

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0861**

In re the Matter of: Susan Kelly Lynn, petitioner,
Appellant,

vs.

Christopher James Greenfield,
Respondent.

**Filed June 29, 2020
Affirmed
Hooten, Judge**

Hennepin County District Court
File No. 27-FA-18-1440

Susan Kelly Lynn, Minneapolis, Minnesota (pro se appellant)

Christopher James Greenfield, Minneapolis, Minnesota (pro se respondent)

Considered and decided by Hooten, Presiding Judge; Worke, Judge; and Jesson,
Judge.

UNPUBLISHED OPINION

HOOTEN, Judge

On appeal from an order establishing parenting time, appellant-mother argues that the district court abused its discretion when it awarded equal parenting time to respondent-father because the district court: (1) made findings of fact that are not supported by the record, (2) misbalanced the child's interests, (3) denied mother due process of law through

various procedural events, and (4) incorporated purportedly false statements made by the Family Court Services (FCS) evaluator into its order. We affirm.

FACTS

Appellant-mother, Susan Kelly Lynn, and respondent-father, Christopher James Greenfield, are the parents of a 13-year-old daughter with Down syndrome, developmental delays, and a number of other medical conditions. Though Lynn and Greenfield were never married, Greenfield signed a recognition of parentage.

Following a hearing on March 30, 2018, the district court issued an initial case management order that granted Greenfield temporary parenting time twice a week at his mother's home. The initial order also prohibited Greenfield's girlfriend from attending his parenting time at his mother's home and referred the parents to participate in a Social Early Neutral Evaluation (SENE).

On May 2, 2018, the district court issued an order granting Lynn sole physical custody based on the parties' agreement following their participation in the SENE. The district court also referred the matter to an evaluator in FCS.

One month later, Lynn wrote a letter to the district court alleging that Greenfield's girlfriend sexually assaulted the child. Lynn claimed that the child told her that the girlfriend raped the child with a "stick" and possibly performed oral sex on the child. The police investigated these allegations and determined there was insufficient evidence to proceed. In the meantime, Lynn obtained ex parte protection orders against Greenfield and the girlfriend on behalf of herself and the child. The district court vacated the protective order against Greenfield following an evidentiary hearing, and Lynn voluntarily dismissed

the protective order against the girlfriend. As part of the dismissal, the district court ordered that all custody and parenting time matters were to be addressed by family court.

On December 7, 2018, the FCS evaluator completed his evaluation. The matter of custody and parenting time went to trial, at which time the district court heard testimony from the parties and other witnesses. The district court awarded the parties joint legal custody of the child and awarded Lynn sole physical custody of the child. In its order, the district court conducted an analysis of the best interest factors as required under Minn. Stat. § 518.17, subd 1 (2018). As a result of the district court's balancing of the best interest factors, it created an equal parenting-time schedule to be achieved following a transitional period during which therapeutic parenting time sessions were to occur with Greenfield, his girlfriend, and the child. Lynn appeals.

D E C I S I O N

A district court has broad discretion to provide for the custody of a child. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984); *In re M.R.P.-C.*, 794 N.W.2d 373, 378 (Minn. App. 2011). “Appellate review of custody determinations is limited to whether the [district] court abused its discretion by making findings unsupported by the evidence or by improperly applying the law.” *Pikula v. Pikula*, 374 N.W.2d 705, 710 (Minn. 1985).

I. The district court's findings of fact are supported by the record and thus are not clearly erroneous.

A district court's findings of fact will be sustained unless they are clearly erroneous. *Id.* at 710; see Minn. R. Civ. P. 52.01 (stating that only clearly erroneous findings of fact are set aside). “Appellate [courts] set aside a district court's findings of fact only if clearly

erroneous, giving deference to the district court's opportunity to evaluate witness credibility. Findings of fact are clearly erroneous where an appellate court is left with the definite and firm conviction that a mistake has been made." *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (quotations and citations omitted). "When determining whether findings are clearly erroneous, the appellate court views the record in the light most favorable to the [district] court's findings." *Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000).

