

## **APPENDIX A**

### **MINNESOTA COURT OF APPEALS OPINION**

(Dated: August 26, 2024)

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A23-1345**

In re the Marriage of:

Andrew Jeffery Helmin, petitioner,  
Appellant,

vs.

Yuemin Xu,  
Respondent.

**Filed August 26, 2024  
Affirmed  
Kirk, Judge\***

Dakota County District Court  
File No. 19HA-FA-18-587

Andrew J. Helmin, Eagan, Minnesota (pro se appellant)

Debra J. Hilstrom, Debra J. Hilstrom Attorney at Law, PLLC, St. Paul, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Reyes, Judge; and Kirk, Judge.

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

## **NONPRECEDENTIAL OPINION**

**KIRK, Judge**

In this custody dispute, appellant argues that (1) the record does not support the district court's selection of a school for the parties' child and (2) the district court should not have allowed respondent to take the child to China. We affirm.

### **FACTS**

In this post-dissolution proceeding, appellant-father Andrew Jeffrey Helmin contests the district court's order that his child attend school in Eden Prairie and be issued a passport so the child can travel to China with respondent-mother Yuemin Xu.

Father and mother married in 2017 and had a child who was born that same year. The parties began dissolution proceedings in 2018. The parties reached a settlement agreement on many issues, but proceeded to trial on childcare placement, international travel and vacation parenting time, and the distribution of funds given to the parties by mother's parents.

For childcare placement, mother wished for the child to remain in the child's current placement, but father wanted the child to attend childcare at a more centrally located placement between mother and father. The district court found that it was in the child's best interests to remain in the current childcare placement in Eden Prairie. For international travel and vacation parenting time, the parties disputed whether the child should be allowed to travel internationally. Mother is from China and wished to travel there with the child so the child could have contact with extended family. Father argued that, because China is not part of the Hague Convention on Child Abduction, he would have no method to secure the

child's return if mother refused to return the child to the United States. The district court found that it was in the best interests of the child that the child be permitted to travel internationally at the age of five.

The district court entered a final judgment on the marriage dissolution in April 2020 and ordered that mother and father share joint legal and joint physical custody of the child.

In 2023, after the child turned five years old, mother filed a motion in district court seeking an order that the child attend school in the Eden Prairie School District and that father execute the documents necessary for the child to travel to China, including applying for a passport. In response, father requested that the district court deny mother's motion. Father also moved for an order from the district court that the child attend school in the Eagan School District and that the child be prohibited from traveling internationally until the child is 16 years old.

Both mother and father filed affidavits supporting their motions. Following a hearing at which the district court heard arguments but did not receive evidence or hear testimony, the district court granted mother's motion and denied father's motion. Father now appeals.

## **DECISION**

Father argues that the district court abused its discretion by concluding that it was in the best interests of the child to (1) attend school in the Eden Prairie School District and (2) be permitted to travel internationally to China. We disagree.

When parents share joint legal custody, they have "equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing,

including education.” Minn. Stat. § 518.003, subd. 3(b) (2022). When joint legal custodians cannot agree on where their child should attend school, the district court must resolve the dispute based on the child’s best interests. *See Novak v. Novak*, 446 N.W.2d 422, 424 (Minn. App. 1989) (“The law makes no distinction between general determinations of custody and resolution of specific issues of custodial care.”), *rev. denied* (Minn. Dec. 1, 1989). A child’s “best interests” are defined as “all relevant factors,” including the twelve factors listed in Minn. Stat. § 518.17, subd. 1(a) (2022).

Appellate courts review the district court’s decision on an issue of legal custody for an abuse of discretion. *See Silbaugh v. Silbaugh*, 543 N.W.2d 639, 641 (Minn. 1996). “A district court abuses its discretion by making findings unsupported by the evidence or improperly applying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quoting *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022)). Appellate courts review factual findings under a clearly erroneous standard and defer to the district court’s credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). When reviewing factual findings for clear error, appellate courts (1) view the evidence in the light most favorable to the findings, (2) do not find their own facts, (3) do not reweigh the evidence, (4) do not reconcile conflicting evidence, and (5) “need not go into an extended discussion of the evidence to provide or demonstrate the correctness of the findings of the [district] court. . . . [A]n appellate court’s duty is fully performed after it has fairly considered all the evidence and has determined that the evidence reasonably supports the decision.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (quotations and

citation omitted); *see Ewald v. Nedrebo*, 999 N.W.2d 546, 552 (Minn. App. 2023) (citing *Kenney* in a family-law appeal), *rev. denied* (Minn. Feb. 28, 2024).

**I. The district court did not abuse its discretion by determining that it was in the child's best interests to attend school in the Eden Prairie School District.**

The district court determined that five of the best-interests factors favored the child attending school in Eden Prairie, four factors were neutral, and three factors did not apply.

*See* Minn. Stat. § 518.17, subd. 1(a) (outlining the best-interests factors). Father argues that the district court's determinations on five factors were clearly erroneous. We do not agree.

**A. Factor One**

Father challenges the district court's determination on factor one—the “child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development.” Minn. Stat. § 518.17, subd. 1(a)(1).

For this factor, the district court wrote:

The Court finds that it is important for the child to learn both her Chinese and Ojibwe heritage. The Court finds that it will be easier for the child to do that if [the child] ultimately attends middle school in Eden Prairie. The Court does not find that the selection of school makes it easier or harder for the child to explore [the child's] Ojibwe heritage but the selection of the school[] system in Eden Prairie would make it easier to explore [the child's] Chinese heritage. This factor supports school in Eden Prairie.

Father argues that the district court ignored his argument that the “Eagan school district . . . does offer the Chinese language.”

The district court, however, did not find that the Eagan School District did not offer instruction in Chinese, but just that the child attending school in the Eden Prairie School

District “would make it *easier* to explore [the child’s] Chinese heritage.” (Emphasis added). This is supported by the record because mother provided specific details about the Chinese program in the Eden Prairie schools, such as that it begins in middle school, versus father’s general claim that the Eagan School District offers a Chinese language program.

#### **B. Factor Four**

Father challenges the district court’s determination on factor four, which is “whether domestic abuse, as defined in section 518B.01, has occurred in the parents’ or either parent’s household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child’s safety, well-being, and developmental needs.” Minn. Stat. § 518.17, subd. 1(a)(4). For factor four, the district court wrote, “[Mother] argues that she had an Order for Protection against [father] in 2018 because [father] allegedly threatened her. The OFP has since expired. [Father] argues that this event is too remote in time to guide the analysis of this motion and the Court agrees. This factor is neutral.” Father argues that the district court did not consider evidence that father submitted that mother had committed domestic abuse against the child.

