

*This opinion is nonprecedential except as provided by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
A24-1609**

Peter William Bristol Malmstrom, petitioner,
Respondent,

vs.

Dana Marie Colestock,
Appellant.

**Filed August 18, 2025
Affirmed
Smith, Tracy M., Judge**

Ramsey County District Court
File No. 62-FA-21-1804

Steven T. Hennek, Hennek Klaenhammer Law, PLLC, Roseville, Minnesota (for respondent)

Sam E. Khoroosi, Jessica M. Sampson, Khoroosi Law Office, P.A., St. Louis Park, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Worke, Judge; and Johnson, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this parenting dispute, appellant-mother Dana Marie Colestock argues that the district court abused its discretion by awarding her and respondent-father Peter William Bristol Malmstrom joint legal custody, joint physical custody, and equal parenting time. Specifically, mother challenges the district court's finding that father did not commit

domestic abuse and argues that the district court erred by relying on a custody-evaluation report instead of properly evaluating the best interests of the child. Because the district court did not clearly err by finding that domestic abuse had not occurred and because the district court reached its conclusions based on a detailed analysis of the statutory best-interest factors and not the custody-evaluation report, we affirm.

FACTS

The parties are the unmarried parents of a minor child who was born in February 2021. In November 2021, father served a petition for custody and parenting time on mother, seeking joint legal and joint physical custody of the child and reasonable parenting time. Mother opposed father's petition and requested that the district court grant her sole legal and sole physical custody and provide father with supervised parenting time. An initial case-management conference was held in February 2022, during which mother alleged domestic abuse by father. Father subsequently amended his petition to seek sole legal and sole physical custody of the child.

In May 2022, the district court filed a temporary order providing father with temporary unsupervised parenting time for eight hours every Saturday and for one hour every Wednesday afternoon starting in July 2022. The district court reserved the issue of the child's legal and physical custody.

In December 2022, based on an agreement between the parties, a custody-evaluation report was completed and filed with the district court. The report recommended that the parties share joint legal custody, joint physical custody, and equal parenting time.

A trial was held in late February and early March 2024. During the trial, mother testified about the alleged abuse by father, including how he had yelled at her multiple times, had driven while intoxicated with her in the car, and generally engaged in behavior that scared her. Mother also testified that the child had returned home after father's parenting time with unexplained marks and bruises, which led mother to take the child to a doctor who then reported suspected child abuse by father to child protective services (CPS). Mother stated that CPS investigated that report but determined that there was "not a preponderance of the evidence to support a finding of physical abuse" and that "maltreatment did not occur."

In July 2024, the district court filed its custody order. In its order, the district court noted that a custody-evaluation report had been completed but stated that it "gave little weight to the evaluators' recommendations" because the report was "likely stale" and had procedural errors and substantive deficiencies. The district court then evaluated the best interests of the child by analyzing the 12 statutory best-interest factors under what is now Minnesota Statutes section 518.17, subdivision 1(a) (2024), and, as part of that analysis, found that father had not "committed any domestic abuse against mother or the child." The district court concluded that it was in the child's best interests to award the parties joint legal custody, joint physical custody, and equal parenting time.

Mother appeals.

DECISION

The district court has broad discretion in making child-custody and parenting-time determinations. *Matson v. Matson*, 638 N.W.2d 462, 465 (Minn. App. 2002); *see also In*

re Welfare of C.F.N., 923 N.W.2d 325, 334 (Minn. App. 2018) (“[T]here is scant if any room for this court to question a district court’s balancing of best-interests considerations.” (quotation omitted)), *rev. denied* (Minn. Mar. 19, 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) (quotation omitted). Appellate courts 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 [the reviewing court is] left with the definite and firm conviction that a mistake has been made.” *Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019) (quotations omitted). A finding of fact is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted).

The district court’s “guiding principle” and “paramount commitment” when making child-custody and parenting-time decisions is the best interests of the child. *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); *see* Minn. Stat. § 518.17, subd. 1(a) (listing the 12 factors). For each of the statutory best-interest factors, the district court must provide “detailed findings . . . and explain how each factor led to [the district court’s] conclusions and to the determination of custody and parenting time.” Minn. Stat. § 518.17, subd. 1(b)(1) (2024).

