

*This opinion is nonprecedential except as provided by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
A24-0463**

In re the Marriage of:
Rachel Beth Fate, petitioner,
Appellant,

vs.

Chetan Singh Oshan,
Respondent.

**Filed March 24, 2025
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-FA-17-5903

Shawn C. Reinke, Victoria M.B. Taylor, Reinke Taylor, PLLC, St. Paul, Minnesota (for appellant)

Eric C. Nelson, Minneapolis, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant-mother challenges the district court's order modifying custody, arguing that the district court (1) erred in holding an evidentiary hearing without first ruling that respondent-father made a prima facie case for modification; (2) failed to make adequate

findings to support modification; (3) ignored the parties' agreement; and (4) violated her due-process rights by permitting father to suspend her parenting time. We affirm.

FACTS

In April 2018, the district court filed stipulated findings of fact, conclusions of law, order for judgment, and judgment and decree dissolving the marriage of appellant-mother Rachel Beth Fate and respondent-father Chetan Singh Oshan. The parties were awarded joint legal custody and joint physical custody of their two minor children, who were then six and two years old. Mother was awarded the primary residence of the children.

In August 2020, father filed a motion for emergency relief, requesting that mother's parenting time be suspended and that the children reside with him. Father also sought to modify permanent physical custody and legal custody, claiming that mother's conduct endangered the children. *See* Minn. Stat. § 518.18(d)(iv) (2024).

In a supporting affidavit, father stated that on December 8, 2019, mother left the children home alone. Police officers found mother at a gas station "hysterical, crying, and hyperventilating." Mother's mannerisms were "consistent with schizophrenia such as disorganized thinking and an altered state of reality." On January 15, 2020, mother failed to pick the children up from daycare. Police officers conducted a welfare check at mother's home and found her in bed, not very talkative, and crying. She was transported to the hospital. On August 24, 2020, mother was arrested for driving while impaired (DWI), among other things. Mother had been driving with the children in the car, and her breath test registered an alcohol content of 0.31.

The district court filed an ex parte order suspending mother's parenting time and ordering that the children temporarily reside with father. Following a hearing, in September 2020, the district court filed an order awarding father temporary primary residence of the children and ruling that father alleged a prima facie case to modify custody.

Mother then took steps to address her chemical-dependency and mental-health issues, leading the parties to enter an agreement on July 6, 2021, that included a parenting-time schedule. The parties also agreed that, if during mother's parenting time she used alcohol, was criminally charged for an alcohol-related offense, or suffered a mental-health crisis requiring inpatient treatment, father could "bring an immediate emergency motion addressing temporary parenting time."

In 2022, mother relapsed. Father filed a motion for emergency relief, seeking to suspend mother's parenting time and for the children to reside solely with him. Father also moved to modify permanent physical and permanent legal custody because mother's conduct endangered the children.

In a supporting affidavit, father described specific incidents when the children expressed feeling unsafe or neglected in mother's care. The children would text father asking to go "home" or for his help. The children stated that mother was sleeping often, seemed "out of it," was "acting weird," and failed to feed them. On September 21, 2022, father called mother after he received such a text from the children. Mother's speech was slurred. Father picked up the children who stated that mother smelled like wine and called them names. Mother immediately sought chemical-dependency treatment.

The district court granted father's request for temporary sole legal and temporary sole physical custody and suspended mother's parenting time. The district court found that the recent events, combined with mother's history of chemical dependency, is "disturbing and endangering to the . . . children and more so because [mother] is not openly and honestly dealing with the depth of her own crisis." The district court found that mother's "binge-drinking . . . that overlap[ped] with her parenting time poses an immediate danger of physical harm to the . . . children."