Lynn points to 10 findings of fact that she claims were misconceptions made by the district court scattered throughout its assessment of the best interest factors.

A. The finding that Lynn unnecessarily scheduled medical appointments on behalf of the child

Lynn argues that the district court's finding that she scheduled unnecessary medical appointments for the child was clearly erroneous and that she has only scheduled necessary medical appointments for the child. While the district court did not state that all medical appointments scheduled by Lynn were unnecessary, it found that she exposed the child to "repetitive and unnecessary medical appointments," whether the child had a real ailment or not. In its order, the district court expressed concern with the different versions of medical information presented by Lynn and presented by the medical providers and the "extreme negative effects the child will experience if she is routinely subjected to unnecessary medical intervention in an effort to further [Lynn's] various narratives." As an example taken from a different best interest factor, the district court referenced Lynn's repeated medical appointments for multiple tests related to various medical conditions,

such as Lyme's disease and bacterial infections, which she believed her child was exposed to as a result of spending time with Greenfield's girlfriend. Another example mentioned by the district court was Lynn's scheduling of a medical appointment to address her child's urinary retention, which she claimed was related to sexual abuse of the child, presumably by Greenfield's girlfriend. Yet, as noted by the district court, Greenfield's girlfriend denied having any of these medical conditions, the medical conditions attributed to the girlfriend by Lynn were not generally contagious, and "none of the allegations were verified or corroborated."

The district court's findings are supported by the FCS report and the testimony of Lynn and other witnesses. Despite the fact that there was no medical evidence in the record that the child ever had Lyme's disease, as she was tested for it on several occasions, or that the girlfriend had Lyme's disease, Lynn continued to insist during trial that the disease was contagious and that her daughter had contracted an auto-immune disease from the girlfriend. Additionally, the FCS report included statements from the child's physician, who stated that Lynn "has some unique ideas regarding [the child]'s health that are not always consistent with [the child]'s presenting conditions."

Furthermore, in the context of the various medical and social service appointments made in connection with the alleged sexual assault of the child, the district court observed that none of the allegations were ever corroborated by any of the physicians, child protection workers, therapists, law enforcement officers, or other social service staff members involved in the matter. The district court found that in Lynn's "crusade to prove" that the child was sexually assaulted by the girlfriend, the child has been "unnecessarily

subject[ed] . . . to many medical and other professionals” including a string of STD tests, “in an effort to bolster her allegations.” This finding was supported by the FCS evaluator as well, who details Lynn’s insistence that the child undergo tests for various medical conditions including testing for sexually transmitted infections.

When considering the record in the light most favorable to the district court’s conclusion, *Vangsness*, 607 N.W.2d at 472, we conclude that the district court’s finding that Lynn has subjected the child to some unnecessary medical tests and appointments, calling her “crusade” to demonstrate that the girlfriend sexually assaulted the child, has support in the record and therefore is not clearly erroneous. Based upon this record, we are not “left with the definite and firm conviction that a mistake has been made.” *Goldman*, 748 N.W.2d at 284 (quotations and citations omitted.).

B. The alleged finding that the child was not sick in the spring of 2018 and September of 2018

Lynn argues that the district court’s statement that the child was not sick in the spring of 2018 and in September 2018 was clearly erroneous because “[the child] did contract the physically transmitted skin diseases of candidiasis and molluscum contagiosum” in February 2018, contracted the flu twice in the spring of 2018, and had food poisoning from September 2018 to October 2018.

Contrary to Lynn’s assertions on appeal, nothing in the district court’s order states that the child was not ill during this time period; rather, the district court’s statements regarding the child’s multiple illnesses was in reference to the extensive amount of school and parenting time with Greenfield that was missed as a result of these alleged illnesses.

