**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A24-0342**

In the Matter of the Welfare of the Children of: B. M. H. and J. J. B., Parents.

**Filed October 28, 2024**
**Affirmed**
**Bratvold, Judge**

Rice County District Court
File No. 66-JV-23-2468

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

**NONPRECEDENTIAL OPINION**

**BRATVOLD**, Judge

This appeal arose from an order adjudicating five children to be in need of protection or services (CHIPS). Appellant mother argues that the district court abused its discretion

in determining that respondent county proved by clear and convincing evidence that mother's two children were CHIPS. Because the district court did not abuse its discretion in determining that at least one statutory ground supported the CHIPS adjudication for each child, we affirm.

## FACTS

Appellant B.M.H. (mother) has two children, child 1 and child 2.[1] Mother's romantic partner is A.C., who is the father of child 3, child 4, and child 5. During the events involved in this appeal, mother, child 1, and child 2 lived with A.C., as did child 3, child 4, and child 5. Only the CHIPS adjudications of child 1 and child 2 are at issue in this appeal.

In October 2023, respondent Rice County Human Services (the county) filed CHIPS petitions for all five children, alleging that A.C. sexually abused child 1 over three years. The petition here sought protection or services on three statutory grounds, Minn. Stat. § 260C.007, subd. 6(2) (child is a victim of physical or sexual abuse or resides with a victim of child abuse), (8) (child is without proper parental care), and (9) (child's environment endangers the child) (2022).

The county took immediate custody of all five children. Following an emergency protective-care hearing, the district court found that the petitions stated a prima facie case and that the children were CHIPS and would be endangered if returned to the home. The district court placed all five children out of the home. At the admit/deny hearing, mother entered a denial.

[1] Respondent J.J.B. is the father of child 1 and child 2; J.J.B. did not live with mother, child 1, and child 2 during the period relevant to the issues in this appeal.

The county and child 1 moved to consolidate the cases of all five children for trial, which the district court granted after determining that a joint trial was in the best interests of the children.[2] In January 2024, the district court held an eight-day trial that included testimony from the five children; mother; H.S., who is the mother of child 3, child 4, and child 5; case investigators; medical staff; and two guardians ad litem.

After trial, the district court filed findings of fact, conclusions of law, and an order adjudicating the five children as CHIPS. Following a direct appeal by child 3, child 4, and child 5, we affirmed the district court's adjudication of them as CHIPS. *See In re Welfare of Child. of H.M.S.*, No. A24-0277, 2024 WL 4025017, at *1 (Minn. App. Sept. 3, 2024).

Below, we summarize the facts relevant to the issues in this appeal with reference to our opinion in *H.M.S.* and, when helpful to understand the issues, also include other evidence and the district court's findings.

In spring 2020, mother, child 1, and child 2 moved in with A.C., child 3, child 4, and child 5. Together, the seven family members lived in a home on Hunt Lake outside Faribault (lake house). All the children lived at the lake house full-time, except child 5, who stayed there only on weekends. A.C. also operated a farm near French Lake at which some of the abuse took place. Child 1 was 17 years old at the time of trial.

Our opinion in *H.M.S.* stated the salient facts based on the trial evidence:

> Child 1 lived in the [lake house] until September 2023, when A.C. and [mother] kicked her out of the house following an argument. According to child 1, A.C. ordered her to get out of his home, picked her up, and threw her out the door. Child 1

[2] The district court consolidated two court files for trial: 66-JV-23-2468, involving child 1 and child 2, and 66-JV-23-2467, involving child 3, child 4, and child 5.

went to a friend's home and later spoke with the police. The following day, child 1 moved in with her aunt. Child 1 explained that she wanted to live with her aunt because she did not want to "stay[] in the same household as [A.C.]." She eventually told her aunt that A.C. had sexually abused her. Child 1's aunt reported these allegations to the police.

