

*This opinion is nonprecedential except as provided by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
A25-1666**

Cody J Walker,
Respondent,

vs.

Leah Ann Defoe,
Appellant.

**Filed September 14, 2026
Affirmed
Bentley, Judge**

Itasca County District Court
File No. 31-FA-24-128

Misty K. Myers, Robinson Duffy, PLLC, Minneapolis, Minnesota (for respondent)

Leah Ann DeFoe, Keewatin, Minnesota (self-represented appellant)

Considered and decided by Johnson, Presiding Judge; Bentley, Judge; and Bond,
Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

Appellant-mother seeks review of a judgment granting respondent-father sole legal and physical custody with supervised parenting time for appellant. Appellant argues that the district court made clearly erroneous factual findings and credibility determinations, erred in its application of the best-interests factors, and erred by awarding her parenting time that amounts to less than the 25% statutory presumption. We affirm.

FACTS

The following summarizes the district court's factual findings, the trial testimony relevant to the issues on appeal, and the procedural history.

Appellant-mother Leah Ann DeFoe and respondent-father Cody J. Walker are the parents of Z.W., who was born in October 2019. DeFoe and Walker ended their relationship in August 2023, at which point Z.W. continued to live with Walker when DeFoe moved out. DeFoe now lives with J.T., her new partner. DeFoe and Z.W. are enrolled members of the Fond du Lac Band of Lake Superior Chippewa.

Z.W. has Down syndrome and receives services on a one-on-one basis because of his behavioral, health, and educational needs. Z.W. is nonverbal, needs assistance with his daily needs, and requires a highly structured routine and calm environment.

Walker filed a petition with the district court in January 2024, requesting that the court (1) adjudicate him as Z.W.'s father, (2) grant him sole legal and physical custody of Z.W., (3) grant DeFoe supervised parenting time at Walker's discretion, and (4) grant any other relief the court deemed just and equitable. DeFoe filed a counterpetition requesting joint legal and physical custody of Z.W. and parenting time.

After the petitions were filed, DeFoe and Walker began mediation and a temporary schedule was established in which DeFoe received supervised parenting time with Z.W. in the afternoons every other weekend. DeFoe was then granted unsupervised parenting time overnight at her home during the weekends.

A court trial was held on the petitions in March 2025. Walker testified and presented exhibits including text messages between him and DeFoe and photos of Z.W. appearing sick or bruised after returning from DeFoe's home.

Walker testified that Z.W.'s "safety is . . . a huge priority" for him and that someone caring for Z.W. "really [has] to keep an eye on him." Walker described that "it's very important for [Z.W.] to be in a structured, safe, compassionate home, because he will get sick just from stress." Walker also stated that he is very involved with the services that Z.W. receives through school, and he meets with the school's specialists daily. He alleged that DeFoe had resisted obtaining certain services from a social worker for Z.W.

Walker also spoke of his concerns about DeFoe's living situation and her ability to care for Z.W. He stated that DeFoe uses marijuana around Z.W. and was concerned about the effect it has on her awareness when caring for Z.W. as well as potential exposure to Z.W. In addition, Walker explained that DeFoe's partner, J.T., had a criminal history including assault and possession of controlled substances, and that DeFoe allowed another individual, R.F., who is a registered predatory offender, to stay at her home. He further noted that he experienced "some issues" related to domestic violence with DeFoe during their relationship, including that she threw a remote control at him and used vulgar language with him.

Walker also described a specific incident that occurred during DeFoe's unsupervised parenting time that led to a child-protective-services report. Walker stated that, after returning from a weekend with DeFoe, Z.W. would wake up "screaming, shaking his head no, and doing sign language for 'all done,'" and Z.W. would be "terrified" each

time Walker tried to change his diaper. Walker brought him to the hospital where a sexual abuse nursing examination (SANE) was conducted based on the recommendation of hospital staff. A report was made with Itasca County Health & Human Services, but it was screened out for maltreatment.

