

*This opinion is nonprecedential except as provided by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
A25-1596**

In Re the Custody of MGM & GAM;

Glenn Gregory McGary, petitioner,
Respondent,

vs.

Tiffany Lee Thompson,
Appellant,

County of Dakota,
Intervenor.

**Filed August 31, 2026
Affirmed in part and remanded
Larson, Judge**

Dakota County District Court
File No. 19AV-FA-19-3370

Michelle K. Olsen, Tentinger Law Office, P.A., Apple Valley, Minnesota (for respondent)

Tiffany Lee Thompson, Apple Valley, Minnesota (self-represented appellant)

Considered and decided by Ross, Presiding Judge; Larson, Judge; and Beane, Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Tiffany Lee Thompson (mother) challenges a district court decision to grant respondent Glenn Gregory McGary’s (father) motion to modify physical custody—awarding father sole physical custody in Texas for the parties’ children (daughter and son).

Because the district court legally erred when it failed to make required findings with respect to son, we remand for additional findings. We otherwise affirm.

FACTS

Mother and father, who were never married, are parents to daughter and son. Father lives in Texas and mother lives in Minnesota. In August 2021, the district court entered a judgment and decree establishing custody and parenting time, which ordered mother and father to share joint legal and joint physical custody. The district court designated mother's home as the children's primary residence, and father was granted parenting time.

In August 2022, mother and father entered, and the district court adopted, a stipulation to appoint a parenting consultant. Father later filed a motion for expedited relief, alleging that mother interfered with his parenting time. Father sought several forms of relief, including temporary sole legal and temporary sole physical custody of the children, and requested an evidentiary hearing to determine permanent custody.

After determining father met his prima facie burden to support his motion to modify custody, the district court held an evidentiary hearing on October 30-31, 2023. As relevant here, following the hearing, the district court determined that mother, or someone on her behalf, had interfered with father's parenting time. The district court then reserved the custody-modification issue and set a review hearing in one year.

After striking the review hearing to resolve certain motions and granting continuances, the district court held another evidentiary hearing between May and July 2025, on the issues of modification of legal and physical custody, parenting time, and attorney fees and costs. Thereafter, applying Minn. Stat. § 518.18 (2024), the district court

granted father's motion to modify physical custody and awarded father sole physical custody. As relevant here, the district court articulated the legal standard that applied as follows:

Father must establish by the preponderance of evidence that (1) a significant change has occurred in the circumstances of the children or the parties since the time of the prior custody order; (2) persistent and willful denial or interference with parenting time; *and/or* (3) the children's environment while in [m]other's care endangers their physical or emotional health or impairs their emotional development; (4) modification would be in the best interests of the children; and (5) the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the children. *See* Minn. Stat. § 518.18(d).

(Emphasis added.)

The district court then found that credible evidence demonstrated a significant change in circumstances had occurred because mother, or someone on her behalf, interfered with father's parenting time with the children on the following occasions:

Father's June Summer Parenting Time. Mother and/or someone on her behalf failed to transport the minor children to the airport or surrender the minor children to [f]ather's representatives at the Apple Valley Police Department.

Father's September 2022 Parenting Time. A report was made to Dakota County Social Services alleging maltreatment causing [f]ather to surrender the minor children to the police during his parenting time. A Safety Plan was put in place prohibiting [f]ather from having contact with the minor children. Ultimately Dakota County Social Services determined there was no finding of maltreatment.^[1]

¹ After the 2023 hearing, the district court found that mother repeatedly and intentionally interfered with father's court-ordered parenting time. The district court also found that the children's maternal grandmother called in welfare checks three times on father while the

Father's Summer 2023 or Summer 2024 Parenting Time. Maternal grandmother admitted that she called law enforcement in Texas requesting welfare checks during Father's summer parenting time.