At the [trial], child 1 stated that the sexual abuse happened "[a]lmost daily" for about three years. The abuse began with "inappropriate touching" and progressed to sexual penetration. On occasion, A.C. gave child 1 money or bought her things to keep her quiet. Child 1 stated that A.C. also physically disciplined her by dragging her "by the ear" or picking her up and throwing her "like a sack of potatoes to the floor." Child 1 tried to speak to her mother about the abuse, but her mother did not believe her. She was also afraid that A.C. would begin sexually abusing her younger sister, child 2. Child 1 noted that she would not feel safe returning to the home and did not believe that her mother was "fighting for [her] safety and protection."

Child 2, child 3, child 4, and child 5 also testified at the [trial]. These four children denied any knowledge of physical or sexual abuse against child 1. Child 2 stated that she often saw A.C. and child 1 arguing and once saw him break a chair after he picked it up and threw it on the ground. However, child 2 denied seeing A.C. physically discipline anyone. Child 3 likewise denied that A.C. was physically abusive. As for child 4, he agreed that people screamed, argued, and had disagreements in his home, but he stated that he never saw the arguments turn physical. Similarly, child 5 stated that she saw arguments at A.C.'s home but did not hear people screaming at each other and did not see anyone receive physical discipline. Child 2, child 3, child 4, and child 5 indicated that they were comfortable in the home and around A.C.

The district court also heard testimony from . . . [mother] and H.S.

[Mother] testified that she never saw A.C. physically discipline child 1, pick her up and throw her, engage in inappropriate behavior, or have any type of sexual contact with her. She also never saw him physically discipline any of the

> other children. When asked about the incident in September 2023 when child 1 was thrown out of the house, [mother] stated that A.C. "never touched" child 1 but "scooped her underneath the armpits and drug her out onto the deck" and then "laid her down" on the ground before locking her out of the house.
>
> H.S. is the mother of child 3, child 4, and child 5. She lived with A.C. for about 10 years and did not see him physically discipline the children during that time. She did not see A.C. treat the children in a way that "trouble[d]" her and she did not have any concerns about the safety of the children in his care.
>
> The guardians ad litem also testified. The guardian ad litem assigned to work with child 1 and child 2 urged the district court to consider child 1 and child 2 as children in need of protection or services. The guardian ad litem for child 3, child 4, and child 5 also made a statement to the district court asserting that the children should be adjudicated in need of protection or services.

*Id*. at *2.

Child 1's testimony offered other details that are relevant to the issues on appeal. She described the lake house as having two rooms in the lower level—the "living room area" for child 1, including her bed, and the adjoining bedroom shared by child 3 and child 4. Other family members—A.C., mother, child 2, and child 5—slept on the upper level of the house.

Child 1 testified that A.C.'s sexual abuse of her began at the end of her eighth-grade year with inappropriate touching and that child 1 discussed this with her mother, who responded that this behavior was just how A.C. "shows his love." A.C. sometimes touched child 1's leg, upper thigh, and genitals in the family car while child 3 and child 4 were in the backseat.

When child 1 was a freshman in high school, the abuse progressed, and A.C. had sexual intercourse with her "multiple times a week" until August 2023. Child 1 stated that one incident occurred inside the cabin of a tractor on the farm after A.C. offered child 1 a $100 bill in exchange for sexual intercourse. Child 1 added that, when she would resist or try to avoid sexual contact, A.C. would bribe her with cash or purchases of clothes that she wanted. Child 1 also described how A.C. physically punished her and testified that he did so "a couple times a month."

After child 1 moved in with her aunt, she went to a doctor for what she believed was a urinary-tract infection. The doctor told child 1 that she had a urinary-tract infection and genital herpes. Child 1 believed that she contracted herpes from A.C. because she has not had sexual intercourse with anyone else. Two clinic employees provided testimony and medical records confirming child 1's diagnosis. Child 1 shared the diagnosis with mother, who, according to child 1, did not believe her.