The parties agreed to participate in a Brief Focused Assessment (BFA) that would evaluate the parties' parenting capacities. The BFA was completed on January 20, 2023. The evaluator noted that a chemical-health assessment recommended that mother complete intensive outpatient treatment. Mother had completed a portion of the treatment under the direction of a licensed alcohol-and-drug counselor. Mother transitioned into aftercare and regularly attends Alcoholics Anonymous (AA), has a sponsor, and has had all negative tests through Soberlink.¹

The evaluator noted that the children expressed apprehension about spending more time with mother. The evaluator concluded:

[I]n review of her history, it is . . . clear that [mother] has difficulty coping. Despite therapeutic intervention, [mother] has discontinued therapy and medications from time to time, which has contributed to the deterioration of her mental health and instead, used alcohol to cope. This deterioration has resulted in [mother] being unable to provide adequate care to the children and historical details suggest the children's safety and wellbeing has been severely compromised in her care.

¹ Soberlink is an alcohol-testing system that measures, tracks, and shares alcohol levels throughout a day.

These incidents challenged the children's feelings of security in their mother's home, and they are understandably concerned about history repeating itself.

Current indicators suggest [mother]'s latest treatment efforts and engagement in her sober supports have led to insight that was lacking in her previous attempts at sobriety. However, she is early in recovery and based on the history of relapse and multiple incidents where she compromised the children's safety, it is reasonable to be cautious about her long-term stability. [Mother] will need to continue to practice sober living by attending AA and remaining in contact with her sponsor. On-going alcohol testing or interlock would also be prudent given the history of [mother]'s use while the children are in her care.

In April 2023, the district court filed an order denying father's motion for sole legal custody. But the district court determined that father made a prima facie case for modification of permanent physical custody and granted father an evidentiary hearing. The district court determined that mother's 2022 relapse was a change in circumstances, which was concerning after she promised her family and the district court in 2021 that a relapse would not occur, and that the children were endangered in mother's care while she was intoxicated because they are too young to keep themselves safe in mother's care.

In October 2023, the district court held an evidentiary hearing on father's motion to modify permanent physical custody. The custody evaluator who conducted the BFA testified about the information she reviewed in creating the BFA. The evaluator testified that it is reasonable to be cautious about mother's long-term stability and that the children expressed that their sense of security with mother was "severed." Father testified about his experiences with mother's conduct and how the children are doing well in his care. Mother testified and acknowledged that her conduct was unsafe for the children. Mother also

testified about her significant progress in treatment. An alcohol-and-drug counselor who participated in mother's treatment also testified about mother's progress.

In February 2024, the district court filed an order modifying custody. The district court determined that it was in the children's best interests for father to have sole physical custody of the children in his home where they are "safe and they feel safe."

This appeal followed.

DECISION

Custody

Prima facie case

Mother argues that the district court failed to make a determination that father made a prima facie case to be entitled to an evidentiary hearing to modify custody. She then claims that, even if the district court made such a determination, it erred in doing so.

A party seeking to modify custody based on endangerment must first make a prima facie case for modification. *Crowley v. Meyer*, 897 N.W.2d 288, 293 (Minn. 2017). A parent seeking custody modification based on endangerment must demonstrate that "(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." *Christensen v. Healey*, 913 N.W.2d 437, 440 (Minn. 2018); Minn. Stat. § 518.18(d)(iv). "Whether a party makes a prima facie case to modify custody is dispositive of whether an evidentiary hearing will occur on the motion." *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 292 (Minn. App. 2007).

If the party seeking modification makes a prima facie case, the district court must hold an evidentiary hearing. *Crowley*, 897 N.W.2d at 293-94.

First, mother should have presented this argument to the district court prior to the district court holding a two-day hearing. At the beginning of the hearing, the district court stated: “So this [hearing] is about [father]’s motion to modify physical custody and/or parenting time. Any other issues?” Mother’s attorney replied: “No.” Had mother believed that the district court failed to make the necessary findings to warrant an evidentiary hearing on the motion, she should have raised that concern before the hearing to afford the district court an opportunity to address it. But in considering mother’s challenge now, we conclude that the record supports the district court’s determination that father established a prima facie case entitling him to the hearing.