The district court also noted that a review of the child's medical records showed the child presenting as healthy with a normal temperature at the time of various medical visits. Nevertheless, Lynn insisted during this time period, the child had been diagnosed with the flu and as a result had to miss school for as many as 15 days.

While the child's medical records indicate that she was diagnosed with the flu in March 2018, Lynn submitted no evidence of any symptoms upon the child's presentation in urgent care or at a follow-up visit to the emergency room. The FCS report noted that although there were times when the child's illnesses were consistent with her medical records, there were other times where the only indication of the child's illness was from Lynn, and the reported symptoms were not reflected in the child's medical records. Based on a review of the child's medical records and meetings with Lynn and the child's healthcare providers, the FCS evaluator noted that "[i]t is often difficult to follow [] Lynn's explanations for [the child] being at so many appointments and missing so much school, as [] Lynn is not always consistent in reporting and sometimes exaggerates [the child]'s symptoms."

The district court's findings only discussed the effect of these frequent, and sometimes poorly-documented, illnesses on the child's attendance at school and on Greenfield's parenting time. Based upon our review of the child's medical records, the FCS investigation report comprised of interviews with the child's various medical providers, and the trial record, we conclude that these findings are not clearly erroneous.

C. The alleged district court finding that “Lynn gets medical information wrong”

While the district court noted that Lynn provided “inadequate and shifting explanations” to account for the child’s prolonged illnesses and absences from school, the district court did not specifically state that “Lynn gets medical information wrong.” But, because there were numerous accounts in the record that Lynn offered inconsistent or unsupported allegations of her child’s illnesses, we conclude that the district court’s statement regarding these inconsistencies was not clearly erroneous.

D. The alleged district court finding that Lynn and Greenfield did “not do enough homework” with the child

Lynn argues that the district court’s finding that she and Greenfield “do not do enough homework with” the child is clearly erroneous because both parents do “lots of homework” with the child, and the child is “a straight A student.”

What the district court actually found was that “both parties have struggled to complete homework with the child.” This finding was supported by Lynn’s statements that Greenfield does not do homework with the child, as well as the FCS report that indicated that a social worker at the child’s school stated that Lynn did not “worry about all of the homework that [the child] misses when she is not at school.” The FCS report also indicated that the evaluator spoke with the child’s teacher who confirmed that “homework is missing that would accumulate during both parents’ time with [the child].”

When considering the record in the light most favorable to the district court’s conclusion, *Vangsness*, 607 N.W.2d at 472, we conclude the district court’s finding that

both parents “have struggled to complete homework with the child” is not clearly erroneous.

E. The alleged district court finding that Lynn “did not spend years teaching [the child] about the respect of personal space”

Lynn argues that the district court’s finding that she “did not spend years teaching [the child] about the respect of personal space” with regard to the child’s sexual behavior is clearly erroneous. Lynn claims that the child only began to show “aggressive sexual behavior on an extreme level where she would disassociate from the crying and screaming of friends . . . while laughing maniacally” in the spring of 2018, after she was allegedly sexually abused by Greenfield’s girlfriend.

But there is nothing in the district court order specifically addressing Lynn’s purported failure to teach the child about the respect of personal space. What the district court found is that “[m]any adults caring for the child report that the child frequently masturbates” and has done so for “several years” before any allegations of sexual abuse by the girlfriend. This finding is supported by the record. Greenfield’s mother testified that the child’s masturbation has been a problem for at least four years and that she has not noticed any recent changes in this behavior. The FCS evaluator also noted that children with Down syndrome experience difficulties establishing appropriate boundaries with regard to sexuality, and that the child’s therapist, teachers, and Greenfield’s girlfriend have observed the child masturbating during sessions, in class, and in public. Lynn acknowledged that children in the child’s gymnastics class were moved to other classes because the child would touch them inappropriately. The FCS evaluator stated that “[i]t is

imperative that [the child] and her caregivers set meaningful boundaries that [the child] is able to understand regarding her sexuality and what is appropriate.”

