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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1902**

In the Matter of the Welfare of the Child of: C. E. S., aka C. E. S., Parent.

**Filed July 21, 2025
Affirmed
Schmidt, Judge**

Hennepin County District Court
File No. 27-JV-24-131

Lucas J.M. Dawson, Halberg Criminal Defense, Bloomington, Minnesota (for appellant father D.J.N.)

Mary F. Moriarty, Hennepin County Attorney, Alyssa Lund, Britta Nicholson, Assistant County Attorneys, Minneapolis, Minnesota (for respondent Hennepin County Human Services)

Eric Anderson, Anderson Defense, Minneapolis, Minnesota (for respondent mother C.E.S.)

Destiny Thomas, Minneapolis, Minnesota (guardian ad litem)

Considered and decided by Ross, Presiding Judge; Connolly, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant father D.J.N. argues that the district court abused its discretion by (1) adjudicating the child in need of protection or services (CHIPS); and (2) determining that respondent Hennepin County Human Services and Public Health Department (department) made reasonable efforts to reunite father and the child. We affirm.

FACTS

The department filed a petition to adjudicate the child of respondent mother and appellant father as CHIPS. The department alleged the child was CHIPS because father: (1) physically abused the child; (2) was unwilling or unable to provide for the child's physical or mental health; (3) deprived the child of proper parental care due to father's emotional, mental, or physical disability, or state of immaturity; and (4) had a behavior, condition, or environment that is injurious or dangerous to the child.

In January 2024, at an emergency protective care hearing, the district court ordered the child to remain with mother under the supervision of the department. The district court also ordered a voluntary case plan that included requirements that father: complete parenting education, a mental health evaluation, and anger management classes and follow all recommendations from each; not use physical discipline with the child; and cooperate with the department, including maintaining consistent contact with the guardian ad litem and the department, signing necessary releases, and allowing home visits.

The district court held a trial on the CHIPS petition. Mother testified about the allegations in the petition, the child's behavior and reports of abuse, and the child's interactions with father. Father testified about his programming, medical diagnoses, treatment, and his interactions with mother, the department, and the child.

Several witnesses for the department testified. A forensic interviewer and trainer testified about interviewing the child and her observations of the child during the forensic CornerHouse interview of the child. A child protection social work supervisor and a child protection investigator both testified about their work with the child and this case. A

licensed independent clinical social worker with the Domestic Abuse Project testified about working as the child's therapist over the previous eight months. An investigator with Hennepin County testified about observing a second interview with the child. A child protection social worker testified about father's case plan and his engagement with the plan as well as father's communication with the department. Finally, the child's guardian ad litem testified that a CHIPS adjudication was in the child's best interests.

The district court filed a 50-page order adjudicating the child as CHIPS on each of the four statutory grounds alleged by the department. In the order, the district court found mother to be "credible and persuasive in view of the evidence." The court also found all of the department's witnesses and the guardian ad litem to be "credible and persuasive."

The district court found father's testimony about his desire to have a relationship with his child to be credible. But the court found father's testimony about his mental health diagnosis and treatment to be not "entirely reliable." The district court also found unreliable father's testimony about the history between father and mother, and his behavior and how it affects mother, service providers, and the child. The court further found that father's testimony was not credible or was unsupported by the record as it related to: father's opinion of the child's mental health diagnosis; father's testimony that he had not physically abused the child; father's testimony that his mental health does not impact the child; father's engagement in services; and father's interactions with the child, the department, and service providers. The district court did not find father's testimony "persuasive in view of the evidence."

Father appeals.

DECISION

On appeal from a district court order adjudicating a child as CHIPS, we review the district court's factual findings for clear error. *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015). “A finding is clearly erroneous only if there is no reasonable evidence to support the finding or when an appellate court is left with the definite and firm conviction that a mistake occurred.” *In re Welfare of J.H.*, 844 N.W.2d 28, 35 (Minn. 2014) (quotation omitted). “When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (quotation omitted). When applying the clear-error standard of review, appellate courts (1) “view the evidence in a light favorable to the findings”; (2) do not reweigh the evidence; (3) do not make our own findings of fact; and (4) do not reconcile conflicting evidence. *Id.* at 221-22. We defer to the district court in its assessment of the credibility of witnesses. *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996).

