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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1885**

In re the Matter of:
Karolina Perminova, for self and o/b/o minor, petitioner,
Respondent,

vs.

Oleksander Perminov,
Appellant.

**Filed September 8, 2020
Affirmed
Halbrooks, Judge***

Hennepin County District Court
File No. 27-DA-FA-19-5693

Karolina Perminova, Long Lake, Minnesota (pro se respondent)

James Heiberg, St. Paul, Minnesota (for appellant)

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

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

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant challenges the grant of an order for protection (OFP), arguing that the record does not support the district court's findings and that the district court failed to make sufficient findings to support the issuance of the OFP. We affirm.

FACTS

Appellant-husband Oleksander Perminov and respondent-wife Karolina Perminova were married on October 30, 2009, and have one minor child. The parties are originally from Ukraine and came to the United States as refugees in the spring of 2019. On August 27, 2019, wife filed for an OFP against husband on behalf of herself and the minor child. She alleged that husband had forced her to have nonconsensual sex on multiple occasions and that she was afraid for herself and her child. She alleged that her husband threatened her and told her that, if she filed for divorce, she and their child would be deported and forced to return to Ukraine. She also alleged that husband's family, who lives in Minnesota, attacked her on August 24 and that he did nothing to protect her. Based on these allegations, the district court issued an ex parte OFP.

On September 24, 2019, the district court held an evidentiary hearing. At the hearing, wife testified that husband forced her to have nonconsensual sex "[p]ractically every other day" since coming to the United States and up to twice a day in the Ukraine. She testified that when the parties came to the United States, they relied on public-assistance benefits because neither was employed and that husband would not allow her access to the EBT card to make purchases. She alleged that husband had physically hurt

their child and testified to one specific incident in which her husband pushed the child's head into the floor. She also indicated that husband would hit her in front of the child.

Husband denied the allegations. He asserted that he had never forced wife to have sexual intercourse against her will and that their relationship was based on "mutual agreements" that included intimacy and purchases. When asked whether he hit the child's head against the floor, he indicated that the incident his wife described was "something that did happen," but gave a different explanation in which the child's head got stuck on a playground structure, husband did not admit to hitting the child's head against the floor. Husband also called four witnesses who testified that they had not observed any signs of domestic abuse during the parties' marriage.

On September 25, 2019, the district court issued an OFP against husband on behalf of wife and the child. The district court explicitly credited wife's testimony and found that husband's testimony was "less credible with respect to [wife's] allegations of domestic abuse." The district court determined that wife's testimony established that domestic abuse had been committed, and, therefore, wife had met her evidentiary burden to support the issuance of an OFP. Husband appeals.

D E C I S I O N

We review a district court's decision to grant an OFP for an abuse of discretion. *Ekman v. Miller*, 812 N.W.2d 892, 895 (Minn. App. 2012). The district court abuses its discretion if its factual findings are unsupported by the record or if it misapplies the law. *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 98 (Minn. App. 2009). We view the record in the light most favorable to the district court's findings and will reverse only if we are "left

with the definite and firm conviction that a mistake has been made.” *Braend ex rel. Minor Children v. Braend*, 721 N.W.2d 924, 927 (Minn. App. 2006) (quotation omitted). And we will not make credibility determinations or reconcile conflicting evidence. *Aljubailah ex rel. A. M. J. v. James*, 903 N.W.2d 638, 643 (Minn. App. 2017).

The Minnesota Domestic Abuse Act provides that a district court may issue an OFP upon a finding of domestic abuse. Minn. Stat. § 518B.01, subd. 4 (2018). Domestic abuse includes, “if committed against a family or household member by a family or household member,” “physical harm, bodily injury, or assault,” “criminal sexual conduct,” as well as “the infliction of fear of imminent physical harm, bodily injury, or assault.” *Id.*, subd. 2(a)(1)-(3) (2018). An OFP petitioner has the burden of proving that domestic abuse did occur. *Oberg v. Bradley*, 868 N.W.2d 62, 64 (Minn. App. 2015). Once a district court determines that domestic abuse has been established, it may “examine all of the relevant circumstances proven to determine whether to grant or deny the petition for an OFP.” *Thompson ex rel. Minor Child v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018).

Husband argues that the district court abused its discretion because there is not sufficient credible evidence to support the issuance of the OFP. At the hearing, wife testified that husband forced her to have nonconsensual sex “[p]ractically every other day” and twice a day before the parties moved to the United States. She also testified to incidents of physical violence against both her and their child. The district court explicitly found wife’s “affidavit and oral testimony to be credible” and husband’s testimony “to be less credible with respect to [wife’s] allegations of domestic abuse.” This credited testimony establishes that domestic abuse as defined by the statute occurred.

Husband argues that the district court abused its discretion by crediting wife's testimony. He argues that in doing so the district court improperly "massag[ed] and reshap[ed]" her testimony because, when making its oral findings, the district court only determined "that several acts of domestic violence occurred over an extended period" of time rather than adopting wife's testimony that the domestic abuse occurred daily. He asserts that the district court "ignored the fantastical nature of [wife's] sworn statements and tried to make them more believable" and asks this court to reverse the OFP because it is based on "less-than-credible testimony." But as stated above, this court does not make credibility determinations and will not reconcile conflicting evidence. *Aljubailah*, 903 N.W.2d at 643. And we note that, in its subsequent written order, the district court summarized wife's testimony and again determined that it was credible. Because wife's testimony establishes that husband committed domestic abuse against her and the district court credited her testimony, there is sufficient credible evidence to support the issuance of the OFP.

Husband also contends that the district court failed to make the required finding that the OFP was necessary because violence was likely to reoccur. We disagree. The district court's order contains findings that the safety of wife and the child require that wife be granted sole custody of the child and that the safety of wife and the child will be jeopardized by husband being granted unsupervised parenting time. Thus, the district court determined

that husband was a present danger to wife and the child's safety and that the OFP and parenting-time restriction were necessary to protect them from further violence from husband. On this record, the district court did not abuse its discretion by issuing the OFP.

Affirmed.