Appellate courts, however, do not reconcile conflicting evidence. *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (stating that, on appeal, appellate courts “neither reconcile conflicting evidence nor decide issues of witness credibility, which are exclusively the province of the fact[-]finder”). And the record supports the district court’s finding that the OFP had no bearing on the proceedings because the OFP was issued in 2018 and expired in 2020, three years before mother’s motion.

### **C. Factor Six**

Father challenges the district court's determination on factor six, which is "the history and nature of each parent's participation in providing care for the child." Minn. Stat. § 518.17, subd. 1(a)(6). For this factor, the district court wrote, "The Court finds that both parents have been involved with the care of the child, but [mother] slightly more so. This factor favors Eden Prairie, but only slightly." Father argues that because he participates in providing care for the child, the factor should be neutral.

Again, we do not reconcile conflicting evidence. *Gada*, 684 N.W.2d at 514. And, moreover, the district court's finding is supported by the record because both mother and father stated in their affidavits that they took the child for medical care.

### **D. Factor Seven**

Father challenges the district court's determination on factor seven, which is "the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time." Minn. Stat. § 518.17, subd. 1(a)(7). For this factor, the district court wrote,

The Court finds that both parents are able and willing to care for the child and meet the child's needs. The Court finds that the child will have both parents slightly closer if [the child] attends school in Eden Prairie because [mother] will be working from home in Eden Prairie and [father] will be working in nearby Bloomington. Both parents collectively will be further away if the child is in school in Eagan. In addition, since [mother] works from home, the Court finds that [mother] is probably better able to get the child and bring the child home if the child is sick at school. This factor favors school in Eden Prairie.

Father argues that the district court abused its discretion in its analysis of this factor because mother and father have joint legal custody and each receive 50% of parenting time.

Although father challenges the factual findings that the district court made, appellate courts do not reweigh conflicting evidence. *Gada*, 684 N.W.2d at 514. The record supports the district court's determination based on mother and father's respective locations during the school day.

#### **E. Factor Eight**

Father challenges the district court's determination on factor eight, which is "the effect on the child's well-being and development of changes to home, school, and community." Minn. Stat. § 518.17, subd. 1(a)(8). For this factor, the district court wrote,

The Court does not find an appreciable difference between Eden Prairie schools and Eagan schools, both are excellent. Court finds that [father]'s housing, while a rental, is also stable housing. The Court finds, however, that since the child already attends Montessori school in Eden Prairie, the child already has some friends in the district, which would provide some continuity. The Court finds that this factor favors Eden Prairie.

Father argues that the district court did not consider the evidence he had presented to make this determination.

Appellate courts, however, do not reweigh conflicting evidence. *Gada*, 684 N.W.2d at 514. The district court's finding is supported by the record based on mother's affidavit, which states that the child has friends in the Eden Prairie School District as she has been attending school in the area.

Overall, the record supports the factual findings the district court made in its best-interests analysis. Although father argues that the district court failed to make adequate

factual findings to support its order, we note that the district court made extensive factual findings and carefully weighed each best-interest factor in arriving at its determination. We therefore conclude that the district court did not abuse its discretion by determining that it was in the child's best interests to attend school in the Eden Prairie School District.

**II. The district court did not abuse its discretion by determining that it was in the best interests of the child for the child to travel internationally.**

The district court determined that four of the factors favored the child traveling to China, four factors were neutral, and four factors did not apply. Father argues that the district court's findings on six of the factors were clearly erroneous. We do not agree.

**A. Factor One**

Father challenges the district court's determination on factor one, which includes the child's emotional and cultural needs. Minn. Stat. § 518.17, subd. 1(a)(1). For this factor, the district court wrote,

the Court finds that it is important for the child to learn [the child's] Chinese heritage and meet [the child's] Chinese relatives. The Court finds that [mother] intends to return to the United States after traveling abroad with the child. The Court does not find that China's status as a "Level 3" State Department country presents endangerment concerns. The Court notes that the advisory relates to arbitrary enforcement of the law and inability to provide consular services. The Court finds that since [mother] is a Chinese citizen and will be visiting other Chinese citizens, they do not face the same risk of arbitrary enforcement of the law or need for consular services as might an American tourist.

Father argues that the level three travel warning presents endangerment concerns because the child would be traveling as a U.S. citizen.

Just because “the record might support findings other than those made by the trial court does not show that the court’s findings are defective.” *Vangsness v. Vangsness*, 607 N.W.2d 468, 474 (Minn. App. 2000). Although there is no evidence in the record regarding the child’s citizenship, the district court’s determination that traveling to China meets the child’s emotional and cultural needs is supported by record as is its finding that it is important for the child to learn about her heritage and meet relatives.

#### **B. Factor Four**

Father challenges the district court’s determination on factor four, which is whether domestic abuse has occurred. Minn. Stat. § 518.17, subd. 1(a)(4). The district court determined that “this factor does not guide the analysis.” Father argues that he presented evidence of child abuse that the district court did not consider.

Appellate courts, however, do not reweigh conflicting evidence. *Gada*, 684 N.W.2d at 514. Even though father may have presented conflicting evidence, we conclude that the record supports the district court’s determination because the OFP had expired and was several years old.

#### **C. Factors Six, Eight, and Nine**

Father challenges the district court’s determinations on factors six, eight, and nine, which are, respectively, the history and nature of each parent’s participation in providing care for the child; the effect of changes on the child’s well-being; and the effect of the changes on the relationships between the child and significant persons in the child’s life. Minn. Stat. § 518.17, subd. 1(a)(6), (8), (9). The district court determined that travel to China would further the child’s introduction to Chinese culture and meeting the child’s

extended family would allow the child to develop a relationship with the child's extended family. Father argues that the child may already have contact with extended family and the Chinese culture through video conferencing.

First, we note that there is no evidence in the record about whether the child has contact with extended family through video conferencing. In addition, the district court's original decision to allow the child to travel internationally at the age of five is supported by the record as is its finding that travelling to China would introduce the child to Chinese culture and allow her to connect with extended family. We therefore conclude that the district court did not clearly err in its findings on these factors.

#### **D. Factor Ten**

Father challenges the district court's determinations on factor ten, which is "the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent." Minn. Stat. § 518.17, subd. 1(a)(10). The district court determined that "it is in the child's best interest to have vacation time with each parent, including with [mother] and in [mother]'s country of origin." Father argues that because mother and father agreed on vacation time in the divorce proceedings, this factor is neutral.

