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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0378**

In the Matter of:
Serina Anne Aubrecht,
Appellant,

Steven Davis,
Respondent,

Hennepin County,
Intervenor.

**Filed February 10, 2025
Reversed and remanded
Ross, Judge**

Hennepin County District Court
File No. 27-PA-FA-18-920

Serina Anne Aubrecht, St. Paul, Minnesota (self-represented appellant)

Steven Lee Davis, Anoka, Minnesota (self-represented respondent)

Considered and decided by Cochran, Presiding Judge; Ross, Judge; and Harris,
Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Serina Aubrecht participates in Minnesota's Safe at Home program, which is designed to maintain the confidentiality of each participant's home address. During a child-custody dispute between Aubrecht and Steven Davis, the district court ordered Aubrecht to disclose her protected home address to Davis. Aubrecht challenges the order, arguing

that the district court failed to make required factual findings, made erroneous findings, failed to apply the correct burden of proof, and improperly limited testimony regarding the potential disclosure. Because the district court failed to make certain required findings, we reverse its order and remand with instructions bearing on the appropriate burden of proof.

FACTS

Serina Aubrecht and Steven Davis are the parents of a minor child whom we will refer to as Jane in the interest of privacy. The issues of Jane’s paternity, name, and custody, and the parties’ disagreement over parenting time and child support have generated a long-running legal dispute between Aubrecht and Davis. The district court held a trial on these issues in 2021, before which Aubrecht formally notified the district court of her and Jane’s Safe at Home (SAH) participation, establishing under Minnesota Statutes section 5B.03 that her home address is confidential due to safety concerns. Aubrecht and Davis testified during trial and submitted evidence about alleged domestic abuse during their relationship. The district court also received into evidence a county custody evaluator’s report that cast doubt on Aubrecht’s domestic-abuse claims.

The district court’s posttrial order found that Davis did not commit domestic abuse and ordered Aubrecht to disclose her home address to Davis. The district court awarded Aubrecht and Davis joint legal and joint physical custody of Jane, and Aubrecht appealed. *S.A.A. v. S.D.*, No. A22-0961, 2023 WL 2847572 (Minn. App. Apr. 10, 2023). We mostly affirmed but held that “the district court failed to make the findings and determination required” by the SAH address-disclosure statute, Minnesota Statutes section 5B.11 (2024).

Id. at *3. We remanded for the district court to analyze “whether [Aubrecht’s] address should be disclosed under the appropriate standard.” *Id.*

The district court conducted a hearing on the remanded address-disclosure issue. Davis testified that he was concerned that, without knowing where Aubrecht and Jane lived, he would not be able to direct police to their home or otherwise assist in an emergency. He also asserted concerns about Jane’s living conditions in Aubrecht’s home. Davis further testified that he did not have a close relationship with Aubrecht’s ex-husband, whom Aubrecht fears. Aubrecht suggested that Davis had been improperly monitoring her.

The district court prevented Aubrecht from testifying in a manner that “relitigate[d] domestic abuse” but allowed her to testify about Davis’s allegedly controlling behavior and the potential harm that would result from address disclosure. Aubrecht characterized Davis’s behavior as “harassing, intimidating, monitoring, [and] threatening” and suggested that she had fears that the district court prevented her from testifying about. She testified that she was concerned about Davis calling in false welfare checks and about his alleged threats to take custody of Jane. The district court allowed into evidence a recorded call between Aubrecht and Davis about a drop-off for Jane, and Aubrecht suggested that this was proof of Davis’s controlling behavior. She said that she worried that Davis’s alleged past behaviors would continue. The district court also refused to allow Aubrecht’s domestic-abuse expert witness, Scott Miller, to testify about coercive control.

The district court ordered Aubrecht to disclose her home address to Davis. Re-emphasizing its earlier finding that Davis had not committed domestic abuse, the district court found that Davis had not engaged in coercive or controlling behavior and had

not inappropriately monitored or harassed Aubrecht. The district court determined that Aubrecht had been “unable to articulate reasonable concern for threats to her safety” and that “any potential harm to [Aubrecht’s] safety is outweighed by [Davis’s] parental interest in knowing where the minor child resides.” The district court also found that “the parties are currently in a dispute about where their child should attend school. Knowing the address of each parent is vital to coming up with a solution to this problem.” The district court further observed that section 5B.11 did not say how to apply the statute in a joint-custody situation and did not state a clear burden of proof.

Aubrecht appealed, and we retained jurisdiction after we considered whether the appeal was moot. We now address the merits of Aubrecht’s appeal.

DECISION

Aubrecht argues on appeal that the district court failed to make factual findings required for address disclosure under section 5B.11, clearly erred in its factual findings, failed to apply the correct burden of proof, and improperly limited testimony. For the following reasons, we conclude that we must reverse the district court’s order and remand for further proceedings.