Child 2's testimony similarly offered other details that are relevant to the issues on appeal. Child 2 was 11 years old at the trial and, as mentioned above, denied observing any physical or sexual abuse by A.C. against child 1. Child 2 testified that she did not get along with child 1 but got along with the other children. Child 2 stated that A.C. did not physically discipline her, although he yelled at her for crying when he had a "long day." She denied ever seeing A.C. push or shake anyone in the household. Child 2 stated that she was not scared of A.C., mother, or the other children in the home. Child 2 testified, however, that mother would discipline the children for being "naughty" by bringing them outside and saying that "the coyotes were going to get us."

The county also called investigators who had interviewed child 1 and the other children. After child 1's aunt reported the abuse, county social workers and a police officer spoke with child 1 and later scheduled Cornerhouse interviews with child 1 and the other children.[3]

A county social worker testified that, during the interview, child 1 gave a "detailed" description of the sexual abuse and its progression over time. Child 1 told the social worker that, during one sexual assault by A.C., child 1 watched the hands of a clock on the wall and described that "it took forever for them to move." The social worker testified that it is common for victims of sexual abuse to disassociate from the abuse and focus on something in the room. Child 1 also disclosed details about A.C.'s bribes when she would not do what A.C. wanted. For example, she described receiving $500 from A.C.; child 1 showed the social worker a transfer on her bank's web application.

The district court also heard from mother, who testified that child 1 suffered from mental illness, including post-traumatic stress disorder, after seeing her biological father, J.J.B., physically abuse mother. Mother testified that child 1 has been in therapy for several years. Child 1 also has von Willebrand's disease, a blood-clotting disorder characterized by bruising and easy bleeding.

Mother testified that child 1 went from being a high-performing student to failing her sophomore year, but mother had no explanation for the change. As for the genital sores

[3] A Cornerhouse interview is a forensic-style, person-led interview that allows a victim of abuse the opportunity to share information specific to their allegations. Jennifer Anderson et al., *The Cornerhouse Forensic Interview Protocol: RATAC*, 12 T.M. Cooley J. Prac. & Clinical L. 193, 194-95 (2010).

on child 1, mother stated that she believed they were ingrown hairs. Mother testified that child 1 had a joint account with mother and, when shown a bank statement, agreed that it showed a transfer of $500 on September 11, 2023. She also testified that child 1 had made a Converse shoe purchase.

Mother acknowledged that when she wants to get her children's attention, she grabs their earlobes. She admitted that, when her children were younger, she threatened to lock them out of the house at night and told them that "the coyotes were going to get them." She also admitted that, during the September 2023 incident when A.C. dragged child 1 outside, mother locked child 1 out of the house when child 1 tried to reenter. Mother "wanted child 1 to cool down," according to the district court's findings. After child 1 reported she had been abused, mother told child 1 that she and A.C. did not want her back in their household.

After the trial concluded, the district court issued a 36-page order on February 1, 2024. The district court provided 133 detailed factual findings, including credibility findings, and concluded that the county had proved by clear and convincing evidence that child 1 and child 2 needed protection or services based on the statutory grounds the county alleged. The district court therefore adjudicated child 1 and child 2, along with the other children, as CHIPS.

Mother appeals the CHIPS adjudications of child 1 and child 2.

## DECISION

Mother argues that the district court erred by finding that the evidence was sufficient to support the CHIPS adjudications of child 1 and child 2. The county responds that this court "should not disturb the district court's findings and credibility determinations."

A district court has broad discretion in deciding juvenile-protection matters. *In re Welfare of Child of S.S.W.*, 767 N.W.2d 723, 733 (Minn. App. 2009). 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 accord considerable deference to the district court's decision because a district court is in a superior position to assess witness credibility. *In re Welfare of L.A.F.,* 554 N.W.2d 393, 396 (Minn. 1996).

