

*This opinion is nonprecedential except as provided by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
A24-0487**

In the Matter of:

Natalie Storm Pettit AND obo Minor Children,
Respondent,

vs.

Jeremy Pettit,
Appellant.

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

Wright County District Court
File No. 86-FA-23-5301

Shawn C. Reinke, Victoria M.B. Taylor, Reinke Taylor, PLLC, St. Paul, Minnesota (for respondent)

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Considered and decided by Harris, Presiding Judge; Larkin, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

On appeal from the district court's grant of an order for protection (OFP) in respondent's favor, appellant argues that: (1) the record does not support the district court's

decision to grant an OFP, and (2) the district court erred by granting an OFP without a finding that appellant had a present intention to inflict fear of imminent harm. We affirm.

FACTS

Appellant Jeremy Pettit (husband) and respondent Natalie Storm Pettit (wife) were married in 2021. They have one minor child together, and wife has a minor child from a previous relationship.

In October 2023, wife filed a petition for an OFP against husband for herself and the two children. At the time, the parties were in the process of dissolving their marriage and both children lived with the parties in the family home. Wife attached an affidavit to her petition describing alleged incidents of domestic abuse by husband, including slamming her head into a wall, abusing her when she was pregnant, head-butting her and chipping her tooth, verbally abusing her and the children, and threatening to hit the children. She also alleged that the night before she filed the petition husband “screamed in [her] face and pushed [her] around in front of the kids who were telling him to stop.” The district court filed an emergency (ex parte) OFP, granting temporary custody of the joint child to wife and setting the matter on for a hearing. It subsequently held a two-day evidentiary hearing on wife’s petition. Both husband and wife testified at this hearing.

Wife testified that husband began abusing her shortly after they began dating when he slammed her head against the bed while she was sleeping. In addition, wife asserted that husband physically abused her during her pregnancy. She stated that husband “push[ed] [her] around all the time,” “thr[ew] [her] into the closet,” and slammed her head into a car window while they were driving. Wife described an incident in December 2020,

when she was holding their infant child and husband slammed her against a counter, causing her to drop the child. Wife also testified that in 2022 husband pushed her down the stairs, pushed her against a counter in the laundry room, and then stepped on her foot with such force that it “puffed up” and turned “black and blue.” And during another incident, husband began yelling at her while she was bathing. She began recording the interaction on her cell phone. Wife stated that husband noticed that she was recording him and ran into the bathroom, “held [her] under the water and ripped [the] phone out of [her] hand.” Wife entered the cell phone video into evidence at the hearing. She also submitted into evidence pictures showing marks on her arms and legs and pictures of damage to her tooth when husband “held [her] down” and “head butted” her.

In the months leading up to the petition, wife testified that husband pushed her against the wall, screamed in her face, and called her names. About a week before she filed the petition, wife stated that husband yelled at her and pounded his fist on the table, which startled her because she was afraid for her physical safety because she “[didn’t] know how far [husband’s verbal abuse] would escalate.” The night before she filed the petition, husband again screamed at wife and pushed her around. According to wife, he then grabbed her older child and threatened “to take [him].” She stated that her son was “screaming and crying” and tried to “hide behind the bed.” Wife testified that she was afraid for her safety because husband “can’t control himself or his temper” and “gets physically abusive.”

During his testimony, husband denied throwing wife down the stairs or slamming her head against a car window. And he further denied causing wife’s injuries or being

“physically assaultive” toward her. When his counsel asked husband if there had “ever been a single incident where [he had] physically assaulted” or “put [his] hands on [wife] in an aggressive way,” he responded, “No.”

Following the hearing, the district court granted wife’s petition for an OFP on behalf of herself for a period of two years, based on its determination that “[a]cts of domestic abuse have occurred.”¹ The district court found that wife “provided credible testimony outlining incidents of domestic abuse,” including that husband slammed her into a counter, slammed her against a bed, slammed her against a car window, and pushed her on multiple different occasions. Husband appeals.

DECISION

Husband argues that the district court abused its discretion by granting wife’s petition for an OFP because (1) there is insufficient evidence that domestic abuse occurred, and (2) the district court did not find that husband had a present intention to inflict fear of imminent harm or physical harm on wife. The Domestic Abuse Act authorizes a district court to grant a petition for an OFP when domestic abuse has occurred. Minn. Stat. § 518B.01, subd. 4 (2022). Relevant to this case, the definition of “domestic abuse” includes “physical harm, bodily injury, or assault” of a family or household member. *Id.*, subd. 2(a) (2022). A petitioner must prove that domestic abuse occurred by a preponderance of the evidence. *Oberg v. Bradley*, 868 N.W.2d 62, 64 (Minn. App. 2015). “The preponderance of the evidence standard requires that to establish a fact, it must be

¹ The OFP did not include the children.

more probable that the fact exists than that the contrary exists.” *Id.* at 65 (quotation omitted).