Before Walker rested his case, he presented additional witness testimony by his mother, a coworker, Z.W.'s godfather, and R.F.'s former romantic partner. The witnesses testified that Z.W. is well cared for in Walker's home.

DeFoe represented herself in the proceedings and introduced a number of exhibits showing texts between her and Walker, some of which included the two arguing and others that were just updates about Z.W. On cross-examination, DeFoe stated that she smokes marijuana daily, but she did not believe it affected her ability to parent. She further testified that she will "drive while [she's] high," including when Z.W. is in her car. With respect to her living situation, DeFoe stated that J.T.'s criminal history was in the past and "can't be used against him," and that R.F. "[n]ever lived in [her] home" and only stayed over a few nights.

The district court filed its decision and entered judgment on August 5, 2025. The court found that "DeFoe uses marijuana on a daily basis" and "will drive while high with [Z.W.] in the car." It also noted DeFoe's testimony that she was "willing to not use, if the Court ordered her to not use while she is parenting her son." With respect to DeFoe and Walker's relationship, the court found that the two are "argumentative with each other" but "at times they are able to effectively communicate about [Z.W.]."

The court concluded that Walker is “presumptively the father of [Z.W.]” Applying the best-interests factors to determine custody and parenting time, the court determined that six factors were in favor of Walker, and the remaining six factors favored neither party. In its analysis, the court expressed doubt about DeFoe’s judgment and her ability to provide for Z.W.’s needs, particularly given her admission to “driving while high with [Z.W.] in the vehicle, her association with a predatory offender,” as well as “her disregard of her current boyfriend’s criminal history.” But the district court also recognized that Z.W. would still “benefit from having a strong relationship with [DeFoe]” in part because she is Z.W.’s “connection to his Native American heritage.”

Accordingly, the court concluded that it was in Z.W.’s best interests to award sole legal and physical custody to Walker, who must “ensure promotion of [Z.W.’s] Native American culture.” The court also concluded that it was “in [Z.W.’s] best interests to maintain a highly-structured week” and it was thus “appropriate to limit [DeFoe’s] parenting time to less than the presumed minimum [25%] to ensure [Z.W.] maintains a consistently-structured schedule.” The court therefore granted DeFoe supervised parenting time in the amount of “a minimum of two hours every week,” which could be increased based on mutual agreement between the parties or become unsupervised at Walker’s discretion.

DeFoe appeals.

DECISION

DeFoe challenges two main aspects of the district court’s order. First, she argues that the court’s best-interest analysis contained unsupported factual and credibility findings

and erroneous legal conclusions. Second, she argues that the court improperly awarded her less than the presumed 25% share of parenting time under Minn. Stat. § 518.175, subd. 1(g) (2024). We address each argument in turn.

I

We first consider DeFoe’s arguments regarding the district court’s application of the best-interests-of-the-child analysis in reaching its custody determination.

“The guiding principle in all custody cases is the best interests of the child.” *Thornton v. Bosquez*, 933 N.W.2d 781, 789 (Minn. 2019) (quotation omitted). Minnesota Statutes section 518.17 (2024) establishes the 12 best-interests factors relevant to custody and parenting-time disputes. Minn. Stat. § 518.17, subd.1(a)(1)-(12). District courts “must make detailed findings on each of the factors . . . based on the evidence presented and explain how each factor led to its conclusions.” *Id.*, subd.1(b)(1).

District courts have broad discretion in child custody decisions, *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984), and there is “scant if any room for an appellate court to question the [district] court’s balancing of best-interests considerations.” *Vangsness v. Vangsness*, 607 N.W.2d 468, 477 (Minn. App. 2000). “Our review is limited to whether the district court abused its discretion by making findings unsupported by the evidence or by improperly applying the law.” *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018) (quotation omitted). We may not reweigh the evidence presented to the district court. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Instead, we defer to the district court’s credibility determinations and review its factual findings for clear error. *Thornton*, 933 N.W.2d at 790. Clear error means that the finding is “manifestly contrary to the weight

of the evidence as a whole or not reasonably supported by the evidence as a whole.” *Kornberg v. Kornberg*, 525 N.W.2d 14, 19 (Minn. App. 1994), *aff’d*, 542 N.W.2d 379 (Minn. 1996).