The district court's determination, however, is supported by the record because mother wished to exercise her vacation time with the child, so for the purposes of international travel, this factor favors the child being able to travel with mother.

Overall, the record supports the district court's determination that it is in the best interests of the child to travel to China with mother. Although father argues that the district

court failed to make adequate factual findings to support its order, the district court made extensive factual findings and carefully weighed each best-interest factor in arriving at its determination. We therefore conclude that the district court did not abuse its discretion by determining that it was in the child's best interests to travel to China with mother.<sup>1</sup>

**Affirmed.**

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<sup>1</sup> Father makes two additional arguments. First, father argues that the district court's decision violates the fourteenth amendment to the U.S. Constitution. Father cites no legal authority that mother's potential travel to China with the child would violate the fourteenth amendment, so we do not consider this argument. *See In re Commitment of Kropp*, 895 N.W.2d 647, 653 (Minn. App. 2017) ("Minnesota appellate courts decline to reach an issue in the absence of adequate briefing."), *rev. denied* (Minn. June 20, 2017). Second, in his reply brief, father asks this court to remove mother's attorney as her counsel. Assuming this court will grant that request, father's reply brief also asks this court to strike mother's brief. A reply brief "must be confined to new matter raised" in respondent's brief. Minn. R. Civ. App. P. 128.02, subd. 3. Father's requests to remove mother's attorney and to strike mother's brief do not involve "new matter" raised in mother's brief. Therefore, these requests are not properly includable in father's reply brief. *See Wood v. Diamonds Sports Bar & Grill, Inc.*, 654 N.W.2d 704, 707 (Minn. App. 2002) (stating that "[i]f an argument is raised in a reply brief [that, among other things,] exceeds the scope of the respondent's brief, [the argument] is not properly before [the court of appeals] and may be stricken from the reply brief"), *rev. denied* (Minn. Feb. 26, 2003). More specifically, a brief—reply or otherwise—is not a proper vehicle for asking this court to remove an attorney. Nor is a brief a proper vehicle for asking this court to strike a brief. A brief is a vehicle for addressing appellate review of the rulings of a district court. *See* Minn. R. Civ. App. P. 128.02, subds. 1-3. Neither removing mother's attorney nor striking mother's brief involves review of a ruling of the district court. Further, Minn. R. Civ. App. P. 127 is clear: "Unless another form is prescribed by these rules, an application for an order or other relief shall be made by serving and filing a written motion for the order or relief." Another form of relief is prescribed for neither removing counsel nor striking a brief. Thus, for father's requests for relief on these matters to be properly before this court, father needed to make those requests by a motion separate from his brief. Because he did not do so, those requests are not properly before this court. We note, however, that even if father properly presented his requests for relief on these matters by a separate motion, we would have denied those requests.

**APPENDIX B**

**MINNESOTA DISTRICT COURT ORDER**

(Dated: August 23, 2023)

AUG 22 2023

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT

In Re the Marriage of:

Court File No.: 19HA-FA-18-587

Andrew Jeffrey Helmin,

Petitioner,

and

Yuemin Xu,

Respondent,

and

County of Dakota,

Intervenor.

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**ORDER GRANTING MOM'S  
MOTIONS RE SCHOOL AND  
INTERNATIONAL TRAVEL**

The above-captioned matter came on before the Honorable David N. Lutz, Judge of District Court, for a motion hearing on August 7, 2023.

Petitioner Andrew Jeffrey Helmin appeared, self-represented. Attorney Debra J. Hilstrom appeared on behalf of Respondent Yuemin Xu, who was present.

Before the Court was a motion commenced by Respondent Yuemin Xu (sometimes referred to herein as "Mom") on July 12, 2023, who moved for the following relief: 1) ordering that the minor child attend Eden Prairie School District; and 2) ordering Petitioner Andrew Jeffrey Helmin (sometimes referred to herein as "Dad") to execute all documents necessary to effectuate the travel document issued by the Chinese Government and apply for the child's passport within 10 days of this Order.

By cross-motion dated July 31, 2023, Petitioner Andrew Jeffrey Helmin ("Dad") opposed Mom's motion and cross-moved for the following relief: 1) an Order that the minor child attend school

in the Eagan school district; and 2) that international travel for the child not be allowed until the child is at least 16 years old.

NOW, THEREFORE, based on the evidence adduced, the pleadings filed in this matter, and upon the files, records, and proceedings herein, and the Court being duly advised in the premises makes the following:

**FINDINGS OF FACT**

1. The parties were married on March 16, 2017 and are now divorced. The parties have one joint minor child, Jaxi, born September 22, 2017 and currently 5 years old. The parties share joint legal custody and have a 50/50 parenting schedule.

Judgment and Decree March 13, 2020

2. The parties had a Court trial in front of Judge Wahi between March 9 through March 10, 2020.
3. At issue in the trial was where the child should attend school. Mom requested that the child continue to attend Eden Prairie Montessori South, where she had been attending since February 2019. Dad advocated child care more centrally located between Mom's home in Eden Prairie and his home in Eagan. Judge Wahi ruled that the child should remain enrolled at Eden Prairie Montessori South. See Partial Judgment and Decree, March 13, 2020 ("Wahi Order"), ¶¶10-11, 20.
4. Another issue at the trial was whether Mom should be permitted to travel internationally with the child. Mom's family reside in China. Dad argued that he was concerned that Mom might travel to China and not return with the child. He argued that since China is not part of the Hague Convention on Child Abduction, he would have no legal recourse if Mom took the child to China and did not return. Judge Wahi ordered that it was in the best

interests of the child to be permitted to travel internationally at the age of 5. Wahi Order, ¶¶21, 23, 26-27 and 31.

#### School Choice and Best Interests Analysis

5. Mom moves for an Order allowing her to enroll the child in the Eden Prairie School District, the school district where the child currently attends preschool. Dad moves the Court for an Order allowing him to enroll the child in Eagan School District, ISD 197.
6. Mom argues that she lives in Eden Prairie and works from home. She argues that Dad lives in Eagan, but works in Bloomington. She noted during the hearing that the school she advocates, Forest Hills Elementary School, is just west of 494, between Highway 5 and Highway 62. Affidavit of Yuemin Xu, July 12, 2023 ("Mom First Aff.").
7. The Court finds that the best interest factors in Minnesota Statute §518.17 subdivision 1(a) apply to the decision before the Court.
8. With respect to Minn. Stat. §518.17, subd.1(a) "best interest" factor #1 (children's physical, emotional, cultural, spiritual and other needs), Mom argues that the Eden Prairie School District offers Chinese language beginning in Middle School, which will allow the child to learn her cultural and linguistic heritage. For discussion of all "best interest" factors, see Mom First Aff., ¶7. Dad argues that the child should also learn her heritage as a Native American, including Ojibwe. For discussion of all "best interest" factors, see Affidavit of Andrew Jeffrey Helmin, July 31, 2023 ("Dad Aff."), ¶8. The Court finds that it is important for the child to learn both her Chinese and Ojibwe heritage. The Court finds that it will be easier for the child to do that if she ultimately attends middle school in Eden Prairie. The Court does not find that the selection of school makes it easier or harder for the child to explore her Ojibwe heritage but the selection of the schools system

in Eden Prairie would make it easier to explore her Chinese heritage. This factor supports school in Eden Prairie.