Father's June 2024 Summer Parenting Time. A report was made to Dakota County Social Services alleging child/ren maltreatment causing Father to take steps to address the Safety Plan put in place within days of the commencement of his 2024 Summer parenting time. . . . Ultimately, Dakota County Social Services determined there was no finding of maltreatment.

The district court also found credible evidence suggested that mother, or someone on her behalf, coached or interfered with father's video calls with daughter.

Next, the district court determined that father met his burden to show daughter's emotional health was endangered while in mother's care. For support, the district court relied on the testimony from experts regarding daughter's escalated dysregulation, specifically toward father. The district court did not make an endangerment finding as to son—despite father asking for one.

The district court then conducted a detailed best-interests analysis, ultimately determining that credible evidence showed father had a greater capacity to support mother's role in the children's lives and that "[m]other [was] unable to step out of the parental conflict" to do the same. In doing so, the district court determined that the harm likely to be caused by changing the children's environment was outweighed by the advantage of a change to the children.

Mother appeals.

children were in Texas. In addition, the district court did not find credible mother's testimony that she did not know who made the September 2022 report.

DECISION

This appeal relates to mother’s challenge to a district court order modifying custody following an evidentiary hearing. Section 518.18 governs motions to modify custody. For a district court to modify custody, it must first determine whether the movant alleged a prima facie case for modification. *Crowley v. Meyer*, 897 N.W.2d 288, 293 (Minn. 2017). To allege a prima facie case, the movant must assert that: (1) the circumstances of the children or parties have changed; (2) modification would serve the children’s best interests; and (3) the presence of one of the five additional grounds for modification, as set forth in Minn. Stat. § 518.18(d)(i)-(v). *See id.* at 293-94. If the movant alleges “a prima facie case, the district court must then hold an evidentiary hearing to consider evidence on each factor.” *In re M.J.H.*, 913 N.W.2d 437, 440 (Minn. 2018).

We review a district court’s post-evidentiary hearing decision to modify custody for an abuse of discretion.² *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008). A district court abuses its discretion if it “make[s] findings unsupported by the evidence or . . . improperly appl[ies] the law.” *Id.* (quotation omitted). We may “set aside a district court’s findings of fact only if clearly erroneous.” *Id.* Factual findings are clearly erroneous if “they are 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). When reviewing a modification decision, we

² We apply a different three-fold analysis when the district court denies a motion to modify custody at the prima-facie-case stage. *See Amarreh v. Amarreh*, 918 N.W.2d 228, 230-31 (Minn. App. 2018), *rev. denied* (Minn. Oct. 24, 2018).

cannot engage in factfinding, reweigh the evidence, make credibility determinations, or reconcile conflicting evidence. *See id.* at 221-22.

Mother makes three arguments. First, she argues the district court abused its discretion when it determined changed circumstances warranted modification. Second, she contends the district court abused its discretion when it determined the present environment endangered daughter. Last, as to son, she contends the district court legally erred when it modified custody without finding the presence of one of the five additional grounds for modification. We address each argument in turn.

A. Changed Circumstances

Mother first argues that the district court abused its discretion when it determined changed circumstances warranted modification. We disagree. “A change in circumstances must be significant and must have occurred since the original custody order; it cannot be a continuation of conditions existing prior to the order.” *Geibe v. Geibe*, 571 N.W.2d 774, 778 (Minn. App. 1997). “[D]enial of, or interference with, a duly established parenting time schedule” can result in a change of circumstances warranting custody modification. Minn. Stat. § 518.18(d).

Here, as described above, the district court provided extensive analysis detailing the evidence father presented to show interference with his parenting time. And upon reviewing the record, these findings are well supported by the testimony of a neutral custody evaluator, an expert retained to evaluate the relationship between the children and their therapists, a parenting consultant, a parenting coach, and the children’s Minnesota-based therapist. Therefore, the district court’s changed circumstances finding is not

“manifestly contrary to the weight of the evidence[.]” *Kenney*, 963 N.W.2d at 221. And on appeal it is not our role to reweigh the evidence. *See id.* at 221-22.

