

*This opinion is nonprecedential except as provided by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
A22-1032**

In re the Matter of:
John Shannon Marino, petitioner,
Respondent,

vs.

Casey Noelle Bahl,
Appellant.

**Filed May 15, 2023
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-FA-20-5139

John Shannon Marino, Edina, Minnesota (*pro se* respondent)

Ruta Johnsen, Savannah I.L. Welch, Nancy Zalusky Berg, LLC, Minneapolis, Minnesota
(for appellant)

Considered and decided by Slieter, Presiding Judge; Connolly, Judge; and Larkin,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the district court's award of joint legal custody, arguing that the district court erred by failing to apply the statutory rebuttable presumption against joint legal custody when there has been domestic abuse between parents. Because the record

supports the district court's finding that domestic abuse had not occurred and, thus, there exists no rebuttable presumption against joint legal custody, we affirm.

FACTS

Appellant Casey Bahl and respondent John Marino are the unmarried parents of a minor child, born in July 2019. In March 2020, Bahl moved out of the home she had been sharing with Marino. Marino petitioned the district court for an order establishing custody and parenting time in September 2020. The district court issued a temporary custody and parenting-time order and directed the parties to participate in a custody and parenting-time evaluation.

The parties met with a custody and parenting-time evaluator. The evaluator was provided psychological evaluations for the parties and interviewed collateral contacts. Through a facilitated settlement process, the parties reached agreement on all custody and parenting-time issues except, as here relevant, legal custody.

During the trial, testimony was received from Bahl and Marino, as well as the custody evaluator and a therapist. As part of his testimony, the custody evaluator provided his recommendation of joint legal custody. The custody evaluator's and therapist's notes were admitted as evidence.

In January 2022, the district court issued an order granting Bahl and Marino joint legal custody. Bahl moved for amended findings, arguing that the district court ignored evidence that domestic abuse occurred in the relationship. The district court denied Bahl's motion. Bahl appeals.

DECISION

We review a district court's determination regarding the balancing of the best interests of a child for purposes of a custody determination for an abuse of discretion. *Thornton v. Bosquez*, 933 N.W.2d 781, 794 (Minn. 2019). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying 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)). 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 we will reverse only when "left with the definite and firm conviction that a mistake has been made." *Thornton*, 933 N.W.2d at 790 (quotation omitted). We do not reweigh the evidence presented to the district court. *Vangsness v. Vangsness*, 607 N.W.2d 468, 475 (Minn. App. 2000).

In a custody dispute, the best interests of the child is the court's "guiding principle" and "paramount commitment." *Thornton*, 933 N.W.2d at 789 (quotations omitted). "In considering the child's best interests, a district court must consider and evaluate all relevant factors, including 12 factors set forth by statute." *Id.* (quotation omitted). If either or both parties request joint legal custody, the district court applies a rebuttable presumption that joint legal custody is in the best interests of the child. Minn. Stat. § 518.17, subd. 1(b)(9) (2022); *see also Wopata v. Wopata*, 498 N.W.2d 478, 482 (Minn. App. 1993) ("Joint legal custody is presumed to be in a child's best interests."). This presumption is reversed,

however, “if domestic abuse, as defined in section 518B.01, has occurred between the parents.” Minn. Stat. § 518.17, subd. 1(b)(9).

Section 518B.01 defines domestic abuse, in part, as “physical harm, bodily injury, or assault” or “the infliction of fear of imminent physical harm, bodily injury, or assault” “committed against a family or household member by a family or household member.” Minn. Stat. § 518B.01, subd. 2(a) (2022). “Family or household members” include “persons who are presently residing together or who have resided together in the past” and “persons who have a child in common.” Minn. Stat. § 518B.01, subd. 2(b) (2022).

As it relates to domestic abuse, the district court found that Bahl presented evidence that Marino “belittled her, yelled at her and called her names,” and that Bahl “alleged that [Marino] has repeatedly sent her harassing text messages” and “alleged that [Marino] was physically abusive toward her during an incident where he repeatedly hit her with a pillow.” The district court found that Marino “denied [Bahl]’s claims of physical, emotional and verbal abuse.” Ultimately, it determined “that the evidence in the record is insufficient for this Court to conclude that any domestic abuse, as defined by Minn. Stat. §518B.01, has occurred between the parties.”

Bahl argues that the district court’s finding that domestic abuse did not occur is erroneous.¹ She contends that the record shows four instances of domestic abuse by

¹ Bahl also argues that the district court erred by not requiring the custody evaluator to provide a written report, as initially ordered. Whether to order a custody investigation and report is discretionary with the district court. *J.W. ex rel. D.W. v. C.M.*, 627 N.W.2d 687, 696 (Minn. App. 2001), *rev. denied* (Minn. Aug. 15, 2001); *see also* Minn. Stat. § 518.167, subd. 1 (2022) (stating that the district court “*may* order an investigation and report concerning custodial arrangements” (emphasis added)). We discern no abuse in the district

Marino: (1) he bit her ear; (2) he threatened to hit her with a baby monitor then hit her multiple times with a heavy pillow; (3) he scared her and acted like he was going to hit her during an argument she recorded; and (4) he pushed her.

Bahl described these four instances of domestic abuse in her statement to the custody evaluator and repeated them during her trial testimony. The district court also received text messages in which Bahl stated that Marino had pushed her and bit her and an audio recording in which she stated that Marino was acting “scary,” that he “spit in [her] face,” and that he was “acting like [he was] going to hit [her].” Marino denied biting Bahl, offered a different account of the baby-monitor-and-pillow incident in which he was the victim, and alleged Bahl would get drunk and hit him on the chest.

Whether domestic abuse occurred rests on the district court’s credibility determinations. Although the district court did not make explicit credibility determinations, its findings implicitly indicate that it found Marino’s denial of domestic abuse more credible. And, in its order denying amended findings, the district court acknowledged that credibility was at the center of its finding that domestic abuse had not occurred and declined to revisit that finding after it “thoroughly reviewed the record in the matter in light of [Bahl]’s motion.” We defer to the district court’s implicit credibility determinations, *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009), and, thus, the district court’s finding that domestic abuse had not been shown is not clearly erroneous. *Thornton*, 933 N.W.2d at 790.

court’s determination, after the parties had agreed on most issues, to no longer require a written report from the custody evaluator.

Moreover, contrary to Bahl's argument that the district court did not adequately consider the best interests of the child, the record reflects that the district court considered and evaluated the 12 statutory best-interest factors. Based on the statutory factors, the rebuttable presumption in favor of joint legal custody, the custody evaluator's recommendation for joint legal custody, the existence of an agreed-upon communication plan, and "the parties' testimony that they do not have disagreements regarding big issues for the child, such as medical decisions, education and religion," the district court concluded that joint legal custody is in the child's best interests. Thus, the district court acted within its discretion by awarding the parties joint legal custody. *Id.* at 794.

Affirmed.