9. With respect to “best interest” factor #2 (special needs of the child), Mom argues that the child receives therapy services from Washburn, which is offered only for Hennepin County residents. It was not clear why these services can be offered only if the child attends school in Hennepin County. The Court finds that this factor is neutral.
10. With respect to “best interest” factor #3 (preferences of the children), the Court finds that the child is not old enough to express a preference.
11. With respect to “best interest” factor #4 (domestic abuse and its implications), Mom argues that she had an Order for Protection against Dad in 2018 because Dad allegedly threatened her. The OFP has since expired. Dad argues that this event is too remote in time to guide the analysis of this motion and the Court agrees. This factor is neutral.
12. With respect to “best interest” factor #5 (parent physical, mental or chemical health issues), Mom argues that Dad used to use drugs and that was a reason for their separation. Dad argues that this factor is remote in time, that Dad has overcome his prior substance challenges and that this factor should not guide the analysis. The Court agrees. This factor is neutral.
13. With respect to “best interest” factor #6 (history of each parent caring for child), Mom argues that she has cared for the child more than Dad has and that she had primary custody of the child until Dad proved that he no longer used drugs. She also argues that she makes the child’s medical appointments and attends the medical appointment. She states that she has suggested that Dad participate in therapy, but he had declined. Dad asserts that Mom has wanted to take primary responsibility for the preventative health care of the child and he is fine with that. He argues that he takes the child for treatment

when necessary. The Court finds that both parents have been involved with the care of the child, but Mom slightly more so. This factor favors Eden Prairie, but only slightly.

14. With respect to “best interest” factor #7 (willingness and ability of each parent to care for the child and meet the child’s developmental, emotional, spiritual and cultural needs), Mom argues that historically she has been more willing and able to care for the child’s needs, including caring for the child when Dad was dealing with medical and legal effects of drug use. Dad argues that he is also capable and willing and that he has attended the child’s concerts. The Court finds that both parents are able and willing to care for the child and meet the child’s needs. The Court finds that the child will have both parents slightly closer if she attends school in Eden Prairie because Mom will be working from home in Eden Prairie and Dad will be working in nearby Bloomington. Both parents collectively will be further away if the child is in school in Eagan. In addition, since Mom works from home, the Court finds that Mom is probably better able to get the child and bring the child home if the child is sick at school. This factor favors school in Eden Prairie.

15. With respect to “best interest” factor #8 (effect on the child’s well-being and development of changes to home, school and community), Mom argues that she owns a home in Eden Prairie and is more committed to her community than is Dad, who rents housing in Eagan. Mom also argues that it would provide more stability for the child if the child remained in Eden Prairie for school, because the child already has friends in the district, including fellow Montessori students. Mom also argues that Eden Prairie has a better teacher:student ratio and higher test scores. Dad argues that while he rents an apartment in Eagan, he has lived in the same place for over five years and therefore has stable housing. The Court does not find an appreciable difference between Eden Prairie schools

and Eagan schools, both are excellent. The Court finds that Dad's housing, while a rental, is also stable housing. The Court finds, however, that since the child already attends Montessori school in Eden Prairie, the child already has some friends in the district, which would provide some continuity. The Court finds that this factor favors Eden Prairie.

16. With respect to "best interest" factor #9 (effect on ongoing relationships with siblings and other significant persons), the Court does not have information about this factor.
17. With respect to "best interest" factor #10 (benefit to the child of maximizing time with both parents and detriment to the child of limiting time), the Court finds that the child will spend time in a car driving either from Dad's house in Eagan to school in Eden Prairie or from Mom's house in Eden Prairie to school in Eagan. On the other hand, since Dad works in Bloomington, some of Dad's travel would be necessary anyway. And since Dad works closer to Eden Prairie than Mom does to Eagan, the Court finds that both parents are closer to the child in case of an emergency if the child is in Eden Prairie.
18. With respect to "best interest" factor #11 (disposition of each parent to support the child's relationship with the other parent and to encourage communication with the other parent), the Court rejects Mom's argument that this factor is not relevant because of prior domestic abuse. The Court finds, however, that each parent is somewhat disposed to support the child's relationship with the other parent and this factor does not guide the analysis of school choice.
19. With respect to "best interest" factor #12 (willingness and ability to cooperate and co-parent), the Court finds that both parents are able and willing to cooperate and co-parent. This factor is neutral.

20. Taking all these factors in combination, the Court finds that it is in the best interests of the child to attend school in Eden Prairie.

International Travel

21. Mom argues that Judge Wahi's Order contemplated that the child could travel abroad with the parties, including to China with Mom. She argues that her entire life is in the United States and that she is not a risk to keep the child and stay in China.

22. Dad argues that the circumstances have changed since Judge Wahi's Order. He cites a Travel Advisory by the United States Department of State from June 30, 2023, which encourages citizens to reconsider travel to mainland China and considers China a Level 3 risk. Dad Aff., ¶6.

23. With respect to "best interest" factor #1 (children's physical, emotional, cultural, spiritual and other needs), the Court finds that it is important for the child to learn her Chinese heritage and meet her Chinese relatives. The Court finds that Mom intends to return to the United States after traveling abroad with the child. The Court does not find that China's status as a "Level 3" State Department country presents endangerment concerns. The Court notes that the advisory relates to arbitrary enforcement of the law and inability to provide consular services. The Court finds that since Mom is a Chinese citizen and will be visiting other Chinese citizens, they do not face the same risk of arbitrary enforcement of the law or need for consular services as might an American tourist. Furthermore, Dad's concerns about Mom keeping the child there, are not related to the change in status made by the State Department, such that circumstances between this Court's Order and Judge Wahi's Order have not changed.

