

*This opinion is nonprecedential except as provided by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
A21-1085**

In re the Marriage of:
Tristan Joseph Trainer, petitioner,
Respondent,

vs.

Ashley Dominique Nichole Goodlander,
Appellant.

**Filed July 25, 2022
Affirmed
Wheelock, Judge**

Blue Earth County District Court
File No. 07-FA-17-1927

Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota (for respondent)

Ashley Goodlander, Mankato, Minnesota (pro se appellant)

Considered and decided by Reyes, Presiding Judge; Jesson, Judge; and Wheelock,
Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant-mother appeals the district court's order (1) denying her motion to modify custody of the parties' joint minor child and (2) modifying parenting time. Because the district court did not abuse its discretion and did not clearly err in finding that the child was not abused, we affirm.

FACTS

Appellant-mother Ashley Dominique Nichole Goodlander and respondent-father Tristan Joseph Trainer are the parents of a child, who was six years old at the time the district court issued the order that mother now appeals. A custody dispute arose following the parties' separation, and numerous proceedings have occurred throughout the past five years. In August 2020, the district court entered an amended judgment and decree awarding the parties joint legal and joint physical custody of the child, establishing an equal parenting-time schedule, and ordering the parties to refrain from physically disciplining the child and from disparaging the other party in the child's presence.

Approximately two months after the district court entered the amended judgment and decree, mother filed an emergency motion to modify custody, seeking sole legal and sole physical custody of the child. Mother stated that the child reported being spanked, slapped, dragged down a hallway, pushed into a corner, and choked by father's fiancée. Mother alleged that she found burst blood vessels in the child's eye as a result of the choking and minor bruises on the child's body.

Father then moved to modify parenting time, asking that mother's parenting time be changed to every other weekend. Father alleged that mother continued to disparage father and other family members and that the child's pediatrician was concerned about the child's weight gain and increased body-mass index since mother's award of shared custody. The district court reserved mother's motion to modify custody, issued an order appointing a mandatory guardian ad litem (GAL) for the child, and set an evidentiary hearing.

At the evidentiary hearing, the district court heard testimony from the parties, the GAL, father's fiancée, and the child's maternal grandfather, and it reviewed exhibits including the GAL report, the child's medical records, and a video of the child that mother stated she recorded on the day the child reported being choked. After the evidentiary hearing, the district court issued an order in which it made detailed findings on the child's best interests, a change in circumstances for the child, and whether the child's health or development was presently endangered under the then-existing custody arrangement.

The district court ordered continued joint legal and joint physical custody of the child and temporary modification of the parenting-time schedule, providing mother every-other-weekend parenting time pending a psychological evaluation for mother and mother's compliance with any recommendations resulting from the evaluation. The district court specifically ordered that if the psychological evaluation results in a recommendation for therapy, mother shall engage in therapy. In that instance, mother can move for additional parenting time following her completion of therapy or after six months of participation in therapy. The order further provided that if the evaluation does not recommend therapy, equal parenting time shall resume immediately. Finally, the district court ordered that the child begin therapy and that father continue participating in therapy. The district court's orders corresponded with the recommendations in the GAL report. Mother appeals.

DECISION

The district court has broad discretion in making custody determinations. *Matson v. Matson*, 638 N.W.2d 462, 465 (Minn. App. 2002). "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).

We review the district court’s findings of fact for clear error, “giving deference to the district court’s opportunity to evaluate witness credibility and reversing only if we are left with the definite and firm conviction that a mistake has been made.” *Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019) (quotation omitted); *see* Minn. R. Civ. P. 52.01 (stating that findings of fact are not set aside unless clearly erroneous). When determining whether findings are clearly erroneous, we view the record in the light most favorable to the district court’s findings. *Vangness v. Vangness*, 607 N.W.2d 468, 472 (Minn. App. 2000). “That the record might support findings other than those made by the [district] court does not show that the court’s findings are defective.” *Id.* at 474. To successfully challenge a district court’s findings of fact, an appellant “must show that despite viewing that evidence in the light most favorable to the [district] court’s findings . . . , the record still requires the definite and firm conviction that a mistake was made.” *Id.*

Here, self-represented appellant-mother argues that the district court abused its discretion by (1) failing to modify custody in favor of mother because it erred in finding that abuse of the child did not occur in father’s household and (2) ordering a psychological evaluation for mother and reducing mother’s parenting time pending the result.

I. The district court's findings of fact were not clearly erroneous, and the district court properly applied the legal standard for custody modification.

a. The district court's findings of fact were not clearly erroneous.