We review the district court’s decision to grant an OFP for an abuse of discretion. *Thompson v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018). A district court abuses its discretion “when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Id.* (quotation omitted). We consider “the record in the light most favorable to the district court’s findings,” and will not disturb those findings absent a “definite and firm conviction that a mistake has been made.” *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (quotations omitted). We will “neither reconcile conflicting evidence nor decide issues of witness credibility.” *Aljubailah v. James*, 903 N.W.2d 638, 643 (Minn. App. 2017) (quotation omitted).

I. The district court’s decision to grant wife’s petition for an OFP is supported by the record.

First, husband argues that the district court abused its discretion by granting wife’s petition for an OFP because there is insufficient evidence that domestic abuse occurred. We disagree.

An OFP lacks evidentiary support when the findings of fact are clearly erroneous, “contrary to the weight of the evidence[,] or not reasonably supported by the evidence as a whole.” *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (quotations omitted).

Here, the district court determined that an OFP was warranted because wife demonstrated by a preponderance of the evidence that husband committed multiple acts of domestic abuse against her. According to the district court, these acts included “slamming

[wife] into a counter, slamming her against the bed and against the car window,” and “pushing [wife] on multiple different occasions.”

On review, we are satisfied that the district court’s findings are supported by the evidence in the record. Wife testified to multiple instances in which husband physically harmed or injured her. *See* Minn. Stat. § 518B.01, subd. 2(a)(1) (noting that domestic abuse includes “physical harm, bodily injury, or assault”). When they first began dating, husband became suspicious of wife and slammed her head against the bed. In the fall of 2022, husband pushed her down the stairs, pushed her against a counter in the laundry room, and stepped on her foot with enough force to cause it to puff up and bruise. Wife submitted photographs into evidence showing the injuries to her foot. Around the same time, husband noticed that wife was recording him yelling at her and came into the bathroom, held her under the water, and ripped the phone out of her hand. Cell phone video corroborates this testimony. Wife also testified that, on different occasions, husband head-butted her, pushed her around while she was pregnant, slammed her into a counter while she was holding their child, and pushed her against the wall. Wife testified that, the day before she filed the OFP petition, husband was screaming in her face and pushing her around. Wife’s testimony provides ample evidence of “[p]hysical harm, bodily injury, or assault.” *See id.*; *see also Pechovnik*, 765 N.W.2d at 99 (advising a reviewing court to view the record in the light most favorable to the district court’s findings). Moreover, the district court explicitly found that wife’s testimony was credible, and credibility determinations and weighing the evidence are exclusively the province of the district court. *Aljubailah*, 903 N.W.2d at 643.

Husband argues that the record does not support granting an OFP because wife was under the influence of mood-altering substances and applied for an OFP without a valid reason for doing so. He also denied physically abusing wife. While the district court's findings contradict husband's testimony, it is not the role of this court to reconcile conflicting evidence or decide issues of witness credibility on appeal. *Pechovnik*, 765 N.W.2d at 99; *see also Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) (advising that a reviewing court gives deference "to the opportunity of the trial court to assess the credibility of the witnesses"). The record contains sufficient evidence to substantiate the findings of domestic abuse and we defer to the district court's credibility determinations. We therefore conclude that the district court did not abuse its discretion by determining that husband's conduct constituted domestic abuse.

II. The district court was not required to find a present intention to inflict fear of imminent harm or physical harm.

Husband argues that the district court erred because there was insufficient evidence that he had a present intention to inflict fear of imminent harm or physical harm on wife. Our de novo review of the statute defeats husband's argument. *See In re Application of J.M.M.*, 937 N.W.2d 743, 747 (Minn. 2020) ("Questions of statutory interpretation are reviewed de novo.").

Domestic abuse includes any of the following acts "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"; or (3) various enumerated crimes, including criminal sexual conduct. Minn. Stat. § 518B.01,

subd. 2(a)(1)-(3). Granting an OFP under this definition “requires either a showing of present harm or an intention on the part of the actor to do present harm.” *Aljubailah*, 903 N.W.2d at 643 (quotation omitted). The word “or” “is a disjunctive term, requiring that only one of the possible factual situations linked by the ‘or’ be present.” *Thompson*, 906 N.W.2d at 499 (quotation omitted); *see also Goldman v. Greenwood*, 748 N.W.2d 279, 283 (Minn. 2008) (stating that courts “normally interpret the conjunction ‘or’ as disjunctive rather than conjunctive”). Because the definition is disjunctive, a petitioner may prove that domestic abuse occurred “by demonstrating that the facts fit any one of the three [statutory] definitions.” *Thompson*, 906 N.W.2d at 499.

Here, the district court found that husband committed physical harm against wife by slamming her into a counter, slamming her head against the bed and against a car window, and pushing her on multiple occasions. This determination is supported by the facts in the record and serves as an independent basis upon which to grant an OFP under section 518B.01, subdivision 2(a)(1). Because the district court found an act of present harm under subdivision 2(a)(1), it was not required to make additional findings regarding husband’s intent to inflict fear of imminent physical harm under the alternative ground articulated in subdivision 2(a)(2). We conclude that the district court’s order granting wife’s petition for an OFP under Minnesota Statutes section 518B.01, subdivision 2(a)(1) was not based on an erroneous view of the law. Accordingly, we affirm.

Affirmed.