24. With respect to "best interest" factor #2 (special needs of the child), the Court finds that this factor is neutral.

25. With respect to “best interest” factor #3 (preferences of the children), the Court finds that the child is not old enough to express a preference.
26. With respect to “best interest” factor #4 (domestic abuse and its implications), the Court finds that this factor does not guide the analysis of this issue.
27. With respect to “best interest” factor #5 (parent physical, mental or chemical health issues), the Court finds that this factor does not guide the analysis.
28. With respect to “best interest” factor #6 (history of each parent caring for child), the Court finds that this factor does not guide the analysis, other than to say that each parent has sufficient history of caring for the child that each should introduce the child to their heritage, both Chinese and Objibwe. Introduction for the child to her Chinese heritage will be furthered by allowing the child to travel to China to meet extended family.
29. With respect to “best interest” factor #7 (willingness and ability of each parent to care for the child and meet the child’s developmental, emotional, spiritual and cultural needs), the Court finds that this factor is neutral.
30. With respect to “best interest” factor #8 (effect on the child’s well-being and development of changes to home, school and community), the Court finds that a vacation to China would not involve changes to home, school or community. The Court finds, however, that it would be in the best interests of the child to discover her Chinese heritage and meet her Chinese extended family, which is best accomplished through travel to China.
31. With respect to “best interest” factor #9 (effect on ongoing relationships with siblings and other significant persons), the Court does not have specific information about specific family members in China, but the Court conceptually finds that Mom has extended family in China whom it would be important for the child to meet and with whom to develop a relationship.

32. With respect to “best interest” factor #10 (benefit to the child of maximizing time with both parents and detriment to the child of limiting time), the Court finds that it is in the child’s best interest to have vacation time with each parent, including with Mom and in Mom’s country of origin.

33. With respect to “best interest” factor #11 (disposition of each parent to support the child’s relationship with the other parent and to encourage communication with the other parent), the Court finds this factor to be neutral.

34. With respect to “best interest” factor #12 (willingness and ability to cooperate and co-parent), the Court finds that both parents are able and willing to cooperate and co-parent. This factor is neutral.

35. Taking these factors in combination, the Court finds that it is in the best interests of the child to be able to travel abroad with each parent, including with Mom to China. It is obviously imperative that the child return, but the Court finds no basis to conclude that Mom will not return with the child.

#### **CONCLUSIONS OF LAW**

##### **A. Best Interests Standard**

The “best interest” factors, which apply both to issues of custody and parenting time, are found in Minn. Stat. § 518.17, subd. 1. Those factors are: 1) the child’s physical, emotional, cultural, spiritual and other needs and the effect of the proposed arrangements; 2) special medical, mental health, developmental disability or educational needs that may require special parenting arrangements or access to services; 3) reasonable preference of the child if the child is of sufficient age and maturity; 4) whether there has been domestic abuse; 5) parent physical, mental or chemical health issues; 6) history of each parent’s participation in caring for the child; 7) willingness and ability of each parent to care for the child and meet the child’s developmental, emotional, spiritual

and cultural needs; 8) the effect on the child's well-being and development of changes to home, school and community; 9) the effect on ongoing relationships of the child with each parent, siblings and other significant persons; 10) the benefit to the child of maximizing time with both parents and detriment to the child of limiting time; 11) the disposition of each parent to support the child's relationship with the other parent and to encourage communication with the other parent (except in cases of domestic abuse); and 12) the willingness of the parents to cooperate in rearing the child. Minn. Stat. § 518.17, subd. 1(a).

In this case, the Court finds that it is in the best interests of the child to attend school in Eden Prairie. See Findings of Fact, ¶¶ 5-19. The Court finds that it is in the best interests of the child to be able to take international vacations with each parent. Id., ¶¶22-35.

Based on the foregoing, the Court issues the following:

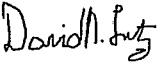
**ORDER**

1. Mom's motion ordering that the minor child attend Eden Prairie School District is GRANTED.
2. Mom's motion ordering Dad to execute all documents necessary to effectuate the travel document issued by the Chinese Government and apply for the child's passport within 10 days of this Order is GRANTED.
3. Either parent who wishes to travel internationally with the child shall provide the other parent with travel itineraries, including round trip flight numbers and reservation numbers.
4. Dad's motion for an Order that the minor child attend school in the Eagan school district is respectfully DENIED.
5. Dad's motion for an Order that international travel for the child not be allowed until the child is at least 16 years old is respectfully DENIED.

BY THE COURT:

Dated: August 22, 2023

Digitally signed by Lutz,  
David  
Date: 2023.08.22 17:07:33  
-05'00'

  
\_\_\_\_\_  
David N. Lutz  
JUDGE OF DISTRICT COURT

## **APPENDIX C**

### **MINNESOTA SUPREME COURT ORDER DENYING REVIEW**

(Dated: November 19, 2024)

**FILED**

November 19, 2024

**OFFICE OF  
APPELLATE COURTS**

STATE OF MINNESOTA  
IN SUPREME COURT

A23-1345

In re the Marriage of:

Andrew Jeffery Helmin,

Petitioner,

vs.

Yuemin Xu,

Respondent.

**O R D E R**

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the petition of Andrew Jeffery Helmin for further review is denied.

Dated: November 19, 2024

BY THE COURT:

*Natalie E. Hudson*

Natalie E. Hudson  
Chief Justice

## **APPENDIX D**

### **PETITIONER'S AFFIDAVIT SUBMITTED TO DISTRICT COURT**

(Dated: July 23, 2023)

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

FAMILY COURT DIVISION

---

In Re the Marriage of:

Court File No.: 19HA-FA-18-587

Andrew Jeffrey Helmin,

Petitioner,

and

**AFFIDAVIT OF ANDREW HELMIN**

Yuemin Xu,

Respondent.

---

STATE OF MINNESOTA      )  
                                  ) ss.  
COUNTY OF DAKOTA      )

Andrew Jeffrey Helmin, after being first duly sworn upon oath, deposes and states as follows:

1. I am the Petitioner in the above-referenced matter, and I make this affidavit in response to Respondent's Motion.
2. Respondent and I have one child, Jiaxi Eve Helmin, born 09/22/2017, currently age five.
3. Pursuant to our partial Judgment and Decree entered 03/13/2020, we share an equal 3-2-2-3 parenting schedule.
4. I do agree that there are two issues raised by Respondent and we should be able to discuss and resolve on our own, or through mediation. These issues are school placement and international travel. Unfortunately, the issues were not resolved at our mediation on June 5, 2023.
5. It is important to note that at the time of our divorce trial in March 2020, Respondent testified that she believed our child would be better off living in China, her home country, for the first three years of her life. (Finding of Fact 26).