We understand DeFoe to challenge three aspects of the district court’s best-interests analysis. First, she challenges the court’s implicit finding that Walker’s testimony was credible. Second, she challenges several of the factual findings made by the district court. And third, she argues that the court legally erred in multiple ways in its application of the best-interests factors under section 518.17. We now turn to those arguments.

Credibility Determinations

Beginning with the district court’s credibility determinations, DeFoe argues that the court improperly found Walker “completely credible” and based its findings “almost solely” on his “uncorroborated” testimony.

We disagree that the court relied on Walker’s testimony alone when making its findings. There are several examples in the order where the court did not credit his testimony. For example, the district court did not fully credit Walker’s claim that DeFoe was abusive towards him based on a lack of sufficient evidence. The court also credited DeFoe’s assertion that R.F. never lived with her and her description of her marijuana consumption.

To the extent that the court implicitly credited Walker’s testimony in the remainder of its findings, the court provided reasonable support for those credibility determinations by citing specific corroborating details from witness testimony and the evidence submitted.

Because we detect no clear error here, we defer to the district court's credibility determinations. *See Thornton*, 933 N.W.2d at 790.

Factual Findings

DeFoe next asserts that the district court made factual errors or omissions throughout its analysis of the 12 best-interest factors, and she provides her own analysis of each of the 12 factors. Because we may not reweigh the evidence in our review of the district court's best-interest analysis, *see Sefkow*, 427 N.W.2d at 210, we construe her arguments to be challenging the factual findings that the district court cited in its analysis. We therefore review the findings that she challenges for clear error. *Thornton*, 933 N.W.2d at 790.

DeFoe first challenges the district court's finding that she "expressed hesitation to work with a social worker to provide access to more services for [Z.W.]." DeFoe argues that her hesitation was based on a prior negative experience, and she notes that she later agreed to the services. But regardless of whether DeFoe later accepted these services, based on her own admission, she agrees with the district court that she was initially hesitant to accept them. We understand that she may disagree with the weight that the district court assigned that fact in its analysis, but this court may not reweigh evidence in that manner. *Sefkow*, 427 N.W.2d at 210. Because the record supports the court's finding about DeFoe's hesitation, we identify no clear error.

Second, DeFoe argues that there is not sufficient evidence to support the district court's finding that she "cannot provide the supervision necessary to care for" Z.W. The court supported that finding with several examples of DeFoe's parenting-related conduct

that it found to be incompatible with caring for a child with Z.W.’s needs, including that DeFoe uses marijuana daily and drives while high with Z.W. in the car. The court also discussed Walker’s testimony about Z.W. returning from DeFoe’s home with visible bruising and appearing unwell, and it noted the photos received into evidence that show the bruising. These findings are supported by the record, and thus no clear error is apparent.

Third, DeFoe challenges the district court’s findings related to Walker’s sobriety, arguing that he smoked marijuana “throughout the entirety of our relationship” and that he had not been recently chemically tested. The court did not make any findings related to Walker’s alleged marijuana use—the only findings that the court made with respect to Walker’s substance use is that he “abused alcohol until the fall of 2018.” This finding is supported by Walker’s testimony, and the record does not contain any evidence of Walker recently consuming marijuana. This finding is also not clearly erroneous.

And fourth, DeFoe asserts that the district court’s conclusion that she could not provide ongoing care for Z.W. is not supported by the record because she has maintained employment, stable housing, and communication about Z.W. since her separation from Walker. Even assuming those facts are true, the district court’s conclusion was based on prior conduct that DeFoe testified to at trial, including driving while high with Z.W. in the car, associating with a predatory offender, and downplaying her partner’s criminal history. Considering only whether the district court’s findings are supported by the record, as we must, we again conclude that the court did not clearly err in its findings about DeFoe’s ability to care for Z.W.