I

Aubrecht persuasively argues that the district court failed to make the factual findings required before ordering her as an SAH program participant to disclose her address. The SAH program aims to keep confidential the addresses of “victims of domestic violence, sexual assault, or harassment or stalking.” Minn. Stat. § 5B.01 (2024). A person can become a certified participant in the program by filing an application that includes a

statement indicating that she has “good reason to believe” that there is a threat to her safety. Minn. Stat. § 5B.03, subds. 1, 3 (2024); Minn. R. 8290.0200, subp. 1 (2023). Once a person is certified as a program participant, the district court may order limited disclosure of her home address if it finds both that “there is a reasonable belief that the address is needed to obtain information or evidence without which the investigation, prosecution, or litigation cannot proceed” and that “there is no other practicable way of obtaining the information or evidence.” Minn. Stat. § 5B.11. The statute guides the district court’s procedure and frames the substance of its analysis in this fashion:

The court must provide the program participant with notice that address disclosure is sought and an opportunity to present evidence regarding the potential harm to the safety of the program participant if the address is disclosed. In determining whether to compel disclosure, the court must consider whether the potential harm to the safety of the participant is outweighed by the interest in disclosure.

Id. Our prior opinion in this matter directed the district court to make findings required by the statute before ordering Aubrecht to disclose her address. *S.A.A.*, 2023 WL 2847572, at *3. Our review of the record informs us that on remand the district court again did not make the required findings.

Findings Under the Reasonable-Belief-of-Necessity Element

Aubrecht convincingly maintains that the district court failed to find whether “there is a reasonable belief that the address is needed to obtain information or evidence without which the . . . litigation cannot proceed.” Minn. Stat. § 5B.11. We review a district court’s compliance with remand instructions for an abuse of discretion. *Leiendecker v. Asian Women United of Minn.*, 895 N.W.2d 623, 633 (Minn. 2017). The district court’s order

after remand acknowledged our instructions, accurately listed the relevant requirements of section 5B.11, and weighed Davis’s interest in knowing Aubrecht’s address against Aubrecht’s fear of disclosure. But its order includes no record-supported finding as to whether a “reasonable belief” exists that, without Aubrecht’s address, the “litigation cannot proceed.” Minn. Stat. § 5B.11. We appreciate the district court’s difficulty in applying a statute that does not expressly provide for situations where an SAH program participant shares custody of a child with the person seeking the participant’s address. But our remand instructions clarified the process. The district court’s order requiring Aubrecht to disclose her address without making the findings that are required by statute, and that we directed in our remand instructions, constitutes an abuse of discretion.

We reach this conclusion because, even though we recognize that one of the district court’s findings arguably relates to the reasonable-belief-of-necessity element, the finding lacks support in the record. The district court found that “[k]nowing the address of [both parties] is vital to coming up with a solution” to the parties’ ongoing school-choice dispute. The district court offered no further explanation and cited no evidence for its finding. We review a challenged district court factual finding for clear error, examining whether there is reasonable evidence in the record to support it. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013). Davis’s brief identifies no record evidence sufficiently indicating that the lack of Aubrecht’s address impedes the parties from resolving their school-choice dispute, and we have found none in our careful review of the record. At the evidentiary hearing concerning address disclosure, Davis’s attorney asked him whether “it would be helpful to know where [Aubrecht] lives, primarily because your daughter lives

with her part of the time, for school purposes?” Despite the suggestion embedded in the leading question, Davis’s answer did not adopt the proposal: “I mean, personally, I could care less where [Aubrecht] lives. I want to know where my daughter lives, and I want to know if she’s safe. And I want to know if something were to come up, how I would be able to help” He continued to testify about his desire to know where Jane lives so that, in the event she needed his help or he needed to pick her up, he would know where to go. He never said or implied that not having Aubrecht’s home address prevented the parties from resolving or litigating a dispute over which school Jane attends.

We have not limited our review to the testimony, and we see no other evidence in the record that sufficiently supports the district court’s school-choice finding. To the contrary, the record suggests that the parties in fact already had enough information to choose a school. This includes one of Aubrecht’s affidavits, which was filed three and a half weeks before the hearing and that identified the commute time from her home to a particular school, and Aubrecht’s testimony at the hearing, which revealed that her residence lies within the Minnetonka School District. Because the record does not support the district court’s finding that Aubrecht’s home address is “vital” to resolve the school-choice dispute, the finding is clearly erroneous and cannot support the district court’s disclosure decision.

Findings Under the No-Other-Way Element

Aubrecht argues that the district court improperly failed to find whether “there is no other practicable way of obtaining the information or evidence” to meet the second element

required before disclosure. *See* Minn. Stat. § 5B.11. Aubrecht is correct. A record-supported finding on this factor is also absent from the district court’s decision.

