STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0822

In the Matter of:
Daniel Frederick Schanze, petitioner,
Appellant,

vs.

Danielle Ann Oldenburg,
Respondent.

Filed March 24, 2025
Affirmed
Worke, Judge

Dakota County District Court
File No. 19AV-FA-23-3503

Timothy R. Maher, Joseph D. Kantor, Guzior Armbrecht Maher, St. Paul, Minnesota (for appellant)

James S. Carlson, Carlson Law Office, P.A., Burnsville, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Kirk, Judge.[*]

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges the district court's dismissal of a petition for an order for protection (OFP), arguing that the district court failed to view the evidence in the light most favorable to him as the nonmoving party and clearly erred in making its findings of fact. Because we discern no abuse of discretion, we affirm.

FACTS

Appellant Daniel Frederick Schanze and respondent Danielle Ann Oldenburg are divorced and share custody of their minor child who was born in December 2014. The child has special needs and is subject to an individualized education program.

In December 2023, Schanze petitioned for an OFP on behalf of the child against Oldenburg, alleging that she committed domestic abuse by elbowing the child into a brick grill. The district court granted an ex parte OFP and appointed a guardian ad litem (GAL) before proceeding to an evidentiary hearing.

At the hearing, Schanze testified that, in December 2023, the child told him Oldenburg "pushed [him], [and] tackled [him], into the brick grill in the kitchen." Schanze noticed "scratches all over [the child's] body," abrasions on his left pelvis, and that the child "was grabbing his arm." The district court admitted into evidence photographs showing slight bruises and scratches on the child, which Schanze testified showed the injuries from the grill incident. The child told Schanze that he was afraid of Oldenburg and that she hurt him.

Schanze took the child to the hospital after the child reported the incident. The district court admitted into evidence a medical report from the emergency-room visit. In the report, a physician wrote: "[The child] was seen in the emergency room today for [a] report of physical abuse by [his] mother. He had several superficial abrasions on his left hip/leg and some tenderness in his right arm that is likely a bruised muscle."

At the hearing, the district court also heard testimony about the child's behavior at school after the alleged incident. An assistant administrator from the child's school testified that, in December 2023, the child told her Oldenburg "threw him against a wall, and he had to go to the hospital." The administrator and a school social worker testified about multiple incidents when the child—while outside the classroom due to behavioral issues—said that he was afraid of Oldenburg and did not want the school to call her. Likewise, Schanze testified about two meetings he attended at the school after the child was pulled from the classroom. Schanze testified that at both meetings the child expressed fear that Oldenburg would hurt him.

The district court admitted into evidence the GAL's report, which documented her thorough investigation into Schanze's petition. In preparing her report, the GAL spoke to both parents, personnel at the child's school, and the child. The GAL also reviewed school reports and court filings, including information related to several prior OFP petitions that Schanze unsuccessfully attempted to secure against Oldenburg.

Consistent with his testimony, Schanze told the GAL that Oldenburg is aggressive toward the child. He feared Oldenburg was feeding the child "inaccurate narratives." By comparison, Oldenburg stated that Schanze gives the child the narrative that he wants the

child to have, "regardless of what is true." At separate home visits, the GAL described positive interactions between the child and his parents. However, the GAL "observed a noticeable power struggle between . . . Oldenburg and [the child]," noting that when Oldenburg would direct him to do something, the child would "push back and become defiant."

Based on the GAL's review of the child's school records, the GAL wrote that the child struggles with unknown or unpreferred tasks and tends to be disruptive. The school social worker explained that the child's ongoing behavioral struggles arise from dysfunction at home.

The GAL concluded that information from the parents fell largely outside the scope of the OFP matter, and that "[i]t is extremely evident that there is extensive, ubiquitous animosity, conflict, and discord between the parties." The GAL stated that the parents are caught up in their hostility toward each other and are ignoring the child's best interests.

During the hearing, the GAL testified that she believed each parent "had some truth to what they said [about the allegations] and how they perceived the situation." But the GAL explained that it was not her role "to opine as to the truth and veracity of the allegations," only to "provide the information for the [c]ourt to make that determination."

After Schanze presented his case, Oldenburg moved for dismissal. The district court granted the motion, and in a written order, made the following findings of fact: (1) "[t]he medical records and photographs . . . do not show any significant or visible injury"; (2) the school officials testified about "several incidents where [the child] needed to be removed from class due to [dysregulated] behaviors"; (3) the GAL extensively investigated the

incident but did not reach a conclusion about whether domestic abuse occurred; (4) the GAL credibly testified and wrote in her report that the issues that the child "is experiencing at school and otherwise stem from the contentious, hostile co-parenting relationship between [the parents]"; and (5) "[a]side from [Schanze's] self-serving testimony, there is no evidence in the record to show that an incident of domestic abuse perpetrated by [Oldenburg] occurred." Although the district court resolved to take "all of the facts favorable to the non-moving party as true and give[] the non-moving party the benefit of all reasonable inferences from those facts," it determined that Schanze did not demonstrate domestic abuse by a preponderance of the evidence.

This appeal followed.

DECISION

Schanze challenges the district court's decision to dismiss his petition for an OFP. We review the denial of an OFP for an abuse of discretion. *See 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.* at 500 (quotation omitted). We review findings of fact for clear error. *Ekman v. Miller*, 812 N.W.2d 892, 895 (Minn. App. 2012).