This court reviews a district court's factual findings for clear error. *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321-22 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015). The clear-error standard of review "is a review of the record to confirm that evidence exists to support the decision." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 222 (Minn. 2021). "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." *Id*. at 223 (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 find their own facts; and (4) do not reconcile conflicting evidence. *Id*. at 221-22. Thus,

> an appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [district] court. Rather, because the factfinder has the primary responsibility of determining the fact issues and the advantage of observing the witnesses in view of all the circumstances surrounding the entire proceeding, an appellate court's duty is fully performed after it has fairly considered all

> the evidence and has determined that the evidence reasonably supports the decision.

*Id*. at 222 (quotations omitted); *see In re Welfare of Child of J.H.*, 968 N.W.2d 593, 601 n.6 (Minn. App. 2021) (applying *Kenney* on appeal in a juvenile-protection case), *rev. denied* (Minn. Dec. 6, 2021); *In re Welfare of Child of T.M.A.*, 11 N.W.3d. 346, 355 (Minn. App. 2024) (same).

For the district court to adjudicate a child as CHIPS, the county needs to (1) prove at least one ground under Minn. Stat. § 260C.007, subd. 6 (2022), and (2) show that the child needs protection or services as a result. *S.S.W.*, 767 N.W.2d at 728. To sustain a CHIPS adjudication, the statutory ground must be proved by clear and convincing evidence. Minn. Stat. § 260C.163, subd. 1(a) (2022); Minn. R. Juv. Prot. P. 49.03. To determine whether the evidence was clear and convincing, an appellate court inquires closely into the sufficiency of the evidence. *S.S.W.*, 767 N.W.2d at 733.

The district court adjudicated child 1 as CHIPS on five statutory grounds and child 2 as CHIPS on three grounds. *See* Minn. Stat. § 260C.007, subd. 6. To affirm, we must conclude that sufficient evidence supports at least one ground for each child. *See S.S.W.*, 767 N.W.2d at 728.

### A. Residing with a Victim or a Perpetrator of Child Abuse

Minnesota Statutes section 260C.007, subdivision 6(2), allows a CHIPS adjudication if, among other things, the child "has been a victim of physical or sexual abuse as defined in section 260E.03, subdivision 18 or 20," or "resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined

in subdivision 5 or 13." Minn. Stat. § 260C.007, subd. 6(2)(i), (iii). "Child abuse" means an act that involves a minor victim and constitutes one of several specific criminal offenses, including assault offenses and criminal-sexual-conduct offenses. *Id.*, subd. 5 (2022). "Domestic child abuse" includes "any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means," criminal-sexual-conduct offenses by an adult against a minor family or household member, and physical or sexual abuse. *Id.*, subd. 13 (2022).

The district court concluded that child 1 and child 2 needed protection or services because (1) child 1 had been physically and sexually abused by A.C. under subdivision 6(2)(i) and (2) both children resided with A.C., a perpetrator of domestic child abuse under subdivision 6(2)(iii).

**1. Physical and Sexual Abuse Against Child 1**

The district court found that child 1 was the victim of sexual abuse because she was "repeatedly sexually abused by [A.C.] in their shared home at the end of her 8th grade year/beginning of her freshman year of high school up until August 2023." The district court made detailed factual findings about the progression of the sexual abuse and about the effects of this abuse on child 1. The district court also found that child 1 was the victim of physical abuse based on her testimony about other abusive physical encounters with A.C., including the September 2023 incident in which A.C. threw her out of the house.

The district court expressly found child 1 to be credible, noting that she at times "had to stop to compose herself," that many times "her eyes were closed as she was testifying as to the abuse," and that her testimony was "in line" with her earlier statements

to the county and to law enforcement. The district court also found that child 1's testimony explained why she did not disclose the abuse to mother—she was afraid mother "would not believe her" or "keep her safe."

On appeal, mother contends that the district court's findings "hinge on the allegations put forth by child 1." Mother argues that the district court erred in relying on child 1's testimony because it was "contradicted and uncorroborated."

