to substantive legal issues properly raised to and considered by the district court, whether the evidence supports the findings of fact, and whether those findings support the conclusions of law and the judgment. *See Alpha Real Est. Co. of Rochester v. Delta Dental Plan of Minn.*, 664 N.W.2d 303, 309-10 (Minn. 2003) (stating that new-trial motion is not prerequisite to appellate review of substantive legal issues properly raised and considered in district court); *Gruenhagen v. Larson*, 246 N.W.2d 565, 569 (Minn. 1976) (stating that absent motion for new trial, appellate courts may review whether evidence supports findings of fact and whether findings support conclusions of law and judgment). Further, generally, "litigants are bound [on appeal] by the theory or theories, however erroneous or improvident, upon which the action was actually tried below[,]" *Annis v. Annis*, 84 N.W.2d 256, 261 (Minn. 1957), and we "generally consider only those issues that the record shows were presented [to] and considered by the [district] court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). Moreover, "[a] party cannot complain about a district court's failure to rule in [the party's] 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." *Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003), *rev. denied* (Minn. Nov. 25, 2003).

Here, husband failed to present any evidence to the district court to support his arguments about the value of the assets at issue in this appeal.[5] And, over the course of the three-day trial, husband had the opportunity to challenge Mr. Hiley's valuation of the businesses or testify in his own defense about how they should have been valuated. In addition, husband did not bring any post-trial motions.[6] The arguments he makes to this court, therefore, were not presented to or considered by the district court. Accordingly, husband's challenges to the district court's valuation of Limpro and Northeast, and its decision to award wife the 529 accounts are not properly before us.

II. The district court did not abuse its discretion in restricting husband's parenting time after finding he is likely to endanger the children's emotional health.

"The district court has broad discretion in determining parenting-time issues and will not be reversed absent an abuse of that discretion." *Dahl v. Dahl*, 765 N.W.2d 118, 123 (Minn. App. 2009). A district court's findings of fact underlying its parenting-time determination are reviewed for clear error. *Id.* A district court abuses its discretion by making findings of fact that are unsupported by the record, misapplying the law, or resolving the question in a way contrary to logic and the facts on record. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022).

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[5] Husband did attempt to introduce as evidence a bankruptcy exhibit on the first day of trial. The district court declined to receive his exhibit as husband had "ample notice of trial deadlines" and its admission would have risked prejudice to wife for lack of notice.

[6] Husband did not file a motion for amended findings under Minnesota Rule of Civil Procedure 52.02, and did not move for a new trial under Minnesota Rule of Civil Procedure 59.01

"In 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." *Newstrand v. Arend*, 869 N.W.2d 681, 690-91 (Minn. App. 2015) (quoting Minn. Stat. § 518.175, subd. 1(g) (2014)), *rev. denied* (Minn. Dec. 15, 2015).

The Minnesota statutes provide:

> 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. The court shall consider the age of the child and the child's relationship with the parent prior to the commencement of the proceeding.

Minn. Stat. § 518.175, subd. 1(b) (2022).

Husband argues that the district court abused its discretion in granting him less than 25 percent parenting time because it did not explain its reasoning "with any degree of particularity" how his conduct negatively impacted his children. He claims that the district court only made findings related to his conduct toward third parties (his wife and the children's school professionals) and his disregard of the district court's orders, but did not make findings on his conduct towards the children. We are not persuaded.

A district court is not bound to follow its temporary order. Indeed, the duration of a temporary order is just that: temporary. *See* Minn. Stat. § 518.131, subd. 5 (2022) ("A temporary order shall continue in full force and effect until the earlier of its amendment or vacation, dismissal of the main action or entry of a final decree of dissolution or legal separation."). And while the district court may seek the recommendations of professional personnel in contested custody proceedings, the district court is not obligated to adopt those