Compliance with Minn. R. Civ. P. 41.02(b)

First, Schanze argues that the district court failed to comply with Minn. R. Civ. P. 41.02(b) because it did not view the evidence in the light most favorable to him as the nonmoving party. Whether a district court correctly applied the Minnesota Rules of Civil

Procedure presents a question of law. *Coker v. Jesson*, 831 N.W.2d 483, 489 (Minn. 2013).[1]

Under Minn. R. Civ. P. 41.02(b):

> After the plaintiff has completed the presentation of evidence, the defendant . . . may move for a dismissal on the ground that upon the facts and the law, the plaintiff has shown no right to relief. In an action tried by the court without a jury, the court as trier of the fact may then determine the facts and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence.

In the context of a jury trial, rule 41.02(b) requires a district court to determine, "as a matter of law, [that] the evidence is sufficient to present a fact question for the jury's consideration." *Paradise v. City of Minneapolis*, 297 N.W.2d 152, 155 (Minn. 1980). In doing so, the district court "must view the credibility of the evidence, and every inference which may fairly be drawn therefrom, in favor of the adverse party." *Id.*

However, when a district court rules on a motion to dismiss without a jury, the supreme court has "rejected the argument that a [district] court must view the evidence in a light most favorable to the [nonmoving party]." *Coker*, 831 N.W.2d at 489-90. The rule that a district court "is not required to view the evidence in the light most favorable" to the

[1] OFP proceedings are civil matters. *See Isenhower v. Isenhower*, 993 N.W.2d 91, 95 (Minn. App. 2023) (stating that "OFPs are a civil remedy"). Under Minn. R. Civ. P. 1, the rules of civil procedure apply to all civil matters, subject to a nonexclusive list of exceptions in Appendix A to the rules. Minn. R. Civ. P. 81.01; *Peterson v. Peterson*, 242 N.W.2d 88, 93 n.3 (Minn. 1976). Because OFP proceedings are civil matters, and because Appendix A does limit the applicability of the rules to OFP proceedings, in this appeal we assume that rule 41.02(b) applies.

nonmoving party reflects the general reality in civil cases that the party bringing a claim "bears both the burden of production and the burden of persuasion." *Id.* at 490.

Here, the district court considered Schanze's petition without a jury, and Schanze had the burden of production and persuasion to establish, by a preponderance of the evidence, that domestic abuse occurred. Therefore, the district court was not obligated to view the evidence in his favor, *see Coker*, 831 N.W.2d at 489-90, and was instead free to "determine the facts and render judgment against" him. *See* Minn. R. Civ. P. 42.02(b).

Nevertheless, in its order, the district court articulated the rule that Schanze advocates for on appeal, stating that it was required to take "all of the facts favorable to the non-moving party as true and give[] the non-moving party the benefit of all reasonable inferences from those facts." Although the district court erred in making this statement, any error was harmless. After stating the incorrect rule, the district court rendered judgment in a manner that was consistent with the bench-trial language in rule 41.02(b), scrutinizing Schanze's evidence, rendering findings of fact, and determining that Schanze did not demonstrate that domestic abuse occurred by a preponderance of the evidence. Because the error was harmless, we do not disturb the district court's judgment. *See* Minn. R. Civ. P. 61.

Challenge to findings of fact

Next, Schanze disputes the district court's findings of fact. Schanze argues that the district court erred by discrediting his testimony as "self-serving" when additional testimony and evidence support his allegations, namely: (1) photographs and medical-record evidence; (2) testimony from school officials that the child reported being afraid of

Oldenburg; (3) the administrator's testimony that the child told her that Oldenburg threw the child against a wall; (4) and the GAL's refusal to opine on whether the brick-grill incident actually happened.

In reviewing findings of fact for clear error, we do not "reweigh the evidence," "engage in fact-finding anew," or "reconcile conflicting evidence." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (quotations omitted). We reverse only when, based "on the entire evidence," we are "left with a definite and firm conviction that a mistake has been committed." *Id.* at 221 (quotation omitted). In doing so, we defer to the district court's credibility determinations. *Thompson*, 906 N.W.2d at 500-01.

Here, to support dismissal, the district court found that "[t]he medical records and photographs from immediately after [the] incident do not show any significant or visible injury." Although domestic abuse does not require "significant or visible injury," *see* Minn. Stat. § 518B.01, subd. 2(a) (2024) (defining domestic abuse under the domestic abuse act), Schanze alleged that Oldenburg committed domestic abuse through a serious act of violence: shoving and tackling the child into a brick grill. Therefore, the district court did not clearly err by determining that the lack of visible or significant injury undercut the veracity of Schanze's allegations.

The district court also credited the GAL's report and testimony to find that the child's conduct at school and otherwise—which includes his statements about being afraid of Oldenburg—stems "from [the parties'] contentious, hostile, co-parenting relationship," rather than from domestic abuse. Based on our review of the GAL's report, we again do not determine that the district court's finding was clearly erroneous, particularly given the

thoroughness of the GAL's investigation and the deference we give to a district court's credibility determinations. *See Thompson*, 906 N.W.2d at 500-01 (stating that we defer to the district court's credibility determination).

Finally, the GAL's refusal to opine on the ultimate question of whether domestic abuse occurred does not favor Schanze when he had the burden to establish domestic abuse by a preponderance of the evidence, *see Oberg v. Bradley*, 868 N.W.2d 62, 64 (Minn. App. 2015), and when the district was not obligated to construe the record in his favor by ruling on the motion to dismiss, *see Coker*, 831 N.W.2d at 489-90.

Given the underlying record, we are not left with "a definite and firm conviction" that the district court made a mistake. *See Kenney*, 963 N.W.2d at 221 (quotation omitted). The district court's findings of fact were not clearly erroneous, and the district court did not abuse its discretion by dismissing Schanze's petition for an OFP.

Affirmed.