Mother first alleges that the district court disregarded the evidence of abuse that formed the basis of the prima facie case on which it granted the evidentiary hearing. However, our review of the record shows that at the evidentiary hearing, the district court considered evidence on the question of abuse, including testimony from father and father's fiancée about physical discipline of the child in their home and a video recording mother took in which the child purportedly described being choked at father's house. Father's testimony contradicted the abuse allegations and cast doubt on the credibility of the video. The GAL's report was also entered into evidence, and the district court heard testimony from the GAL regarding her recommendations and assessment about whether the child was safe in father's care.

Mother argues that the district court clearly erred by finding that no acts of abuse occurred against the child, and she relies on her allegations that the child had previously been abused in father's household "to the point of physical injury and mental trauma"; however, she does not point to any evidence in the record to support this assertion. Rather, mother claims that the district court's previous order prohibiting the parties from physically disciplining the child was "because of previous factors of abuse and injuries which the court recognized." But mother mischaracterizes the district court's prior order and findings. In fact, the order containing the prohibition of physical discipline to which mother refers specifically finds no evidence of abuse and notes that past physical discipline

utilized in father's household, namely spanking and swatting a hand, does not constitute abuse.

The district court based its finding that no abuse occurred against the child on the testimony from father and father's fiancée denying mother's allegations of abuse, the GAL report, and the GAL's testimony that she did not observe any indications of abuse. The district court heard evidence from the GAL of six different reports mother made to child-protective services against father, all of which were screened out as not meeting criteria for child maltreatment or neglect. None of the alleged incidents resulted in a report to law enforcement or medical evaluation of the child. Mother's evidence was limited to her own allegations and the aforementioned video of the child discussing one of the alleged incidents.

We will not disturb findings of fact based on conflicting evidence unless the findings are "manifestly and palpably contrary to the evidence as a whole." *In re S.G.*, 828 N.W.2d 118, 127 (Minn. 2013) (quotation omitted). The evidence to which mother points does not support a conclusion that the findings are "manifestly and palpably contrary to the evidence as a whole." *Id.* Nor does mother show that the record gives rise to a "definite and firm conviction" that a mistake was made. *Thornton*, 933 N.W.2d at 790. Our review of the record leads us to conclude that the district court's finding that no abuse occurred was not clearly erroneous.

- b. The district court properly applied the endangerment standard for custody modification.*

Mother also appears to argue that the district court should have granted her motion to modify custody because it should have determined that there was a change in circumstances due to abuse of the child in father's home. She asserts that the district court abused its discretion by improperly applying the endangerment standard for custody modification. We conclude that the district court considered mother's motion in light of the evidence before it during the evidentiary hearing and properly applied the standard for custody modification. Thus, the district court did not abuse its discretion when it denied mother's motion.

Minn. Stat. § 518.18(d) (2020), governs the modification of custody orders and, in relevant part, states that the court shall not modify a prior custody order absent a finding:

that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless: . . .

(iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child[.]

If the moving party establishes a prima facie case by alleging "(1) the circumstances of the children or custodian have changed; (2) modification would serve the children's best interests; (3) the children's present environment endangers their physical health, emotional health, or emotional development; and (4) the benefits of the change outweigh its

detriments with respect to the children,” then the district court must hold an evidentiary hearing to consider evidence on each factor. *Christensen v. Healey*, 913 N.W.2d 437, 440 (Minn. 2018) (quotation omitted).

Here, mother filed an emergency ex parte motion to modify custody. The district court determined (1) that mother’s request for custody modification was made pursuant to Minn. Stat. § 518.18(d)(iv), (2) that mother’s allegations, if accepted as true, constituted a prima facie case for modification, and (3) that the court was required to schedule an evidentiary hearing. The court also ordered a mandatory GAL appointment under Minn. Stat. § 518.165, subd. 2 (2020), based on reason to believe the child was a victim of domestic abuse. At the outset of the evidentiary hearing, the court noted that although the parties had filed numerous motions, it was mother’s motion to modify custody that triggered the hearing.

In its order after the evidentiary hearing, the district court made it clear that the endangerment standard of Minn. Stat. § 518.18(d)(iv) applied to both mother’s motion to modify custody and father’s motion for a change in parenting time, given that father’s requested change was substantial and was therefore a de facto motion to modify custody. *See Christensen*, 913 N.W.2d at 443. Applying the endangerment standard to both mother’s and father’s motions, the district court then made findings on the four factors set forth in *Christensen*. *Id.* at 440.

Mother seems to suggest that the district court’s order should have addressed the alleged abuse in its findings on changed circumstances. Indeed, the district court’s changed-circumstances findings focused on mother’s continued disparagement of father

and other family members, the revived conflict over custody, and the child's weight gain. However, we note that the court considered mother's allegations of domestic abuse in its best-interests-factors analysis: "The court acknowledges Mother's concerns but finds that there is no evidence of domestic abuse as defined in Minn. Stat. § 518B.01." Because the district court found that no abuse occurred, it stands to reason that it would not consider abuse as a change in the child's circumstances.