B. Endangerment – Daughter

Mother argues second that the district court abused its discretion when it determined the present environment endangered daughter. We disagree. Endangerment is one of the five statutory grounds for modification. *See* Minn. Stat. § 518.18(d). As relevant here, a statutory ground to modify custody exists where “the child’s present environment endangers the child’s . . . emotional health or impairs the child’s emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child[.]” *Id.* “Endangerment implies a significant degree of danger or likely harm to the child’s . . . emotional state.” *Johnson-Smolak v. Fink*, 703 N.W.2d 588, 591 (Minn. App. 2005) (quotation omitted). Whether endangerment exists is determined by “the particular facts of each case.” *Amarreh*, 918 N.W.2d at 231 (quotation omitted). One parent’s sustained conduct to diminish a child’s relationship with the other parent constitutes emotional endangerment. *See id.*; *see also Chafin v. Rude*, 391 N.W.2d 882, 887 (Minn. App. 1986) (determining custody modification was appropriate, in part, because mother undermined and deterred any possible father-child relationship).

Mother contends that the district court clearly erred when it made the endangerment finding because it largely relied on the reports to social services. According to mother,

there is insufficient evidence to suggest that she made these reports, and she testified that she did not make them.³

We disagree with mother's characterization of the district court's order. In the section entitled "Emotional Endangerment," the district court does not reference the reports to social services. Instead, the district court relied on testimony from the parties and several experts who worked with the children. The district court specifically noted: mother's failure to follow through with court-ordered therapy; daughter's behavioral issues that were not timely addressed by a therapist or parenting coach; daughter's escalating behavior; and recorded video calls illustrating daughter's "angry and dysregulated" behavior. The district court's endangerment finding based upon this evidence is not "manifestly contrary to the weight of the evidence[.]" *Kenney*, 963 N.W.2d at 221. And it is not our role on appeal to reweigh the evidence. *See id.* at 221-22.

C. No Finding on Modification Grounds – Son

Finally, mother argues that the district court legally erred when it made no finding that one of the five additional grounds for modification existed as to son. On this issue, we agree with mother.

³ Even if the district court had relied heavily on these reports, the district court found through circumstantial evidence that "mother, *or someone on her behalf*, ha[d] substantially interfered with [f]ather's parenting time" when the social services reports were made. And the district court explicitly found mother's testimony on this point not credible. *See Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (reconciling conflicting evidence and deciding issues of witness credibility are "exclusively the province of the factfinder").

As set forth above, custody modification is appropriate if the movant demonstrates (1) the circumstances of the child or parties have changed; (2) modification would serve the child's best interests; and (3) the presence of one of the five additional grounds for modification. *Crowley*, 897 N.W.2d at 293-94. In *Sefkow v. Sefkow*, the supreme court held that each child must be considered individually. 427 N.W.2d 203, 213 (Minn. 1988) (stating that the endangerment rule must "treat[] each child individually"); *see also Maxfield v. Maxfield*, 452 N.W.2d 219, 223 (Minn. 1990) (stating that the difficult issue of a child's future "must be decided one by one").

Here, the district court legally erred in its articulation of the legal standard, stating it could find changed circumstances "and/or" endangerment to modify custody. The district court then applied that incorrect legal standard, failing to evaluate any of the five additional grounds for modification before modifying custody as to son. And the district court did so *despite* father's express argument that son's emotional health was endangered in mother's care. *See* Minn. Stat. § 518.18(d)(iv).

Because the district court legally erred when it failed to determine whether one of the five additional grounds for modification exist as to son, we remand for the district court to expeditiously make a decision on this issue. We give the district court discretion to decide whether to reopen the record on remand. Nothing in this opinion should be read to limit the district court's ability to revisit its best-interests analysis after making its decision as to son.

Affirmed in part and remanded.