

*This opinion is nonprecedential except as provided by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
A21-0912**

In re the Marriage of: Richard Kurtis Traugott, petitioner,
Appellant,

vs.

Sherry Louise Traugott,
Respondent.

**Filed February 7, 2022
Affirmed
Reilly, Judge**

Benton County District Court
File No. 05-FA-15-1400

Richard Traugott, Foley, Minnesota (pro se appellant)

April A. Lindstrom, Milaca, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Florey, Judge; and Klaphake,
Judge.*

NONPRECEDENTIAL OPINION

REILLY, Judge

In this appeal, appellant-father challenges the district court's denial of his motion to hold respondent-mother in civil contempt of court, arguing that the district court's findings are not supported by the record. We affirm.

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

FACTS

This case involves a parenting-time dispute between appellant Richard Kurtis Traugott and respondent Sherry Louise Traugott. The parties married in 1995 and are the parents of three children, now ages 23, 16, and 11. Since their divorce in 2017, the two minor children have lived with respondent and the eldest child has lived with appellant. The parties share legal custody of the two minor children.

In November 2020, the district court ordered a temporary modification of the parenting schedule. The modification limited appellant's parenting time to supervised visits with the two minor children on every Sunday afternoon for two hours. The district court found that, until the relationship between the two minor children and appellant was repaired through therapy, it would be in the "children's best interest that parenting time with their father be limited and supervised." Along with the modification of parenting time, the district court ordered both appellant and respondent to complete a coparenting course through Bridging Parental Conflict¹ (Bridging), to attend individual therapy with a therapist specializing in coparenting conflict, and to sign necessary releases to allow their individual therapists and the children's therapists to receive information from the other parent. The district court also ordered appellant to engage in family therapy with the two minor children "[w]hen recommended as appropriate by his individual therapist, [and] after consultation with the children's therapist."

¹ Bridging Parental Conflict is an online course designed to assist parents experiencing conflict with their coparent or who are beginning a transition to a coparenting relationship.

In March 2021, appellant moved to hold respondent in contempt of court, alleging that respondent violated the November district court order. The district court held a hearing on the motion, and both appellant and respondent presented arguments. Appellant argued that respondent was in civil contempt for failing to follow the November court order because respondent took the Bridging course four months after the order, had not started counseling with a coparenting therapist, and refused to enroll the two minor children into coparenting conflict resolution counseling with his counselor. Respondent countered that appellant was misinterpreting the November court order and that it instead required the parties to attend individual therapy before attending family or reunification therapy. Respondent informed the court that she did complete the Bridging course and was attending therapy with a therapist who specialized in coparenting conflict. And respondent noted that because they share joint custody of the minor children, a release of information was unnecessary but that she signed the release anyway. Respondent provided the Bridging completion certificate and release of information as exhibits to the district court.

The district court denied appellant's contempt motion, finding that there was "no direct evidence that the respondent has failed to participate in individual therapy as required by the order; and there is no direct evidence . . . showing that the [appellant's] proposed family therapist consulted with the children's therapists prior to attempting to set up family therapy sessions." Thus, the district court held that there was insufficient evidence to support a finding of contempt.

The district court reiterated that the November order was modeled on the recommendations from the court-appointed custody evaluator and "family therapy would

not take place until the children’s therapists and [appellant’s] therapist agreed that it’s appropriate.” The district court did not impose a deadline on when therapy must be concluded. But the district court ordered the parties to submit a list of family counselors they would be comfortable working with, noting that the counselor must be a different counselor than the individual therapists the parties were currently seeing. This appeal follows.

DECISION

Appellant challenges the district court’s denial of his motion to hold respondent in civil contempt of court.² When we review a district court’s decision about whether to hold a party in contempt, we reverse the factual findings only if they are clearly erroneous. *Mower Cnty. Hum. Servs. ex rel. Swancutt v. Swancutt*, 551 N.W.2d 219, 222 (Minn. 1996). We review the district court’s decision to invoke contempt powers for an abuse of discretion. *Id.*

Appellant argues the district court erred in denying his motion for contempt because the facts he alleged against respondent in his motion were true. As he did in district court, appellant alleges that respondent failed to follow through with the district court’s November 2020 order to attend counseling with a therapist who specializes in coparenting conflict and to sign a release of information for the children’s therapists. Appellant asks this court to reverse the district court’s factual findings. But the standard of review here

² On appeal, appellant asks this court to “reverse the original decision” of the district court, which includes the award of attorney fees to respondent. This court dismissed the issue of attorney fees in August 2021. Thus, this opinion addresses only appellant’s motion to hold respondent in contempt of court.

does not allow this court to engage in fact-finding anew. *See Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013) (discussing the clear-error standard). The fact-finder has the primary responsibility to determine issues of fact, and this court’s duty is “fully performed” after determining that the evidence reasonably supports the fact-finder’s decision. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 222 (Minn. 2021) (quotations omitted).

Here, after the district court held an evidentiary hearing on appellant’s contempt motion and considered all the affidavits, pleadings, testimony, and arguments of the parties, it found as a matter of fact that respondent had not failed to comply with the November 2020 order. Without a finding of fact that respondent violated the court’s order, there was no basis for the district court to invoke its discretionary powers to hold respondent in contempt of court. While appellant may still dispute respondent’s testimony that she is attending counseling with a therapist specializing in coparenting conflict, the district court made a finding to the contrary on this point, and, on this record, there is reasonable evidence in the record to support that finding. Thus, that finding of fact is not clearly erroneous. As a result, the district court did not abuse its discretion in denying appellant’s motion to hold respondent in civil contempt of court.

Affirmed.