The record clearly supports the district court’s finding with regard to the child’s history of inappropriate sexual acts. When considering the record in the light most favorable to the district court’s finding, *Vangsness*, 607 N.W.2d at 472, we conclude that the district court’s finding is not clearly erroneous.

F. The finding that Lynn voiced allegations of the child’s alleged sexual abuse in the presence of the child

Lynn argues that the district court’s finding that she likely discussed allegations of the girlfriend’s alleged sexual assault in front of the child was clearly erroneous because she “has never brought up . . . the issue of sexual abuse” to the child.

In its order, the district court extensively discussed Lynn’s allegations of sexual abuse of the child by the girlfriend, referencing the child protection investigation report that was prepared when Lynn made these accusations. This report detailed several interviews with the child conducted by child protection officers and noted specifically that the child failed to make any open disclosure regarding any assault or any sexual touching by any individual.

The child protection investigation report described that over the course of a two-day forensic interview, the child’s demeanor changed significantly from pleasant on the first day to confused on the second day, spontaneously stating that “[girlfriend] is sick,” which sometimes sounded like “stick,” and fumbling for additional words. Nevertheless, the child did not disclose any sexual abuse. This stark change in attitude and the spontaneous

statements regarding the girlfriend, as well as the complete lack of contact between the child and the girlfriend at the time, led the district court to conclude that “the most likely explanation . . . is that the child either overheard [Lynn] discussing the allegations in detail or that [Lynn] was actively coaching the child to say such statements.”

This factual finding appears to be based on credibility assessments made by the district court as to the veracity of Lynn’s claims relative to the child protection investigation report. These determinations of credibility are better left to the district court. *See Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) (noting that appellate courts defer to district court credibility determinations).

As there is support in the record for the reasonable inference that Lynn may have spoken about the details of the alleged assault to the child, or that the child may have overheard Lynn speaking about the allegations so as to compel her to speak about the girlfriend during the forensic interview, we conclude that the district court’s determination was not clearly erroneous.

G. The district court’s finding that the child spoke with an unusual speech pattern on the second day of the child protection investigation regarding the alleged sexual assault

Lynn argues that the district court’s finding that the child’s speech during the child protection investigation “was unusual to her pattern of expression” was clearly erroneous because the child “was distressed in an ‘every other day’ pattern.”

The district court determined that the credibility of Lynn’s statements regarding the alleged sexual assault of the child by the girlfriend were further discredited by the child’s changed demeanor over the two-day interview. This finding is supported by the record.

As described above, the child protection investigation report noted that over the course of a two-day forensic interview, the child's demeanor changed significantly from pleasant on the first day to confused on the second day, spontaneously stating that "[girlfriend] is sick," which sometimes sounded like "stick." This stark change in attitude, and the spontaneous statements regarding the girlfriend, led the district court to conclude that "the most likely explanation . . . is that the child either overheard [Lynn] discussing the allegations in detail or that [Lynn] was actively coaching the child to say such statements." Lynn claims that this stark change in attitude was the result of the child's "every other day" pattern resulting from the "trauma . . . and experiences at her father's house." However, there is no other support in the record for this "every other day" pattern.

The district court, relying upon testimony from one of the child's teachers and her speech therapist, also found that "the child has limited speaking abilities" and has difficulties creating three word sentences. The district court noted that the child's speech therapist also reported that "the child repeats much of what she hears other people say or what is presented on cards," "is not always intelligible in her speaking," and "the child will tell a person whatever she thinks that person wants to hear."

As credibility determinations are better left to the district court, *Sefkow*, 427 N.W.2d at 210, and there is support in the record for the district court's finding that the child's demeanor and manner changed over the course of the two-day child protection interview, we conclude that the district court's finding is not clearly erroneous.