Mother's arguments essentially contend that the district court's factual findings are defective because certain aspects of the record could be read to support findings that mother wanted the district court to make, but which the district court did not make. As discussed above, appellate courts do not reweigh the evidence, find their own facts, or reconcile conflicting evidence. *Kenney*, 963 N.W.2d at 222. This court will affirm if reasonable evidence in the record supports the district court's factual findings. *D.L.D.*, 865 N.W.2d at 321-22. Because mother cannot show that *no* record evidence supports the district court's factual findings, her arguments, as a matter of law, are insufficient to get relief on appeal.

Even so, we discuss mother's challenges to seven aspects of child 1's testimony.

First, mother argues that child 1's testimony that other household members interrupted A.C.'s assaults is implausible because no one in the household testified to observing or suspecting inappropriate behavior between A.C. and child 1. But the district court found that, "[t]hough other witnesses testified that they did not see anything happen" between A.C. and child 1, "that does not equate to no abuse." The district court noted that "[s]exual abuse and physical abuse are often not observed by others" and that this household adhered to a "don't ask, don't tell" policy.

The district court explained that the other household members had "favorable bias towards one another, and their testimony was reflective of that bias." Specifically, mother was "clearly biased" towards A.C., child 2 was biased towards mother, child 3 was biased towards A.C., and child 4 and child 5 had limited involvement in the household. In particular, the district court explained its credibility finding about child 2:

> During the testimony of Child 2, it was clear she was protecting someone, although it was unclear who that was or if it was herself. It was clear during her testimony that Child 2's perspective is that Child 1 is the bad person in the household and that any problems in the household were the fault of Child 1. Child 2's testimony is biased towards . . . her mother.

Thus, the district court weighed all the evidence, including child 1's testimony, and found child 1 credible and the other children not credible.

Second, mother argues that other testimony contradicted child 1's testimony that she orally resisted A.C.'s abuse in a "loud tone" and cried out in pain when his assaults progressed to penetration. Mother contends that no one testified they heard anything suspicious from the downstairs living area where the assaults occurred. Mother overlooks key parts of child 1's testimony—for example, that child 1 would tell A.C. to stop in both quiet and loud tones. Also, child 1 testified that she did not believe that child 3 or child 4 saw or heard the assaults, even though they slept in the adjoining bedroom.

Third, mother argues that child 1's diagnosis of von Willebrand's disease contradicts her testimony about the assaults. Mother argues that, "if [child 1] was sexually assaulted by [A.C.] as she claims, there would have not only have been extensive bruises on her body but also a substantial amount of blood loss." Mother points to her own

testimony that she noticed nothing of concern while doing child 1's laundry. Mother ignores her own testimony that child 1 did laundry. During a Cornerhouse interview, child 1 stated that she threw away her bedsheets after one sexual assault left them bloody.

Fourth, mother argues that the testimony of child 3 and child 4 contradicts child 1's testimony that A.C. touched her upper thigh while she was in the front seat of the family car. Child 3 and child 4 were in the backseat, and mother contends that they denied witnessing anything suspicious. The district court clarified that child 1 "believed the boys *may* have seen something from the backseat of the car, but there was no reaction from them when they were in the car." (Emphasis added.) The district court also found that the testimony of child 3 and child 4 reflected the household's "don't ask, don't tell" policy.

Fifth, mother argues that child 1 had "multiple streams [of] income" from her jobs and implies that child 1's money came from those jobs, not A.C. Mother contends that child 1 would not be susceptible to bribery. It is accurate that child 1 testified she worked at a lodge and babysat while living at the lake house. Child 1 provided investigators and the district court with bank records showing a $500 transfer from her savings account into her checking account and a subsequent shoe purchase she made with those funds. And child 1 testified that A.C. gave her a $500 bribe to keep her silent. We will not reweigh this testimony, which the district court found credible. *See Kenney*, 963 N.W.2d at 222 (stating that "the clear-error standard does not contemplate a reweighing of the evidence" by an appellate court).