recommendations given its broad discretion. *See Roehrdanz v. Roehrdanz*, 410 N.W.2d 359, 362 (Minn. App. 1987) (affirming district court's order that rejected custody study's recommendations because it made extensive findings and properly considered relevant statutory factors), *rev. denied* (Minn. Oct. 28, 1987); *Lawver v. Lawver*, 360 N.W.2d 471, 472-73 (Minn. App. 1985) (remanding district court's order which contradicted custody study's recommendations because district court did not make adequate findings on children's best interests). When the district court's order is contrary to the professional's recommendation, appellate courts have required that the district court "either (a) express its reasons for rejecting the custody recommendation, or (b) provide detailed findings that examine the same factors the custody study raised." *Rogge v. Rogge*, 509 N.W.2d 163, 166 (Minn. App. 1993), *rev. denied* (Minn. Jan. 28, 1994).

In addressing custody and parenting time here, the district court made detailed findings for each of the best interest factors under section 518.17, subdivision 1 (2022), just as the CPT evaluation did. For example, the district court's order discusses how (1) husband undermined and degraded wife in front of their children, adversely impacting their emotional development; (2) husband "weaponize[d] the children, placing them in the middle [of conflict]"; (3) husband had known for four months that P.B. was struggling emotionally but refused to enroll her in therapy; (4) husband refused to cooperate with the children's school's policies and procedures;[7] (5) husband took the children on a five-mile

[7] On two occasions, for example, husband entered the children's school through the preschool entrance and walked directly into the children's classrooms to drop off homework and lunch, despite being told to enter through the main office for the safety and security of students. Husband also walked into school Mass while the priest was leading

hike, an activity that the CPT evaluator thought to be excessive, dangerous, and stressful for such young children; (6) husband twice attempted to enroll children into a different school without wife's consent or naming her as the children's second parent; (7) husband was not responsive to or cooperative with wife, disobeyed the court's orders to communicate via Our Family Wizard, and escalated matters when wife did not accommodate his wishes. For these reasons, the district court stated:

> The Court will order a parenting time schedule that restricts Husband's parenting time as it is less than the current schedule and below the minimum 25 percent. The Court does not do this lightly. However[,] it is abundantly clear from the evidence presented in the nearly two years this case has been open that Husband has repeatedly and continuously not acted with the children's best interests in mind, but his own. *He has shown this through his conduct with Wife, [the children's] school professionals and his disregard of this Court's Orders*. His conduct has negatively impacted the children's emotional health and development as shown in the CPTE and through Wife's credible testimony.

(Emphasis added.)

To persuade us otherwise, husband claims that the district court's reasoning was merely conclusory. Again, we are not convinced. His argument overlooks the district court's extensive findings under the best-interest factors and the documentary and testimonial evidence in the record. In sum, the district court made detailed findings to support the reduced parenting time schedule, and these findings are supported by the record

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prayer at the altar and walked across the front of the pews to approach T.B. Husband then approached P.B., "bent across a male staff [member] to kiss P.B. on the top of her head," and "dipped his gloved hand into the font of holy water" before leaving.

and not clearly erroneous. Therefore, the district court's parenting-time decision was not an abuse of discretion.

III. The district court did not abuse its discretion in awarding conduct-based attorney fees.

Husband next argues that the district court abused its discretion in awarding wife $193,794.78 in conduct-based attorney fees. More specifically, he argues that $20,000 of the total award was for need-based attorney fees, but the district court did not make the required findings to differentiate between need-based and conduct-based attorney fees.

District courts have discretion to award "additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding." Minn. Stat. § 518.14, subd. 1. "A conduct-based attorney-fee award is reviewed for an abuse of discretion." *Sanvik v. Sanvik*, 850 N.W.2d 732, 737 (Minn. App. 2014).

In dissolution proceedings, the district court may award both need-based and conduct-based attorney fees. *Baertsch v. Baertsch*, 886 N.W.2d 235, 238 (Minn. App. 2016). A district court "shall" award need-based attorney fees if it finds that (1) "the fees are necessary for the good faith assertion of the party's rights . . . and will not contribute unnecessarily to the length and expense of the proceeding," (2) the party ordered to pay the fees "has the means to pay them," and (3) the party awarded the fees "does not have the means to pay them." Minn. Stat. § 518.14, subd. 1. In contrast, "conduct-based attorney fees are to be based on the party's behavior occurring during the litigation process." *Baertsch*, 886 N.W.2d at 238. The party moving for conduct-based attorney fees has the burden of showing that the other party's conduct "unreasonably contributed to the length

or expense of the proceeding." *Geske v. Marcolina*, 624 N.W.2d 813, 818 (Minn. App. 2001).