6. The same concerns that existed at the time of our divorce trial exists now. China is not a signatory of the Hague Convention on Child Abduction. If Respondent travels to China and refuses to return I have no recourse to see my child. Currently, the United States Department of State issued a travel advisory on June 30, 2023 which encourages United States Citizens to reconsider travel to Mainland China, Hong Kong & Macau. (**Exhibit 1**). It goes on to state that one of the reasons was arbitrary enforcement of the law and the limited ability to provide consular services. It is considered a Level 3 risk.

7. Parenting time is also problematic. I live in the city of Eagan and work in Bloomington. I have less flexibility with my job because I don't work from home. By contrast, Respondent lives and works from home in Eden Prairie.

8. I will address Respondent's arguments in the context of the best interests of the child factors under Minnesota statutes.

*a) The child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;*

It is clear that Chinese is already being learned by Jiaxi simply by learning from Respondent. I would like her to learn Ojibwe, but it is not a concern since this can be taught by my family. I believe that additional languages beyond English should be taught by the families. If Jiaxi wants to learn more Chinese she can do that when she decides to on her own because I want Jiaxi to grow up as a strong, independent adult.

While the Respondent appears to be concerned only with Jiaxi's Chinese Heritage, I believe it is important for Jiaxi to understand that she is multi-ethnic. Within Respondent's Affidavit I see no mention of Jiaxi's complete heritage. I believe there should be some consideration of her Native American Heritage, that the Respondent, neither in the past or present, has shown any interest in acknowledging her Native American Heritage.

Having Jiaxi attend Eagan Schools will allow for Jiaxi to have more time with me. We will use this time to find Native American cultural events in the Twin Cities area. I want Jiaxi to learn about our Native American cultural heritage and how she is ethnically diverse.

I support Jiaxi learning about her Chinese heritage, which she has learned having more time with Respondent. As I am multi-ethnic myself, I just want Jiaxi to learn about her Native American heritage as well.

At this point in her life, I believe that for Jiaxi to have to feel as though she must choose between two nations will be very detrimental to her emotional and psychological development. I believe that it is in Jiaxi's best interest to have a feeling of stability created by a sense of belonging somewhere which will help her develop properly. I can relate to this since I grew up multi-ethnic. I always felt that I didn't really belong anywhere, like I was caught in between worlds. I believe that this did have an affect on my development. I believe the division I felt will likely be multiplied for Jiaxi because she has more than just being multi-ethnic.

With regard to international travel, I am unable to understand how it would benefit Jiaxi to travel at this age. I remember taking trips, however I don't remember anything specific, nor has it helped my development in any way. She is too young to really get anything substantive from the travel experience. Additionally, it is my understanding from the Respondent that Jiaxi has a hard time adjusting to big changes. In my opinion international travel can only then be detrimental to Jiaxi's emotions and development. Holding travel until Jiaxi can choose on her own will not be detrimental to her since she is not old enough to know what is best for her developmental needs. I do understand that she has a right to see her family. She does see them when they travel to the United States as they have done.

*b) Any special medical, mental health, or educational needs that the child may have that may require special parenting arrangements or access to recommended services;*

As I see Jiaxi grow, I have seen positive changes in her behaviors. However I believe a second opinion on her mental health could be beneficial.

*c) The reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference;*

The minor child is not of sufficient ability, age, or maturity to express an independent, reliable preference at this time.

*d) Whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship: the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and development needs;*

The Respondent's concern with what has happened in the past should have no relevance since these issues have been addressed and resolved. However, if the court finds that these matters are relevant, I would like to submit to the court the letter that I, the Petitioner, received on March 26, 2019 from Hennepin County Child Protective Services (**Exhibit 2**). There was a finding of physical child abuse made against the Respondent as can

be seen by the resulting case plan. (Exhibit 3). The case plan listed as the risk factor being high.

*e) Any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs;*

I don't believe there are any issues or concerns regarding either the Petitioner or Respondent that have not already been resolved.

*f) The history and nature of each parent's participation in providing care for the child;*

The Respondent has chosen take on all of the preventative health care duties. I have no issue in being a part of the check ups, however, the chosen providers are in Eden Prairie, which makes it more difficult for me to participate in these appointments.

I have been a part of taking Jiaxi to a clinic when it is necessary for example when Jiaxi had labored breathing or when she pinched her fingers in a gas station bathroom.

I attempted to contact Jiaxi's therapist repeatedly. Typically, I do not receive calls back until I contact Washburn Center for Children directly. When we do talk we discuss issues around Jiaxi.

*g) The willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time;*

I believe that we are both willing and capable to provide these needs besides what was mentioned above in item (a). I am also involved with Jiaxi at her daycare as time permits. I have attended all of Jiaxi's concerts that I was aware of, and I am also available to tend to any additional needs as they arise when Jiaxi is at daycare. I participate in Jiaxi's daycare activities as often as I can given the constraints of the time, distance, and traffic.

I don't understand the relevance of the Respondent continuing to rehash events that have been both addressed and resolved that no longer have any bearing on the criteria of this section.

I may only rent, but I have been in the same apartment for over five years now. Although I may daydream about moving near family, I do have a home and Jiaxi respects it as much.

*h) The effect on the child's well-being and development of changes to home, school, and community;*

I can't see how it is more consistent for Jaxi to attend Eagan or Eden Prairie Schools. She may know some children from daycare, however, how many will attend the same school as she will?, how many classes are there in each grade?, how many of the parents that had children at the daycare work in Eden Prairie but live in another city? Jaxi will have many new faces around her regardless of which school she attends.

I believe that Jaxi's enthusiasm to attend "real school" should be enough to help her to adjust.

*i)The effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life;*

My proposal of Eagan Schools will not affect the relationships as the 3-2-2-3 schedule already in place.

*j)The benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;*

The proposal of Eagan Schools will maximize Jaxi's time with the Petitioner, which is currently reduced because the current arrangement is detrimental to Jaxi's time with me. The Respondent has stated that she works from home which likely allows for a much more flexible schedule and will likely not be as detrimental to Jaxi's time with Respondent.

*k)Except in cases in which domestic abuse as described in clause (4) has occurred the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and other parent;*

There have not been any notable issues or concerns with limiting contact.

*l)The willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child;*

I attempted to work with Erin Kassebaum as a parenting coach. I was informed that she will not work with me (**Exhibit 4**).

I am concerned with the lack of medical information that is shared with me. It would help if I was kept informed about what is going on with Jaxi's health.