The district court held an evidentiary hearing, reviewed the evidence on changed circumstances and endangerment as required by Minn. Stat § 518.18(d)(iv), and issued an order based on its findings. We therefore conclude that the district court properly applied the endangerment standard and did not abuse its discretion by misapplying the law or making findings unsupported by the evidence when it denied mother's motion to modify custody.

II. The district court did not abuse its discretion by modifying parenting time and ordering mother to undergo a psychological evaluation.

"The district court has broad discretion in determining parenting-time issues and will not be reversed absent an abuse of that discretion." *Dahl v. Dahl*, 765 N.W.2d 118, 123 (Minn. App. 2009). We will uphold a district court's findings of fact underlying a parenting-time decision unless they are clearly erroneous. *Id.*

Mother argues that the district court erred by reducing her parenting time pending a psychological evaluation without good cause to do so. Mother makes three primary assertions in support of her argument: (1) that the GAL recommended therapy based on a single "seemingly inappropriate laugh" by mother during her interview; (2) that the district

court's finding of mother's continuing disparagement of father and other family members in the child's presence is unsupported; and (3) that father, too, suffers from mental-health issues, which should also be considered in awarding parenting time. We address each assertion in turn.

First, in its findings on whether mother has mental-health issues relevant to the child's best interests, the district court referenced an interaction that occurred during the GAL's interview with mother—when the GAL asked mother if she had any mental illness, mother “said no and laughed.” Beyond that interaction, the GAL's report described the interview as “difficult” overall because mother attempted to control the interview and provided information out of chronological order. At the evidentiary hearing, the GAL confirmed that while she registered mother's reaction to the interview question as inappropriate, her recommendation for a psychological evaluation of mother stems from mother's mental-health history and an observation that mother shifts focus to father's actions rather than her own mental wellness when therapy is proposed.

While the district court characterized mother's laughing response to the GAL's question as “inappropriate,” it included this observation within its larger concern about mother's dismissive attitude toward mental-health interventions, given information in the record of mother's depression, anxiety, and prior behavioral-health issues. The district court also noted that mother's persistent allegations of abuse of the child in father's household in the face of evidence to the contrary is “concerning” in the context of mother's mental health. The district court examined testimony and evidence from the full record when it considered the GAL's recommendation for a psychological evaluation and therapy

rather than relying on a single interaction described in the GAL report. It is evident that the GAL's recommendation and the district court's determination that mother's parenting time should be reduced pending completion of a psychological evaluation and compliance with the evaluation recommendations is based on sufficient evidence in the record that goes well beyond a single inappropriate laugh during her interview with the GAL.

Second, with respect to its finding that mother continues to disparage father and other family members, the district court considered testimony from several witnesses who related incidents where the child commented on mother's disparagement of father, his fiancée, and other family members, as well as mother's testimony that she does not disparage family members in front of the child. The court also reviewed the GAL's report, which highlighted mother's disparagement of family members as an area of main concern based on statements from multiple sources. The district court looked to the record and found the disparagement claims to be credible despite mother's denials. We defer to credibility determinations made by the district court, *Vangsness*, 607 N.W.2d at 472, and we conclude that the district court's finding regarding mother's disparagement of father and other family members is supported by the record.

Third, mother suggests that the district court abused its discretion by conditioning mother's parenting time on her participation in therapy, if recommended, when father is already participating in therapy. The district court's order requires that father continue in therapy for as long as is recommended by his therapist, notwithstanding that father's previous participation in therapy seems to have been voluntary. Contrary to mother's assertion, the district court considered father's mental health when it awarded parenting

time. Importantly, rather than focusing on how the parties' mental-health influences them individually, the district court made findings on the impact of each parent's mental-health-related behaviors on the child's best interests, as is required by Minn. Stat. § 518.18(d)(iv) and *Christensen* when making custody and parenting-time determinations. Relevant to its decision to require a psychological evaluation of mother and to condition an increase in mother's parenting time on compliance with the evaluation's recommendations, the district court found that:

[m]other's continuous allegations of abuse against [father and father's fiancée], together with her continuous disparagement of [father and other family members] will only cause further emotional distress to [the child]. Until [m]other ceases her behavior and addresses any mental health issues she may have, [m]other's ability to provide ongoing care for the child and to meet the child's needs is impaired.

We conclude that the district court's findings of fact underlying its parenting-time decision were supported by the record and were not clearly erroneous, and thus the district court properly exercised its discretion in modifying parenting time, ordering a psychological evaluation for mother, and reducing mother's parenting time pending compliance with any recommendations resulting from the evaluation.

Affirmed.