If a party takes positions that are "duplicitous and disingenuous and have had the effect of further delaying distribution, lengthening [the] litigation, and increasing the expense of [the] proceedings" then an award of conduct-based attorney fees is appropriate. *Redmond v. Redmond*, 594 N.W.2d 272, 276 (Minn. App. 1999).

Here, the district court's findings of fact explain:

> [I]t is abundantly clear from the evidence presented in the nearly two years this case has been open that husband has repeatedly and continuously not acted with the children's best interests in mind, but his own. He has shown this through his conduct with Wife, [the children's] school professionals and his disregard of this Court's Orders.

In its decree, the district court awarded wife conduct-based attorney fees and costs totaling $193,794.78. When ordering husband to pay conduct-based attorney fees, the district court did not explicitly state in its decree that husband unreasonably added to the length and expense of the proceeding under section 518.14, subdivision 1(a). However, the district court referenced wife's affidavits that cited Minnesota Statutes section 518.14, subdivision 1, and Minn. R. Civ. P. 37. Moreover, the district court considered the record evidence and husband's conduct throughout the proceedings, all of which tend to show that husband caused unreasonable delay and expense to the proceedings.

In September 2023, for example, wife's attorney explained in an affidavit that "[t]he parties' contentious relationship has required nearly daily attorney and staff intervention and assistance. The parties have been unable to reach agreements on any issue, and even after the Court has ordered relief, [husband] frequently fails to follow the Court's Order,

which requires attorney involvement." Additional affidavits show that husband failed to comply with discovery requests by refusing to provide written answers to interrogatories and refusing to disclose his property, assets, income, and liability interests, all of which were critical to the dissolution proceedings. Wife's attorney also asserted that husband filed a petition for an order for protection that was quickly dismissed because he failed to present an "immediate and present danger as the most recent alleged incidents were several months old, the parties no longer lived together, and the petition lacked specific facts, details and circumstances to justify *ex parte* relief." Despite husband's assertions throughout proceedings that he wanted to resolve the matter quickly, the district court concluded that he disobeyed court orders, failed to timely respond, and cancelled mediation sessions last-minute.

Husband also claims that the district court failed to account for $20,000 in need-based attorney fees based in an affidavit filed in July 2022. He adds that to award need-based attorney fees, the "district court must make findings consistent" with the three requirements under section 518.14, subdivision 1.[8] But those requirements are necessary only when the district court awards need-based attorney fees. *See* Minn. Stat. § 518.14, subd.1 ("[T]he [district] court shall award attorney fees . . . in an amount necessary to enable a party to carry on or contest the proceeding, provided it finds" the listed

[8] To award need-based attorney fees under section 518.14, subdivision 1, the district court must find that (1) the fees are necessary for a good-faith assertion of rights; (2) the payor has the ability to pay the award; and (3) the recipient does not have the means to pay his or her own fees. *Geske*, 624 N.W.2d at 816; *see also* Minn. Stat. § 518.14.

requirements). Here, the district court did not award wife need-based attorney fees, only conduct-based attorney fees.

The record supports the district court's findings that husband unreasonably added to the length and expense of litigation. Accordingly, we conclude that the district court did not abuse its discretion in awarding wife conduct-based attorney fees.

IV. The district court clearly erred in calculating the cash property-equalization payment.

Husband argues that the district court abused its discretion by ordering him to pay a cash property equalizer because it made clearly erroneous factual findings regarding three major liquid accounts that were nonmarital in character.