One of the best-interest factors is “whether domestic abuse, as defined in section 518B.01, has occurred in the parents’ or either parent’s household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child’s safety, well-being, and developmental needs.” *Id.*, subd. 1(a)(4). Under Minnesota Statutes § 518B.01, subdivision 2 (2024), “domestic abuse” includes any of the following conduct when “committed against a family or household member by a family or household member”: (1) “physical harm, bodily injury, or assault,” (2) “the infliction of fear of imminent physical harm, bodily injury, or assault,” and (3) terroristic threats, criminal sexual conduct, sexual extortion, or interference with an emergency call. “[I]f domestic abuse, as defined in section 518B.01, has occurred between the parents,” then the court applies a rebuttable presumption that joint legal or joint physical custody “is not in the best interests of the child.” *Id.*, subd. 1(b)(9) (2024).

Here, mother argues that the district court abused its discretion by granting the parties joint legal and joint physical custody and equal parenting time because those decisions were based on an erroneous finding that father did not commit domestic abuse and an erroneous reliance on the custody-evaluation report instead of the statutory best-interest factors. We address each of mother’s assertions in turn.

Domestic-Abuse Finding

Mother first argues that the district court erred by finding that no domestic abuse occurred and consequently misapplied the law when it did not apply the statutory rebuttable presumption against joint legal and joint physical custody.¹ *See id.*

In the custody order, when analyzing the best-interest factor related to domestic abuse, the district court described the allegations made by mother at trial and determined that father had not committed any domestic abuse against mother or the child. As part of its analysis, the district court made the following findings: (1) there was no evidence that CPS ever found that the child was abused or neglected by either parent; (2) in a May 2021 intake with a couple's therapist, mother answered "no" when asked whether father "struck, physically restrained, used violence against, or injured [her]," and stated that she did not feel that father was dominant, controlling, or interested in managing her life; (3) mother offered no evidence that she "supplemented or clarified her answers" to the therapist or otherwise reported the alleged instances of domestic abuse that occurred after the intake; (4) "[m]other offered no corroborating evidence that domestic abuse occurred"; (5) "there [was] no order for protection in place regarding the parties and their child"; and (6) "mother was not credible in her testimony about the alleged incidents of domestic abuse" because,

¹ Father argues that the district court correctly applied the law when it did not apply a presumption either in favor of joint legal custody or against joint legal and joint physical custody. *See id.* Subdivision 1(b)(9) of section 518.17 provides that the court shall use a rebuttable presumption *in favor* of joint legal custody if joint legal custody is requested by a party but shall use a rebuttable presumption *against* joint legal custody or joint physical custody if domestic abuse has occurred between the parents. Because mother does not challenge the district court's decision not to apply a presumption *in favor* of joint legal custody, we do not address that presumption.

“[i]n reading [her] statements about the incidents and more importantly in observing the parties as they testified about the domestic abuse allegations, the court was left with the distinct impression that mother exaggerated the nature and intensity of the incidents.” As part of the analysis for a different best-interest factor, the district court also noted that mother “allege[d] that the child often returns from father’s home hungry, thirsty, and needing to go to the bathroom,” but it found that mother’s statements seemed “exaggerated given the short duration of father’s visits.”

Mother asserts that the district court’s findings are erroneous for three reasons.

First, mother contends that the district court erred by finding that there was no domestic abuse because mother provided detailed testimony and her testimony could not be corroborated because of the nature of the abuse. But the fact that mother provided detailed testimony does not establish that her testimony was credible. And, because we defer to the district court’s credibility determinations, *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008), and mother admits that there was no corroborating evidence, we conclude that the district court did not err in its findings about mother’s credibility and the lack of corroborating evidence.

Second, mother contends that the district court failed to properly consider all the evidence of domestic abuse—specifically, photos of marks and bruises on the child and mother’s allegations that, after visiting father, the child would return with marks and bruises as well as “extreme hunger, thirst, and need to use the bathroom.”

As a preliminary matter, because the district court determined that mother’s allegations lacked credibility, the district court did not need to address every allegation that

mother raised. Mother is correct that the district court did not address the marks and bruises that she alleged followed the child's visits with father and that were depicted in photos. But mother acknowledges in her brief that marks and bruises on the child are what led to the involvement of CPS, and the district court did address CPS's determination that there was no child abuse by either parent. Accordingly, although the district court did not explicitly address the marks and bruises, we conclude that the district court's other findings adequately addressed mother's concern about the child's safety during father's parenting time.