We review a district court's determination that the petitioner established a statutory basis for the order for abuse of discretion. *See D.L.D.*, 865 N.W.2d at 321. “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).

I. The district court did not abuse its discretion in adjudicating the child as CHIPS.

Father argues that the district court abused its discretion in adjudicating the child as CHIPS by: basing its decision on father's disabilities in violation of father's due process rights, inappropriately shifting the burden of proof onto father, and determining that the department established by clear and convincing evidence the existence of the alleged statutory bases for a CHIPS adjudication. We address each argument in turn.

A. The district court did not base its decision on father's disabilities.

Father argues that the district court violated his due process rights by inappropriately basing its decision on father's disabilities instead of father's actions. Under Minnesota law, a CHIPS petitioner "shall not file a petition alleging that a child is in need of protection or services on the basis of a parent's disability." Minn. Stat. § 260C.141, subd. 1a(a) (2024).¹ Further, the petitioner "must demonstrate in the petition that the child is in need of protection or services due to specific *behaviors*" of the parent.² *Id.* (emphasis added).

¹ The legislature added subdivision 1a in the 2024 legislative session, and it applied to the pleadings and motions pending on August 1, 2024. 2024 Minn. Laws ch. 115, art. 18, § 32, at 1733-34. Because the department's petition was pending until the district court adjudicated the child in November 2024, it applies to the petition here.

² Father claims that the department bears the burden "to prove with clear and convincing evidence that its petition was not based on the disability of the parent." But father cites to section 260C.141, subdivision 1a(a), which does not contain any language describing the quantum of proof and father does not identify any authority for his claim that the standard is "clear and convincing evidence." We need not determine the quantum of evidence, however, because even assuming the standard is clear and convincing evidence, father's argument fails.

The record shows that neither the CHIPS petition nor the district court's decision were based on father's disabilities. In the order, the district court stated three different times that its decision was based on father's actions and not on his disabilities. First, the district court stated that "father's mental disabilities are not a reason to hold [the child] out as a child in need of protection or services." Second, the order noted that in adjudicating the child CHIPS the district court "focuse[d] on father's actions, not his diagnosis and not his disabilities." Third, the district court described father's actions that supported its decision and then reiterated that "the court's focus is, again, not on father's disability." We also note that, as will be addressed in this opinion, the facts presented support the district court's conclusion. The district court did not abuse its discretion or violate father's due process rights because the district court did not base its decision on father's disabilities.

B. The district court did not shift the burden of proof to father.

Father argues that the district court erroneously shifted the burden of proof from the department to father. As support for this argument, father cites the district court's statement that "petitions filed with the district court are part of the case record before the court and therefore allegations can be considered in making a disposition on the petition." Father asserts that the supreme court has held that allegations in a CHIPS petition are merely allegations, *In re Welfare of Child of H.G.D.*, 962 N.W.2d 861, 872 (Minn. 2021), and, thus, the district court erred by "accepting the allegations as evidence."

Father's argument misconstrues the district court's decision. The district court did not state that allegations in a petition are evidence. Rather, the district court properly noted that the burden of proof is on the department, identified evidence that corroborated the

allegations in the petition, credited witnesses whose testimony corroborated the allegations in the petition, and found father's testimony that contradicted the allegations in the petition to be unpersuasive and not credible. The district court compared the allegations in the petition with the evidence the department presented at trial and then concluded that the allegations were reliable. This is exactly what the supreme court directed district courts to do in *H.G.D.*: "We hold that the district court can consider the allegations of [a CHIPS] petition if evidence establishes the reliability of those allegations." *Id.* Because the district court appropriately placed the burden of proof on the department, and because the district court did not incorrectly apply *H.G.D.*, the district court did not incorrectly place the burden of proof and so did not abuse its discretion.