Sixth, mother argues that child 1's testimony that A.C. assaulted her while they were inside the cabin of a tractor was implausible because other family members worked nearby

on the farm. Mother contends that her testimony and the testimony of child 3 contradict child 1's claims. We defer to the district court's finding that this specific instance of sexual assault occurred based on child 1's credible testimony and the district court's finding that mother and child 3 were biased in favor of A.C. and not credible. *See L.A.F.,* 554 N.W.2d at 396 (stating that appellate courts defer to a district court's credibility findings).

Seventh, mother argues that child 1's statement that she had received inappropriate text messages from A.C. was unfounded because child 1 did not submit the actual messages to the district court. Despite child 1's inability to produce the actual text messages, we will not second-guess the district court's finding that child 1's testimony generally was credible and consistent with statements made during earlier interviews. *See Kenney,* 963 N.W.2d at 221 (stating that, when applying the clear-error standard, appellate courts "view the evidence in a light favorable" to the district court's findings).

In sum, the district court's findings are supported by record evidence, including child 1's testimony about the sexual and physical abuse. The district court found child 1 credible. The district court also found that each of the other testifying family members was not credible and was either biased or had limited involvement in the household. This court will defer to the district court's superior position to assess witness credibility, including its finding that child 1 is more credible than mother and the other children. *See L.A.F.*, 554 N.W.2d at 396 (giving the district court's credibility determinations deference in juvenile-protection matters).

Child 1's testimony was corroborated by the exhibits admitted into the record, which included child-abuse summary reports, maltreatment determinations, law-enforcement

investigation reports, medical records, photos, and text messages. Other witnesses also corroborated child 1's testimony, including a social worker and a physician's assistant. Mother herself testified that child 1 "went from an A and B student to almost failing the entire sophomore year" and had no explanation.

Thus, the evidence reasonably supports the district court's finding that A.C. physically and sexually abused child 1. We therefore determine that the district court did not abuse its discretion by adjudicating child 1 as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(i).

**2. Living with a Perpetrator of Child Abuse**

The district court found that a CHIPS adjudication was also warranted as to both child 1 and child 2 because the children resided with or would be residing with a perpetrator of domestic child abuse under Minn. Stat. § 260C.007, subd. 6(2)(iii). The district court determined that the children were "residing in the home with [A.C.] . . . at the time that the sexual abuse occurred." Mother does not dispute that child 2 resided with child 1 and A.C. when the abuse allegedly occurred. As discussed above, the district court made thorough factual findings about this physical and sexual abuse and found that child 1's testimony was credible.

The district court further found that mother "has continued to reside with [A.C.] and defended [A.C.] throughout this process." During the abuse investigation, mother told law enforcement that A.C. is the "most kind and gentle person [she has] ever met." The district court found that "[b]oth child 1 and child 2 resided with or would reside with a perpetrator of domestic child abuse, as [mother] remains residing with [A.C.] and has provided no

evidence that she intends to move from that residence." Mother does not believe any of child 1's allegations against A.C. and told child 1 that she does not want her to return to the lake house. The district court determined that mother "has no ability to protect the children, nor has she taken any steps to protect the children from [A.C.] given the evidence presented." Based on these facts, the district court determined that child 1 and child 2 needed protection or services.

The district court also adjudicated child 1 as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(ii) (residing with a victim of child abuse), (8) (deprivation of proper parental care), and (9) (injurious or dangerous environment). Based on our determination that at least one other statutory ground supports child 1 and child 2's CHIPS adjudications, we need not address these alternative bases.

Because record evidence reasonably supports the district court's finding that child 1 and child 2 resided with or would reside with A.C., a perpetrator of domestic child abuse, and consequently needed protection or services, we conclude that the district court did not abuse its discretion in adjudicating child 1 and child 2 as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(iii).

**Affirmed**.