As for mother's assertions that the child would return from father's home hungry, thirsty, and needing the bathroom, the district court did address those assertions and rejected them, finding that it was an exaggeration to claim that the child experienced concerning levels of hunger, thirst, or bathroom needs after an eight-hour visit. Mother argues that the district court's finding that her statements were exaggerated "defies logic" because father's weekly eight-hour visits with the child were enough time for the child to experience the conditions described by mother. But, to the extent that the evidence supports a different conclusion than the one reached by the district court, our review of the record does not leave us "with the definite and firm conviction that a mistake has been made." *Thornton*, 933 N.W.2d at 790 (quotation omitted). We therefore decline to conclude that the district court's finding was clearly erroneous.

Finally, mother contends that the district court "excessive[ly]" relied on the May 2021 intake with a couple's therapist as an indication that no domestic abuse occurred. While the district court mentioned the May 2021 therapy intake as part of its findings, it is

not the only finding made by the district court in support of its finding that domestic abuse did not occur—the district court also relied on the fact that CPS did not find any abuse, that there was no other evidence of abuse in the record, and that mother’s testimony to the contrary was not credible. Accordingly, the district court did not “excessively” rely on the May 2021 intake and the district court’s finding that father did not commit domestic abuse is reasonably supported by the evidence in the record. *See Kenney*, 963 N.W.2d at 221.

In sum, we conclude that the district court did not clearly err by finding that father did not commit domestic abuse and, therefore, it did not misapply the law by not applying a presumption against joint legal and joint physical custody. *See Minn. Stat. § 518.17*, subd. 1(b)(9).

Custody-Evaluation Report

Second, mother argues that the district court erred because it improperly relied on the custody evaluation rather than an appropriate analysis of the statutory best-interest factors. She contends that, although the district court determined that the custody-evaluation report had deficiencies and should be given little weight, it nevertheless appears to have relied on the report because it arrived at similar conclusions to those recommended in the report.

Mother is correct that the district court’s order included the same conclusions about joint legal and joint physical custody and equal parenting time as the report’s recommendations. But we are not persuaded that, because the district court reached the same conclusions as the custody evaluators, the district court must have relied on the evaluators’ recommendations. The order shows that the district court independently

evaluated the 12 best-interest factors and determined what it believed to be the appropriate award of custody and parenting time based on those findings. Some of the relevant findings include that father had completed parenting education in preparation of taking on the child’s care, *see id.*, subd. 1(a)(1), that both parents are aware of concerns about their own mental and chemical health and have addressed or have a plan to address such concerns, *see id.*, subd. 1(a)(5), that “[e]ach parent has shown that they are capable and excited to be a caretaker for the child,” *see id.*, subd. 1(a)(10), and that mother “testified that she would collaborate with father on legal custody decisions,” *see id.*, subd. 1(a)(11). Additionally, while the district court acknowledged that the parties have struggled to effectively communicate and co-parent, the district court addressed this concern by requiring that the parties complete a conflict course to help them successfully co-parent. *See id.*, subd. 1(a)(12).

Read as a whole, the district court’s order includes findings on all relevant best-interest factors, and the findings are sufficiently detailed and explain how the district court reached its conclusions and decided to award joint legal and joint physical custody and equal parenting time. *See id.*, subd. 1(b)(1). Accordingly, we conclude that the district court did not erroneously rely on the custody-evaluation report or abuse its discretion when analyzing the statutory best-interest factors.²

² Mother also asserts that the district court erred by imposing a short step-up parenting schedule—which required the parties to start equal parenting time by the beginning of October 2024. But, because mother does not point to any caselaw or statute requiring that the district court provide an explanation for that decision, we decline to conclude that the district court abused its discretion or erred in reaching that conclusion.

In sum, because the district court did not clearly err by finding that father did not commit domestic abuse and did not erroneously rely on the custody-evaluation report, the district court did not abuse its discretion by awarding the parties joint legal and joint physical custody and equal parenting time.

Affirmed.