C. The district court did not abuse its discretion in determining the child has been a victim of physical abuse.

Father argues that the district court abused its discretion by concluding that the department had established that the child has been a victim of physical abuse. A child may be adjudicated as CHIPS if the child has been a victim of "physical abuse" as defined in Minnesota Statutes section 260E.03, subdivision 18 (2024).³ Minn. Stat. § 260C.007, subd. 6(2)(i) (2024). The legislature defined "physical abuse" as "any physical injury, mental injury under subdivision 13, or threatened injury under subdivision 23, inflicted by a person responsible for the child's care on a child other than by accidental means, or any

³ Father is correct that the district court cited the wrong statutory provision. However, because the language that the district court quoted is the substantively correct statutory language, we conclude that the error was merely clerical and, therefore, harmless. *See State v. Kessler*, 470 N.W.2d 536, 539 (Minn. App. 1991) ("[A] clerical error, resulting in no prejudice, is not reversible error.").

physical or mental injury that cannot reasonably be explained by the child’s history of injuries.” Minn. Stat. § 260E.03, subd. 18(a). In subdivision 13, the legislature defined “mental injury” as “an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child’s ability to function within a normal range of performance and behavior.” *Id.*, subd. 13 (2024). “Physical abuse may result in significant mental injury, even if it results in no observable physical injury.” *In re Welfare of Child. of N.F.*, 749 N.W.2d 802, 809 (Minn. 2008).

Father maintains that the record does not establish that he caused the child’s injury through nonaccidental, impermissible physical contact. The record does not support father’s argument. The district court credited the child’s statement to the CornerHouse interviewer that father hit the child in the face with his hand. The district court also credited the testimony of the child’s therapist related to abuse the child suffered, which is confidential and not summarized in this opinion. The district court further found that father’s testimony that he did not physically abuse the child was unpersuasive and not credible. Because we defer to the district court’s assessment of witness credibility, *see L.A.F.*, 554 N.W.2d at 396, view the evidence in the light most favorable to the district court’s findings, *see Kenney*, 963 N.W.2d at 221, and do not reweigh the evidence or reconcile conflicting evidence, *see id.* at 221-22, we conclude that the district court did not abuse its discretion in determining that the evidence clearly and convincingly showed that the father inflicted mental injury that constitutes physical abuse on the child.

Father also argues that the district court’s determination violates the supreme court’s decision in *N.F.* We disagree. In *N.F.*, the supreme court held that the district court must

assess whether any alleged physical conduct was “reasonable discipline.” 749 N.W.2d at 810 (quotation omitted). The supreme court also noted that “for there to be a mental injury . . . [t]here must be a showing that the injury resulted in an impairment in [the child’s] ability to function within a normal range of performance and behavior.” *Id.* (quotation omitted). In *N.F.* the supreme court determined that there was no record that the child had a mental injury or had suffered physical injury from being paddled by father 36 times. *Id.* The supreme court concluded that the petitioner had failed to meet its burden by presenting evidence that connected the paddling with the child suffering physical or mental injury as defined by the statute. *Id.* at 811.

Unlike *N.F.*, the department met its burden to prove that the child suffered a mental injury due to father’s actions. Several witnesses—all of whom the district court found to be credible—testified that the child suffered a mental injury. The district court found father’s testimony to the contrary to be unpersuasive and not credible based on the other evidence presented. Given the different records, *N.F.* is distinguishable from this case.

Because we conclude that there was physical abuse that meets the definition provided in Minnesota Statutes section 260C.007, subdivision 6(2), we need not—and do not—address father’s arguments challenging the other statutory bases that the district court determined the department had established.

II. The district court did not abuse its discretion in determining that the department made reasonable efforts to reunite father and the child.

Father challenges the district court's determination that the department made "reasonable efforts" to reunite father with his child. Under Minnesota law, and with exceptions not relevant here, once a district court has jurisdiction over a child alleged as CHIPS, the district court "shall ensure that reasonable efforts . . . by the social services agency are made . . . to reunite the child with the child's family." Minn. Stat. § 260.012(a) (2024). In determining whether the department made reasonable efforts, "the child's best interests, health, and safety must be of paramount concern." *Id.*

In advocating for reversal, father highlights evidence that he contends shows the department failed to make reasonable efforts to reunite the child and father. But the record does not support father's argument.

The district court considered the evidence that father identifies on appeal. In addition, the district court found father's testimony related to the impact of his behavior on others and his interactions with the department not credible. Across six pages of extensive findings, the district court described father's awareness of, and refusal to engage with, the case plan. A witness, whom the district court found credible, testified that the case plan was specifically developed to facilitate father's reunification with his child while ensuring the health and safety of a child suffering from injury due to traumatic experiences father inflicted on the child. The district court did not abuse its discretion in concluding that the department made reasonable efforts to reunite father with his child.

Affirmed.