Upon the dissolution of a marriage, the district court "shall make a just and equitable division of the marital property of the parties." Minn. Stat. § 518.58, subd. 1 (2022). District courts have "broad discretion" to evaluate marital assets and debts, and appellate courts will not overturn a district court's distribution absent an abuse of discretion. *Dahlberg v. Dahlberg*, 358 N.W.2d 76, 80 (Minn. App. 1984). "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). District courts are "guided by equitable considerations in distributing rights and liabilities." *Kreidler v. Kreidler*, 348 N.W.2d 780, 784 (Minn. App. 1984).

"We independently review the issue of whether property is marital or nonmarital, giving deference to the district court's findings of fact." *Baker v. Baker*, 753 N.W.2d 644, 649 (Minn. 2008). Property acquired by either spouse during the marriage is presumptively

marital, but a spouse may defeat that presumption by showing that the property is nonmarital by a preponderance of the evidence. *Id.* (citing Minn. Stat. § 518.003, subd. 3b (2006)). As relevant here, nonmarital property includes property that is "acquired before the marriage." Minn. Stat. § 518.003, subd. 3b(b) (2022). "For nonmarital property to maintain its nonmarital status, it must either be kept separate from marital property or, if commingled with marital property, be readily traceable." *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997).

We begin with the three accounts that husband contests. The district court made the following findings of fact:

> (1) Wells Fargo Checking ending in 6262 had a balance of $261,865 as of April 30, 2022. Of this balance, the parties agree that *$200,488 is husband's nonmarital funds.*
>
> (2) Husband's Fidelity Roth IRA ending in 6963 had a balance of $157,095 as of April 30, 2022. Husband's nonmarital interest in this account totals $5,627.
>
> (3) Husband's Fidelity IRA ending in 5122 had a balance of $158,944 as of April 30, 2022. Husband's nonmarital interest in this account totals $107,521.

(Emphasis added.)

The total of husband's *nonmarital funds* in the accounts above equals $313,636. But, when the district court awarded wife $790,887 as a cash property equalizer, it appears the $313,636 was calculated as husband's *marital* property.

Notably, Mr. Hiley submitted two reports as exhibits to the district court: one exhibit supports the district court's findings of fact (that identified the three accounts as husband's

nonmarital property), and the other supports its cash property equalizer, which was calculated by identifying, or at least treating, the full value of the three accounts as marital property. The difficulty here is that the district court explained neither how it calculated the property equalizer, nor which exhibit it relied upon. Although wife's attorney relied on the exhibit that did not allocate any portions of the disputed accounts as nonmarital in questioning Mr. Hiley at trial, the district court did not explain or distinguish between the two reports in its order. In any event, the district court's findings of fact do not support its determination on the cash property equalizer. Because of this discrepancy, we remand to the district court to clarify or recalculate the cash property equalizer. On remand, whether to reopen the record is discretionary with the district court.

V. The district court did not err in determining that S.L. was not disqualified to serve as special master.

Finally, husband argues that the district court erred by not disqualifying S.L. as special master.[9] He alleges that because J.S. is a paralegal at the special master's law firm, there is an imputed conflict because J.S. previously worked on wife's case while at wife's attorney's firm. This conflict, he argues, cannot be cured through screening measures.

"[I]n reviewing dispositions of motions seeking attorney disqualification," we review the district court's factual findings for clear error. *Prod. Credit Ass'n of Mankato v. Buckentin*, 410 N.W.2d 820, 822 (Minn. 1987). But the interpretation of court rules is a

[9] Wife's attorney stated at oral argument that the issue was moot because the paralegal is no longer employed by the special master's law firm. However, this statement is outside of the appellate record. Minn. R. Civ. App. P. 110.01.

question of law that we review de novo. *Lennartson v. Anoka–Hennepin Indep. Sch. Dist. No. 11*, 662 N.W.2d 125, 129 (Minn. 2003).[10]