H. The district court's alleged finding that Lynn is "egotistical, self-aggrandizing, vindictive or unnecessarily repetitive in her speech patterns"

Lynn argues that the district court's finding that she is "egotistical, self-aggrandizing, vindictive or unnecessarily repetitive" is clearly erroneous because she "is known in her community as someone who is humble" and "is mild mannered and is steady in her demeanor." But, the district court never specifically stated that Lynn was egotistical or self-aggrandizing. The district court did reference Lynn's psychological evaluation, in which a doctor observed that Lynn "spoke in a lot of what is likely hyperbole or narcissistic/histrionic trait fashion" which "could be indicative [of] a personality disorder." The district court also noted that during trial, Lynn "tended to repeat herself regarding the same statements, terms, or allegations in a less than credible manner, as if she was hyper focused or obsessed with her own description of events." Additionally, the district court noted that Lynn's relationship with Greenfield's mother "vacillated between caring and supportive at times and hostile and vindictive at others."

The FCS report and transcripts from the custody hearing support this finding. First, the FCS report included findings from the doctor who administered Lynn's psychological evaluation. Second, review of the transcripts from the custody hearing demonstrate Lynn's histrionic and repetitive speaking styles. For example, Lynn attempted to discredit and dispute the findings reported in an article written by the Centers for Disease Control related to whether there was human-to-human transmutability of Lyme's disease, repeatedly attempted to give her own scientific analysis of the results of a drug test, continued to discuss problems after the district court directed her away from a certain topic, and asked

a series of rhetorical questions related to the effectiveness of Greenfield's court-ordered anger management treatment. Additionally, after testifying in detail regarding her disagreement with the findings of the FCS report, Lynn read a written statement to the district court and acknowledged that her statement "might be a little bit repeating," but still thought that it was "important that I make these statements at this point." The vindictive nature of the relationship between Lynn and Greenfield's mother is also evidenced by Lynn's testimony and emails included in the record that details the argumentative, and at times combative, relationship between the two women.

Given that the district court never made a finding that labeled Lynn egotistical and self-aggrandizing, and the record supports a determination regarding the existence of Lynn's repetitive and hyperbolic speaking style and troubled relationship with both Greenfield and his mother, we conclude that the district court's finding was not clearly erroneous.

I. The district court's finding that "Lynn has presented unsubstantiated accusations"

Lynn argues that the district court's finding that she "presented unsubstantiated accusations," presumably against Greenfield's girlfriend, is clearly erroneous because she "has regretted having to bring allegations forward and knows her allegation to be true based on evidence and experience."

The district court never explicitly stated that Lynn's sexual assault allegations were false; instead, the district court merely stated that none of her claims have been corroborated by any of the multiple law enforcement professionals, medical professionals, and social service professionals involved in the investigation. Nevertheless, the district

court stated that “it appears that one of [Lynn]’s primary positions in this matter has been to try and convince the Court and other professionals, including Child Protection workers, law enforcement, CornerHouse staff, therapists, medical professionals, and teachers, that the child was sexually assaulted.”

This finding is supported by the FCS report, which noted that Lynn “may be actively undermining her ability to meet [the child]’s emotional and developmental needs by focusing on her crusade to prove that [the child] is in danger if she were to be in [] Greenfield’s and [his girlfriend]’s care.” The FCS report stated that the child has “significant needs that require constant attention; however, much of this report hinges on [Lynn’s]’s seeming desire to be supported in her belief that [the child] was sexually abused by [the girlfriend]” despite there being “no data to support her claim.”

Because there is support in the record for the district court’s findings, and we are to consider the record in the light most favorable to the district court’s conclusion, *Vangsness*, 607 N.W.2d at 472, we conclude that the district court’s finding is not clearly erroneous.

J. The district court’s finding that the child “did not have the ability to speak in the spring of 2018 with enough ability to make 3-5[] word sentences.”