9. I request that the Court find in favor of my request for Jaxi to attend public school in Eagan School District where I currently reside and have for five years.

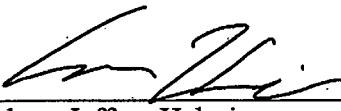
10. Since the Respondent is able to work from home she would be more able to transport the child to and from Eagan with less of a burden on her work schedule.
11. Jiaxi has not yet been registered, however, I have already started the process with an Early Childhood Screening.
12. I have researched about before and after school care. I have found that School District 197 offers this program (**Exhibit 5**). Before school the program starts at 6:30 am until school begins, and from after school until 6:00 pm. This care program will give both me, the Petitioner, and the Respondent the flexibility we will need to make it work. Although I have been unable to contact the program directly yet since the school year hasn't begun, an online search reveals the cost to be \$15.00 per session meaning each morning or evening. This cost can be split as the daycare costs are split now.
13. I request the court to deny the international travel requested by the Respondent.
14. It is common knowledge that there is conflict between the United States and China over the Taiwan issue. With all that is going on in the world stage, I feel travel to China could place Jiaxi in jeopardy.
15. Because China is not a signatory to the Hague Convention, there would be no recourse for recovering my daughter because United States laws will no longer apply.
16. I cannot in good conscience sign documents for Jiaxi to travel internationally. Given the Respondent's history of child abuse. Our history has shown that Respondent is not reliable to ensure the safety of Jiaxi. Respondent has a history of abandoning Jiaxi when the situation is interpreted as dangerous without contacting emergency services per her own statements within the Order for Protection. Additionally, the Respondent is part of the Safe at Home program, which illustrates that she isn't able to trust me, and makes it impossible to trust her.
17. I am not aware of a Minnesota statute that grants the court the power to order me not only to allow my daughter to travel internationally, but to also obey Chinese law. Because Respondent

requires documents mandated by Chinese law, this means that I am to obey Chinese law within the United States which is unthinkable.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. §358.116.

FURTHER AFFIANT SAYETH NOT.

Dated: 7/30/2023



---

Andrew Jeffrey Helmin

Signed in Dakota County



[Travel.State.Gov](#) > [TravelAdvisories](#) > [China Travel Advisory](#)

## China Travel Advisory

Travel Advisory  
June 30, 2023

See Summaries – Mainland China,  
Hong Kong & Macau



**Reissued with updates to wrongful detention language and information for the Hong Kong and Macau Special Administrative Regions (SARs).**

**Summary:** Reconsider travel to Mainland China due to the arbitrary enforcement of local laws, including in relation to exit bans, and the risk of wrongful detentions.

Exercise increased caution when traveling to the Hong Kong SAR due to the arbitrary enforcement of local laws.

Reconsider travel to the Macau SAR due to a limited ability to provide emergency consular services. Exercise increased caution when traveling to the Macau SAR due to the arbitrary enforcement of local laws.

See specific risks and conditions in each jurisdiction.

### Travel Advisory Levels

- 1 Exercise normal precautions
- 2 Exercise increased caution
- 3 Reconsider travel
- 4 Do not travel

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No. 55 An Jia Lou Road  
Chaoyang, Beijing

#### Telephone

+86(10) 8531-4000

#### Emergency

+86(10) 8531-4000

#### Fax

+86(10) 8531-3300

#### Email

[BeijingACS@state.gov](mailto:BeijingACS@state.gov)

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## Hennepin County Human Services and Public Health Department

**Child Protection Services**  
627 W. Broadway Ave  
Suite 200 MC 700  
Minneapolis, MN 55411

612-348-3552  
Fax: 612-466-9978  
TDD: 612-348-6027  
[www.hennepin.us](http://www.hennepin.us)

March 26, 2019

**ANDREW HELMIN**  
3396 Yankee Doodle Ln, Apt 315  
Eagan, MN 55121

Dear ANDREW HELMIN:

Hennepin County Human Services and Public Health Department received a report stating that your child may have been physically abused by an unknown offender. As required by law, an investigation was completed to determine whether maltreatment occurred and whether child protective services are needed. Information was gathered to make these determinations according to the process required by Minnesota Statutes, section 626.556, subdivision 10, paragraphs (h), (i), and (j).

**Results of investigation:**

Based on the information gathered, there is a preponderance of the evidence to support a finding of physical abuse. It has been determined that maltreatment did occur and that child protective services are needed. An agency worker will be in contact with you to discuss services and develop a case plan. The reasons for this decision are based on information gathered during the course of the child protection investigation.

**Child Protection records:**

Because maltreatment was determined, Hennepin County Human Services and Public Health Department must keep a written record of this report on file for at least 10 years. You, your child, the alleged offender and others may have the right to see some data in the report.

**Your rights:**

If you do not agree with the county's determination that maltreatment occurred, you may ask the county to reconsider its determination. Your request for reconsideration must be submitted in writing within 15 calendar days of receiving this letter. The instructions for seeking an agency reconsideration are attached.

If you have any questions about the child protection investigation or other information discussed in this letter, please call me at (612)382-6486.

Sincerely,

**Minnesota Department of Human Services**  
**Child Protective Services Plan**

Family name: Xu Yuemin	County case #:
Plan dates: 03/25/2019 - 06/25/2019	Next review date: 06/25/2019
Worker name: Spencer L Corrigan	Worker phone: (612)543-4859

**Family members**

Name	Date of birth		
Address	Type	Phone	Extension
JIAXI HELMIN PO BOX 17370 St Paul, MN 55117		09/22/2017	
YUEMIN XU Lot #3421, PO Box 17370 St Paul, MN 55117-0370		05/21/1992	

Spencer L Corrigan met with Ms. Yuemin Xu to jointly make this plan.

**Risk Factors**

**Risk Level:** High

**Reasons protective services are needed, including the risk and safety factors for the children:**

**Harm:** The Department learned that Jiaxi has been seen with multiple bruises on her body on a regular basis, some of which are not consistent with her age and development and that these bruises are unable to be explained by her caregivers.

**Danger:** The Department is concerned that, without intervention and services, Jiaxi may continue to have bruising or injuries that are indicative of physical abuse, which may negatively impact her safety and well-being.

**Goal 1: Safety**

**Goal 1 is safety. Children are protected from harm. Children are safely maintained in their home.**

**What needs to happen in order for safety to be achieved?**

The Department will feel confident in closing this case when Ms. Xu understands that bruises seen on Jiaxi are detrimental to her health and further injury may lead to life threatening results.