The rule providing for the appointment of a special master states that a "master must not have a relationship to the parties, counsel, action, or court that would require disqualification of a judge, unless the parties consent with the court's approval to appointment of a particular person after disclosure of any potential grounds for disqualification." Minn. R. Civ. P. 53.01(b). Under the Minnesota Code of Judicial Conduct 2.11(A), "[a] judge shall disqualify [themself] in any proceeding in which the judge's impartiality might reasonably be questioned." Here, in applying rule 53.01, the district court found that S.L. was not disqualified because although J.S. (the paralegal), "has a relationship to the case, she does not work on the instant matter as her scope of work does not include those involving a special master. [The special master] assures the Court that the paralegal has 'no contact' with this case in her current role." In the context of rule 2.11(A), the fundamental inquiry for disqualification "is whether an objective examination of the facts and circumstances would cause a reasonable examiner to question the judge's impartiality." *State v. Burrell*, 743 N.W.2d 596, 601 (Minn. 2008). "[A] reasonable examiner . . . is an objective, unbiased layperson with full knowledge of the facts and

[10] We note that neither party briefed the proper standard of review for the removal of special masters. The standard of review for appointment of a special master is abuse of discretion. *Brickner v. One Land Dev. Co.*, 742 N.W. 2d. 706, 712 (Minn. App. 2007). While the standard for the disqualification of judges is reviewed de novo, *In re Jacobs*, 802 N.W.2d 748, 750–51 (Minn. 2011), and the standard for disqualification of attorneys is reviewed for clear error, *Buckentin*, 410 N.W.2d at 822, our caselaw has not yet addressed the proper standard of review for disqualification of special masters. For purposes of this analysis, and because husband would be unsuccessful under either standard of review, we proceed, without deciding, to review for clear error.

circumstances." *State v. Pratt*, 813 N.W.2d 868, 876 n.8 (Minn. 2012) (quotation omitted). Here, our objective examination of the record leads us to conclude that the district court did not err in deciding that the special master was not disqualified because facts and circumstances would not cause a reasonable examiner to question the special master's impartiality.

Husband argues that the district court erred because a reasonable litigant would question the special master's impartiality. For the first time on appeal, husband argues that under Minnesota Rule of Professional Conduct 1.10(b) and *Lennartson*, had the paralegal been an attorney, the special master's firm would have been disqualified due to an imputed conflict. Wife argues that the model rules and the *Lennartson* decision apply only to lawyers. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating a party may not "obtain review by raising the same general issue litigated below but under a different theory"); *Crowley v. Meyer*, 897 N.W.2d 288, 293 (Minn. 2017) (applying this aspect of *Thiele* in a family-law appeal).

Even considering husband's argument, we agree with wife that the district court did not err because rule 1.10(b) does not directly apply to paralegals.

The rule addressing imputed disqualifications provides that:

> When a lawyer becomes associated with a firm, and the lawyer is prohibited from representing a client pursuant to Rule 1.9(b), other lawyers in the firm may represent that client if there is no reasonably apparent risk that confidential information of the previously represented client will be used with material adverse effect on that client because:
>
> (1) any confidential information communicated to the lawyer is unlikely to be significant in the subsequent matter;

> (2) the lawyer is subject to screening measures adequate to prevent disclosure of the confidential information and to prevent involvement by that lawyer in the representation; and
>
> (3) timely and adequate notice of the screening has been provided to all affected clients.

Minn. R. Prof. Conduct 1.10(b).

In *Lennartson*, the supreme court held that the "plain language of [r]ule 1.10(b) requires that the subparts of the rule be read conjunctively", meaning that a conflict will be imputed unless all three requirements outlined in the subparts are met. 662 N.W.2d at 131-32.

The comments to rule 1.10 explain that "the term 'firm' denotes lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization." Minn. R. Prof. Conduct 1.10, cmt. 2.

Although lawyers employing nonlawyers must give "appropriate instruction and supervision concerning the ethical aspects of [the nonlawyers'] employment, particularly regarding the obligation not to disclose information relating to the representation of the client, the rule provides that nonlawyers "are not subject to professional discipline." Minn. R. Prof. Conduct 5.3, cmt. 2.

Therefore, the district court did not err by failing to consider rule 1.10(b) as a reason to question the special master's impartiality.

Affirmed in part and remanded.