Lynn argues that the district court’s finding that the child was only able to speak three-word sentences, and thus was unable to articulate the disclosures that she claimed the child made, was clearly erroneous because the child told her of the alleged sexual assault.

The district court found that the child was only able to articulate three-word sentences and therefore was unable to disclose any evidence of sexual abuse. The record supports this finding. The child investigation report shows that on the first day of the

child's forensic interview, a day used to assess the child's verbal capacity, the child was only able to answer questions with two- to three-word responses. Lynn claims that the child is able to speak in more complex sentences and points to school records that purportedly supported this assertion. However, these school records are not included in the record before this court. *See* Minn. R. Civ. App. P. 110.01 (defining the record on appeal).

As the record offers support for the district court's finding that the child's verbal abilities were insufficient to make the alleged disclosures to Lynn, we conclude that this finding was not clearly erroneous.

II. It is not the role of this court to rebalance the factors relied upon by the district court to determine custody and parenting time.

Lynn asks this court to rebalance the best interest factors so as to limit Greenfield's custody and parenting time. However, our "review of custody determinations is limited to whether the [district] court abused its discretion by making findings unsupported by the evidence or by improperly applying the law." *Pikula*, 374 N.W.2d at 710. Accordingly, absent a determination that the district court relied on clearly erroneous facts, or improperly applied the law, it is not the role of an appellate court to question the district court's balancing of the best interest consideration. *Vangsness*, 607 N.W.2d at 477.

The best interests of the child are central to custody and parenting time determinations. Minn. Stat. § 518.17, subd. 1(a). The statute articulates 12 factors that a district court must consider in evaluating the best interests of the child. Minn. Stat. § 518.17, subd. 1(a)(1)-(12). The district court must make "detailed [factual] findings on

each . . . factor” and “explain how each factor led to [the district court’s] conclusions and to the [ultimate determination] of custody and parenting time. Minn. Stat. § 518.17, subd. 1(b)(1).

Here, the district court carefully considered each of the best interest factors in an exceptionally detailed order. The district court determined:

In consideration of the presented evidence, the Court finds it necessary and in the child’s best interests that the parties share legal custody of the child. Such a designation is particularly important in this case considering [Lynn]’s inconsistent narratives and repeated use of medical providers, often to the point where the child missed school and parenting time with [Greenfield].

The district court also acknowledged Greenfield’s “lack of involvement with the child and his credibility regarding questionable choices in his personal life” including some past drug use and anger issues. Nevertheless, the district court concluded that “the child’s needs will best be served by spending significant time with [Greenfield]” and thus awarded both parents joint legal custody, awarded Lynn sole physical custody as previously stipulated by the parties, and a graduated parenting schedule for Greenfield. This conclusion is based on a balancing of the best interest factors by the district court—a balance we cannot reweigh.

Because the factual findings with which Lynn takes issue were not clearly erroneous, and the district court did not improperly apply the law when it assessed the best interest factors, the district court did not abuse its discretion when it awarded joint legal custody and equal parenting time.

III. Lynn has forfeited her remaining claims.

Lynn argues that she was denied due process due to various procedural events and that the FCS report relied upon by the district court was inaccurate. However, “on appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it.” *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464–65 (Minn. 1944); *see also Gruenhagen v. Larson*, 246 N.W.2d 565, 569 (Minn. 1976) (stating that generally, a court will not modify ordinary rules and procedures because a pro se party lacks the skills and knowledge of an attorney).

Lynn has failed to cite or analyze any valid legal authority for either the purported due process errors or the district court’s reliance on an allegedly inaccurate FCS report. As this court is under no obligation to address issues that are inadequately briefed, we conclude that these arguments are forfeited. *See State, Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (noting that appellate courts decline to reach issues that are inadequately briefed); *see also Brodsky v. Brodsky*, 733 N.W.2d 471, 479 (Minn. App. 2007) (applying *Wintz* in a family-law appeal).

Affirmed.