Findings Related to the Required Balancing

We observe that the district court made findings balancing the potential harm in disclosing Aubrecht’s address against Davis’s interest in disclosure. Although the findings comply with the statutory element, the district court made the findings in error as the statute implicitly requires a showing under the first two elements as threshold issues before advancing to this balancing requirement. The district court had already found at trial that Davis had not committed domestic abuse against Aubrecht—a finding that we affirmed. *S.A.A.*, 2023 WL 2847572, at *1–2. And the evidence Aubrecht provided on remand likewise failed to adequately articulate the harm she feared. Aubrecht’s testimony about the recorded phone call between her and Davis regarding a drop-off for Jane did not sufficiently explain how the call demonstrates Davis’s allegedly coercive and controlling behavior. Aubrecht’s testimony about Davis’s purportedly false welfare-check reports indicated that the police never came to her house but instead drove by her car as it was parked in Davis’s driveway. Davis’s testimony established that he did not have a close relationship with Aubrecht’s ex-husband, whom Aubrecht said she also fears. In sum, although reasonable evidence appears to support the district court’s finding that Aubrecht failed to articulate any potential harm to her safety if her address were disclosed, flaws precede the finding. Specifically, the district court addressed the issue without having first determined that there is a reasonable belief that Davis needed the address to gain

information or evidence essential to the litigation and without finding that there is no other practicable way to obtain the evidence or information.

Burden and Standard of Proof

Aubrecht argues that Davis should have the burden of proof under section 5B.11. The argument prevails. The district court expressed uncertainty as to which party has the burden of proof for SAH-address disclosures. Determining which party has the burden of proof is a legal question that we consider *de novo*. *Williams v. State*, 910 N.W.2d 736, 740 (Minn. 2018). And determining the appropriate standard of proof is a question of law that we also review *de novo*. *Christie v. Est. of Christie*, 911 N.W.2d 833, 838 (Minn. 2018). Although the statute is silent as to who bears the burden, it generally “rests on the party seeking to benefit from a statutory provision.” *C.O. v. Doe*, 757 N.W.2d 343, 352 (Minn. 2008). Davis was the party who invoked the disclosure provision of the statute to learn where Aubrecht and Jane reside. He therefore has the burden to prove the first two elements of section 5B.11 and also to show that his interest in disclosure outweighs the potential harm to Aubrecht’s safety. And he must prove those elements by a preponderance of the evidence. Most civil cases employ a preponderance-of-the-evidence standard, although some, including those involving allegations of fraud or “quasi-criminal wrongdoing,” rest on a clear-and-convincing-evidence standard. *Christie*, 911 N.W.2d at 839 (quotation omitted). We are satisfied that seeking disclosure of an address under section 5B.11 is a civil matter that does not relate to fraud or criminal wrongdoing. And Aubrecht raises no other reasons why we should apply the higher standard. Preponderance of the evidence is

therefore the correct standard of proof. The district court should apply this standard to the existing record evidence and make the appropriate findings on remand.

II

Aubrecht argues that the district court erred when it limited her testimony and prevented her expert witness from testifying on the address-disclosure issue. We afford a district court broad discretion on evidentiary matters and will not reverse unless it abuses that discretion. *Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015). Our review of the record satisfies us that the district court did not abuse its discretion by limiting testimony at the hearing.

Aubrecht maintains that the district court improperly prevented her from testifying about instances of alleged domestic abuse that occurred before the 2021 trial. She is correct that the district court prevented her from testifying about domestic abuse that it had already found did not occur. The district court was not required to reopen the record to allow the parties to rehash its prior factual finding. And the district court gave Aubrecht ample opportunity to present evidence relevant to disclosure. It allowed Aubrecht to testify “about the potential harm that [she] feels she might be exposed to” if her address were disclosed. It also allowed her to testify about Davis’s controlling behavior that allegedly occurred after trial. It admitted evidence of the phone call between Aubrecht and Davis, testimony about purported false welfare-check reports, testimony and exhibits about Davis’s alleged monitoring, and testimony about Davis’s interactions with Aubrecht’s ex-husband. The district court acted within its discretion by excluding evidence about incidents that it had already determined did not constitute domestic abuse.

We are similarly unpersuaded by Aubrecht’s contention that the district court improperly prevented Miller, her expert witness on domestic abuse, from testifying. A decision to exclude expert opinion testimony lies “within the sound discretion of the trial court and will not be reversed unless it is based on an erroneous view of the law or it is an abuse of discretion.” *Gross v. Victoria Station Farms, Inc.*, 578 N.W.2d 757, 760–61 (Minn. 1998). Aubrecht fails to show that the district court abused its discretion or based Miller’s exclusion on an erroneous view of the law. The district court’s prehearing order filed three months before the address-disclosure hearing specified that the direct examination of experts could be submitted by written report. The district court therefore provided an opportunity for Aubrecht to submit expert testimony and gave sufficient notice that the testimony must be in writing. The district court did not abuse its discretion by preventing Miller from testifying at the hearing.

Reversed and remanded.