**What do we need to do to achieve safety?**

Ms. Xu will participate in individual therapy and address domestic violence issues

Ms. Xu will not use corporal punishment

Ms. Xu will bring Jiaxi to therapy at Washburn and attend family therapy with her child

Ms. Xu will follow through with any and all recommendations from Washburn

**When will we review the progress of this goal?**

This case plan will be reviewed in 90 days

CPSW will keep in contact with the therapist from Washburn and check in on how they are doing

CPSW will meet with the family 1 time per month (minimum)

## Minnesota Department of Human Services Child Protective Services Plan

### Goal 2: Well-being

**Goal 2 is well-being. Children's family will have improved ability to provide for their children's needs.**

**What needs to happen in order for child well-being to be achieved?**

**CW-TCM goals to be achieved in 3 months:**

Jiaxi will have their basic needs met such as: food, clothing and shelter

Jiaxi will receive regular medical checkups and any necessary follow ups recommended by their physician

**What do we need to do to improve child well-being?**

CPSW will monitor Jiaxi environment at each home visit.

CPSW will meet with the family 1 time per month to discuss Jiaxi needs and make referrals as needed.

**When will we review the progress of this goal?**

CPSW will review the services and case plan and revise as need in 90 days.

### Child Needs

**Describe any other educational, physical or mental health needs of any child in the home related to the reason for the child protection services:**

CPSW will ensure that the child is receiving their medical check ups and any follow ups that are recommended by a physician.

### Plan Concerns

**What will happen if behaviors do not change to reduce the risk of abuse or neglect?**

Failure to comply with this case plan may result in a consultation with the County Attorney's office to discuss appropriateness of court involvement and/or removal of the child from the home.

**Minnesota Department of Human Services  
Child Protective Services Plan**

---

**Minnesota Department of Human Services**  
**Child Protective Services Plan**

Signature	Date	This plan was explained to me	I received a copy of this plan
(Client) <i>Xuemin Xu</i>	4/23/19	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(CPSW) <i>Dawn Lee</i>	4/25/19	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Supervisor)		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

This information is available in alternative formats to individuals with disabilities by calling your county worker. TTY users can call through Minnesota Relay at (800) 627-3529. For Speech-to-Speech, call (877) 627-3848. For additional assistance with legal rights and protections for equal access to human services programs, contact your agency's ADA coordinator.

## **APPENDIX E**

### **EXCERPTS FROM APPELLANT'S COURT OF APPEALS BRIEF**

(Dated: April 1, 2024)

The following excerpts from the Appellant's brief submitted to the Minnesota Court of Appeals (Case No. A23-1345) are included to demonstrate that the legal issues presented in the Petition for Writ of Certiorari have been previously raised at the state level. These excerpts confirm that the federal constitutional concerns—such as Due Process, Equal Protection, and issues related to Native American cultural heritage—were properly presented and preserved for review by this Court.

## **I. Due Process Violation in Custody Determination**

Excerpt from Appellant's Court of Appeals Brief, p. 5:

"The parties share joint legal custody and have a 50/50 parenting schedule (ADD. 2, Findings of Fact, paragraph 1). The Court failed to apply this fact to international travel considerations and how it would affect ability of co-parent."

Excerpt from Appellant's Court of Appeals Brief, p. 7:

"The court did not consider citizenship regarding this issue. However, the court is aware that Respondent is not an American Citizen '...Mom is a Chinese citizen...' (ADD. 7, Findings of Fact, paragraph 23)."

## **II. Substantive Due Process Violation**

Excerpt from Appellant's Court of Appeals Brief, p. 11-12:

"The Court did not adhere to the law, particularly Minn. Stat. § 518.17, subd. 1(b)(1) (amended 2020, effective 2023) in not only failing to make detailed findings, but also applying the facts that were made available to the court by the Appellant. The statute is clear that 'the court must make detailed findings on each of the factors in paragraph (a) based on the evidence presented and explain how each factor led to its conclusions and to the determination of custody and parenting time.'"

Excerpt from Appellant's Court of Appeals Brief, p. 13:

"Appellant must note that the fact of the founded child abuse was not addressed at the motion, or even acknowledged by the Court to be disturbing. This is not simply an allegation by Appellant. This was a finding after an investigation conducted by Child Protective Services of Hennepin County. The Court did not make any consideration of this fact. U.S. Const. amend. XIV grants all the right to be protected, this includes children."

## **III. Equal Protection Violation—Cultural Bias in Custody Decision**

Excerpt from Appellant's Court of Appeals Brief, p. 10:

"The Appellant must note that cultural considerations were largely ignored with the lack of detailed findings on how minor child is to learn her American and Native American heritage

equitable with regards to her Chinese heritage. There appears to be a negligence of the acknowledgement of the multi-ethnic background by the focus of a single ethnic background when considering best interest of the child."

Excerpt from Appellant's Court of Appeals Brief, p. 11:

"The Court failed to decipher if the minor child has contact with her extended family with technology such as Zoom or equivalent. The Court also failed to recognize that minor child already is exposed to her Chinese heritage daily with Respondent."

#### **IV. Failure to Consider Child Safety and International Custody Risks**

Excerpt from Appellant's Court of Appeals Brief, p. 8:

"First, if the minor child travels to China, she will be an American tourist. Therefore, the concern of the level 3 travel alert to China is relevant and does apply since the minor child is an American citizen because she would be carrying an American passport. Second, considering the language as quoted above, it appears that the best interest of the Respondent is being considered rather than that of the minor child which is not appropriate by the nature of the statute."

Excerpt from Appellant's Court of Appeals Brief, p. 9:

"There was no consideration of the founded child abuse finding made against the Respondent. This issue is new to the case but the Court ignored this fact."

#### **V. Failure to Apply ICWA Principles to Custody Decision**

Excerpt from Appellant's Court of Appeals Brief, p. 12:

"The statute is clear that 'the court must make detailed findings on each of the factors in paragraph (a) based on the evidence presented and explain how each factor led to its conclusions and to the determination of custody and parenting time.'"

#### **VI. Constitutional Concerns with Foreign Law Compliance**

Excerpt from Appellant's Court of Appeals Brief, p. 12:

"The Trial Court made no such similar findings regarding international travel. While not precedent, it was still an important factor in this opinion."

These excerpts establish that Petitioner has consistently raised concerns about procedural due process, equal protection violations, child safety in international custody, ICWA compliance, and unconstitutional imposition of foreign laws. This confirms that Petitioner is not presenting new legal issues before the U.S. Supreme Court but rather refining them within the appropriate federal framework.