The district court was aware of father’s burden. In its April 2023 order, the district court stated father’s threshold requirement to warrant an evidentiary hearing and recited the four elements that father needed to satisfy. The district court ruled that the changed circumstance was mother’s relapse after promising her family and the court that she would not relapse, the children are endangered by mother’s intoxication and inability to cope and abide by sobriety requirements, and modification would benefit the children because they are not old enough to independently navigate and keep themselves safe while in mother’s care. *See* Minn. Stat. § 518.18(d)(iv). These rulings adequately demonstrate that the district court determined that father established a prima facie case entitling him to a hearing on his motion to modify custody.

Modification of custody

Mother argues that, if the district court determined that father made a prima facie case to modify custody, the district court failed to make “exhaustive” best-interests findings to support its ultimate decision to modify custody.

Appellate review of a district court’s custody determination is limited to whether the district court abused its discretion. *Pikula v. Pikula*, 374 N.W.2d 705, 710 (Minn. 1985). A district court has broad discretion in making child-custody determinations. *Matson v. Matson*, 638 N.W.2d 462, 465 (Minn. App. 2002). “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) (quotation omitted). This court reviews a district court’s findings of fact for clear error and will not conclude that a district court clearly erred unless “left with a definite and firm conviction that a mistake has been committed.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). This court will not conclude that the district court clearly erred when the evidence in the record supports the district court’s decision. *Id.* at 222.

Here, the record shows that the district court conducted a best-interests analysis before determining that it was in the children’s best interests to primarily reside in father’s home where “they are safe and they feel safe.” *See* Minn. Stat. § 518.17, subd. 1 (2024). The district court made the required findings, and the findings are adequate for review and support the district court’s modification decision.

Parties' agreement

Mother next argues that the parties agreed on a plan if mother relapsed and that the district court should have adhered to the terms of that plan instead of permitting father to move to modify permanent custody.

In July 2021, the parties agreed:

Mother shall maintain sobriety at all times during her parenting time [If] [m]other uses alcohol or any non-prescribed controlled substance during her parenting time or within 24 hours before her parenting time, the parenting time schedule herein shall be revisited, and [f]ather *may bring an immediate emergency motion addressing temporary parenting time*. If at any time [m]other is criminally charged with a [DWI] or other criminal offense involving alcohol or non-prescribed controlled substances [or has a mental-health crisis that results in treatment at a hospital during her scheduled parenting time], [f]ather *may bring an immediate emergency motion addressing temporary parenting time*. (Emphasis added.)

The focus of this agreement as written is “immediate emergency [action] addressing temporary parenting time.” The agreement addresses father’s ability to *immediately* protect the children *temporarily* in an *emergency*. The agreement does not limit father’s right by statute to move to modify permanent custody. The district court did not ignore the parties’ agreement; rather, the agreement was irrelevant to father’s motion to modify permanent custody.

Due process

Finally, mother argues that the district court denied her due-process rights by granting father “the right to suspend [her] parenting time without reason.” The district court included the following provision in its custody-modification order:

7. **Alcohol Monitoring.** Until November 1, 2025, which is when this requirement ends, [mother] shall submit to alcohol monitoring using Soberlink . . . three times every 24 hours . . . and share the results with [father]. [Mother] shall bear the cost of such testing.

a. While such testing is required, one positive or missed alcohol monitoring test shall result in an immediate suspension of [mother]’s parenting time.

Based on the extraordinary history of this case and the toll it has taken on the minor children, [father] can suspend [m]other’s parenting time unilaterally until November 1, 2025, without prior order of the [c]ourt. The onus is on [m]other to file a motion for parenting time assistance.

Mother seemingly misreads the provision, claiming that the district court denied her an opportunity to be heard because father can suspend her parenting time at any time for any reason. But father’s ability to suspend mother’s parenting time is limited to the alcohol-monitoring requirement. Father’s right to suspend mother’s parenting time is included under only provision 7 of the district court’s order—it does not apply to anything other than mother’s alcohol-monitoring requirement. As the district court noted, “the extraordinary history of th[e] case and the toll it has taken on the minor children” led to the district court affording father this right only until November 1, 2025, when the alcohol-monitoring requirement ends. On this record, this provision does not implicate mother’s right to due process.

Affirmed.