Legal Arguments

DeFoe next argues that the district court's order "did not apply the twelve best interest factors properly according to Minnesota Statute 518.17." She maintains that the court made the following legal errors: (1) it did not make detailed findings based on the evidence; (2) it did not consider that it is in Z.W.'s best interests to promote "safe, stable, and nurturing relationships with both parents" and that Z.W. would "benefit from having a relationship with [DeFoe]"; (3) it placed higher significance on other relationships in Z.W.'s life over her own relationship with him; (4) it should not have considered her use of marijuana and her relationship with J.T. because neither affects her relationship with Z.W.; (5) the court neglected to consider that Walker made a false report of child abuse; and (6) the district court did not apply the rebuttable presumption that joint legal custody is in the best interests of the child.

We interpret the statutes governing custody and parenting time de novo. *Hansen*, 908 N.W.2d at 596.

With respect to her first three arguments, the district court's order meets statutory requirements. Under section 518.17, subdivision 1(b)(1) through (3), the district court is required in its best-interests analysis to "make detailed findings on each of the factors," consider that it is in a child's best interests to promote "safe, stable, nurturing relationships between a child and both parents," and "recognize that there are many ways that parents can respond to a child's needs." The district court considered and evaluated all twelve best-interest factors in its order with reference to record evidence. The court specifically noted in its best-interests analysis that "[Z.W.] would also benefit from having a strong

relationship with [DeFoe]” because she is his “connection to his Native American heritage.” And, in addition to his relationships with both parents, the court considered Z.W.’s other relationships with “significant persons” in his life like his grandmother, as the best-interests factors require. Minn. Stat. § 518.17, subd. 1(a)(9). We conclude that the district court’s application of the best-interest factors comports with section 518.17, subdivision 1(b)(1)-(3).

We also conclude that the district court considered appropriate facts in its analysis. When applying the best-interests factors, district courts are prohibited from “consider[ing] conduct of a party that does not affect the party’s relationship with the child.” Minn. Stat. § 518.17, subd.1(b)(4). On this record, the district court properly viewed DeFoe’s marijuana consumption as relevant to her and Z.W.’s relationship. DeFoe testified that she drives while high with Z.W. in the car and that she smokes marijuana every day. This conduct may endanger Z.W., particularly because of the degree of individualized attention he requires. DeFoe also argues that the court improperly “considered [her] decision to pursue [her] current relationship as a factor.” We disagree with that characterization of the court’s order. The district court found that DeFoe’s “disregard of her current boyfriend’s criminal history” was indicative of DeFoe’s judgment and showed that she lacked the ability to provide ongoing care for Z.W. The court did not consider her choice of romantic partner in its analysis but rather considered it as demonstrative of her lack of discernment and judgment. These facts affect DeFoe’s relationship with Z.W. and were proper for the district court to consider in its best-interests analysis.

We also disagree that the district court failed to consider any false reports of child abuse. *See* Minn. Stat. §§ 518.17, subd. 1(b)(6) (“The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.”), 609.507 (2024) (criminalizing false reports of child abuse). We understand DeFoe’s argument to relate to Walker’s request for a SANE of Z.W. after Z.W. returned from an overnight visit with DeFoe. A report was made at that time to Itasca County, but there is no indication in the record that Walker knew that his allegations of potential sexual or physical abuse were unfounded or that he intended to use that report to influence the custody case. *See* Minn. Stat. § 609.507 (requiring that the reporter “knows that the allegation is false” and “has the intent that the information influence a child custody hearing”). Because the record does not support that a false report occurred, the district court did not legally err in not considering it.

DeFoe further contends that the district court did not apply the rebuttable presumption in favor of joint legal custody. Minn. Stat. § 518.17, subd. 1(b)(9) (stating that a rebuttable presumption exists “that upon request of either or both parties, joint legal custody is in the best interests of the child”). We conclude that the court implicitly found the presumption rebutted in its analysis.

Joint legal custody is inappropriate “[w]hen evidence shows that parties . . . are completely unable to communicate and cooperate.” *Zander v. Zander*, 720 N.W.2d 360, 368 (Minn. App. 2006), *rev. denied* (Minn. Nov. 14, 2006). The district court determined in its best-interests analysis that “[t]he parties have been unwilling to cooperate regarding parenting time and major decisions regarding [Z.W.]” and, although they “have been able

to share information about [Z.W.] in the past, . . . there is ample evidence that they become argumentative.” These findings are supported by the text messages between DeFoe and Walker admitted at trial, which show argumentative and often negative communication from both parties. Based on this record evidence, the district court’s finding that Walker and DeFoe cannot cooperate on parenting time and major decisions about Z.W. is supported and the presumption of joint legal custody was therefore rebutted.

In sum, we conclude that the district court did not err in its legal analysis under section 518.17, nor did it clearly err in its factual or credibility findings.

II

DeFoe last argues that there was insufficient evidence to support the district court’s order granting her less parenting time than the 25% share presumed by statute.¹

Parenting time is governed by Minnesota Statutes section 518.175 (2024). Under subdivision 1(a), district courts are directed to “grant such parenting time . . . as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child.” But if the court finds that a parent “is likely to endanger the child’s physical, mental, or emotional health or safety or impair the child’s emotional development,” the district court may restrict a parent’s allotted time. Minn. Stat. § 518.175,

¹ Walker argues that DeFoe failed to preserve this argument for appeal because she did not raise it before the district court. We disagree. The district court cited the presumption in its order and made findings showing why it was rebutted. Because the district court considered the issue, we consider it to be properly before us. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (“A reviewing court must generally consider only those issues that the record shows were presented *and considered by* the trial court in deciding the matter before it.” (quotation omitted) (emphasis added)).

subd. 1(b). “In the absence of other evidence,” district courts must apply a “rebuttable presumption that a child must receive a minimum of at least 25 percent of the parenting time with each parent.” *Id.*, subd. 1(g). Parenting-time allocations below the presumptive 25% “can be justified by reasons related to the child’s best interests and considerations of what is feasible given the circumstances of the parties.” *Hagen v. Schirmers*, 783 N.W.2d 212, 218 (Minn. App. 2010). An evidentiary presumption may be overcome if sufficient evidence justifies a finding “contrary to the assumed fact.” *Id.* (quotation omitted).

We will not reverse the district court’s parenting-time decision absent an abuse of discretion. *Shearer v. Shearer*, 891 N.W.2d 72, 75 (Minn. App. 2017). “Reversible abuses of discretion include misapplying the law or relying on findings of fact that are not supported by the record.” *Id.* (quotation omitted). Appellate courts review findings associated with parenting-time decisions for clear error. *Griffin v. Van Griffin*, 267 N.W.2d 733, 735 (Minn. 1978).

The district court acknowledged in its order that the 25% presumption exists, but it found that “it is in [Z.W.’s] best interests to maintain a highly-structured week and ensure his health and attendance at developmental services.” The court therefore concluded that it was “appropriate to limit [DeFoe’s] parenting time to less than the presumed minimum to ensure [Z.W.] maintains a consistently-structured schedule.” This conclusion relates to Z.W.’s best interests and the feasibility of incorporating more parenting time for DeFoe into Z.W.’s weekly schedule, which are appropriate justifications for awarding a parenting-time amount below the 25% presumption. *See Hagen*, 783 N.W.2d at 218. And the district court’s conclusion is also supported by record evidence showing that Z.W. thrives on a

regular schedule and that he requires a multitude of services throughout the week to support his growth. Accordingly, we conclude that the district court did not abuse its discretion in its parenting-time decision.

Affirmed.