STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1355

In the Matter of: Maria Cristina Gallo-Valdivia,
Appellant,

vs.

Christopher Graham Hanson,
Respondent,

County of Anoka,
Intervenor.

Filed May 5, 2025
Affirmed
Ede, Judge

Anoka County District Court
File No. 02-FA-21-1253

Eric Richard, Brooklyn Center, Minnesota (for appellant)

Christopher Graham Hanson, Spring Lake Park, Minnesota (pro se respondent)

Brad Johnson, Anoka County Attorney, Christine M. Rogers, Assistant County Attorney, Anoka, Minnesota (for intervenor)

Considered and decided by Harris, Presiding Judge; Ede, Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

In this appeal challenging the district court's denial of her motion to modify custody, appellant mother argues: (1) that the district court abused its discretion by (a) admitting evidence relating to events that happened before the prior custody order, (b) making clearly

erroneous findings of fact, (c) limiting the motion-hearing proceedings to 90 minutes, and (d) insufficiently explaining its finding that mother did not show endangerment and improperly applying the law in determining that custody modification was unwarranted; and (2) that remand to a different judicial officer is necessary because the district court judge who denied her custody-modification motion is facing disciplinary proceedings based on allegations of bias against immigrants. We affirm.

FACTS

Background

Appellant mother Maria Cristina Gallo-Valdivia shares joint legal and joint physical custody of A.G.H. (the child) with respondent father Christopher Graham Hanson. The parties' joint legal and joint physical custody of the child stems from a July 2020 order by a court in Alameda County, California. A district court in Anoka County, Minnesota registered the order in July 2021.

In March 2022, the district court filed stipulated findings of fact, conclusions of law, and an order for custody and parenting time (the March 2022 order). The district court ordered the parties to continue sharing joint legal and joint physical custody of the child. The March 2022 order also included a detailed and alternating schedule for custody of the child.

Motions to Modify Custody

In February 2024, when the child was five years old, mother moved to modify the March 2022 order, asking the district court to award her sole legal and sole physical custody of the child. In an affidavit supporting her motion, mother stated that she was seeking

modification because she believed that the child was "in danger if [the parents] continue[d] the existing joint legal, joint physical agreement and the existing parenting time schedule." Mother alleged that the child was in emotional danger because father had "repeatedly made false allegations that someone ha[d] sexually abused [the child]" and because father had "repeatedly made false allegations of child abuse occurring" while the child was in mother's care.

Mother asserted that father's purportedly false child-abuse allegations, his refusals to cooperate with seeking therapy for the child and to bring the child to preschool during his parenting time, and his insistence that the child be home-schooled or sent to private school were all changes in circumstances that occurred since the March 2022 order. She proposed that the district court maintain the existing summer parenting-time schedule and modify the school-year parenting-time schedule to just two overnights per week on weekends with father, instead of three overnights per week.

Father filed a responsive motion asking the district court to deny mother's request to change legal and physical custody and to grant father sole legal and joint physical custody of the child. In an affidavit in support of his responsive motion, father denied making false child-abuse allegations, maintaining that the child had reported four instances of abuse. Father also contended that the child should be with him because mother "cannot comprehend written English many times" and he believed he was "far better equipped to help [the child] with her schoolwork."

Motion Hearing

The district court held a motion hearing in April 2024. Father represented himself and mother appeared with counsel.[1] The parents each argued that the other's conduct endangered the child. They also disagreed about where the child should attend school and therapy.

Mother asserted that father's repeated abuse allegations and his insistence on the child staying home with him rather than attending preschool were "evidence of emotional endangerment." Based on the recommendation of a child protection worker following an investigation of father's abuse allegations, as well as mother's concerns about the child having body-image issues, mother also asserted that the child should attend therapy.

Father maintained that the abuse allegations were not false and that, since the March 2022 order, the child had reported to him: (1) that mother's boyfriend had spanked the child; (2) that mother's adult son had touched the child inappropriately; (3) that the child's preschool teacher had exposed her vagina to the child; and (4) that the child's eight-year-old cousin had shown his penis to the child. He explained how he had informed the child's pediatrician about the alleged incident involving mother's adult son and how the pediatrician reported the matter to child protection services. And father stated that, after an investigation, the county attorney informed him that there was not "enough evidence to move forward, so the case [was] closed."

[1] Although an attorney for the county was also present at the hearing, the county took no position on the parties' custody and parenting time dispute and the district court ultimately excused the county from the proceedings.

After taking the matter under advisement, the district court ordered that an evidentiary hearing was necessary "based on the prima facie case of endangerment proffered by both" parents. The district court also ordered that mother and father would each have 45 minutes to present their case at the evidentiary hearing.

Evidentiary Hearing

The district court held the evidentiary hearing in May 2024. Father remained self-represented, and mother again appeared with counsel. The parties presented evidence to the district court in support of their respective endangerment claims.

In her testimony, mother disputed father's allegations that the child had been abused. For example, she stated that her adult son was not living with her when the abuse supposedly occurred and that her son had spent time out of the country during that period. Mother also said that she did not believe father's abuse allegation involving the child's eight-year-old cousin. In addition, mother discussed seeking therapy for the child because of her concern for the child's body image. She introduced text-message exhibits from October 2023 in which father states that the child's "tummy is getting too big for her body." Mother testified that, when she tried to get the child into therapy, father refused to allow the child to see the provider that mother had chosen, although he later placed the child on a waitlist for a different provider.

Father's adult daughter, J.K.H., testified that father raised her and provided her a stable, safe, and healthy environment. She also described overhearing the child tell father that the child's preschool teacher had exposed her vagina to the child.

The owner of the child's preschool—where mother is an employee—testified about the investigation she conducted after receiving notice of the abuse allegation involving the preschool teacher. The preschool owner explained that she reported the incident to her "licenser at the state" and that the investigation was closed after no evidence of abuse was found.

Father also testified. And the district court received several exhibits, including emails exchanged between the preschool owner and father, law-enforcement incident reports, transcripts of law-enforcement interviews of mother's adult son about the abuse allegation involving him, the "screened out" child protection services report from the county in which the abuse was initially reported, and screenshots of text-message exchanges between mother and father.

Order Denying Custody Modification

After the evidentiary hearing, the district court filed an order denying the parties' respective requests to modify custody. The district court determined that the March 2022 order "constitute[d] the 'present environment' custody order regarding" the child. And the district court found that, although none of the abuse allegations were corroborated, "none of them were completely disproved, . . . with the exception of [the allegation relating to the child's] teacher, after an internal investigation by the childcare center's owner."

That said, the district court did "not find any change in circumstances ha[d] occurred since the last order" or that the child's best interests would be served by modifying custody. The district court determined that the child's "present environment [did] not endanger her physical or emotion[al] health, and . . . modification of her present environment by

changing custody would likely create detriments that would outweigh any potential advantage." Despite the district court's recognition that the parties "ha[d] often been in conflict," the court considered the child's best interests and ruled "that providing one party with sole legal or physical custody [would] ultimately ramp up conflict more and result in the [p]arties preventing each other from being involved with [the child]." Thus, the district court denied both parties' motions to modify custody.[2]

Mother appeals.

DECISION

Mother challenges the district court's denial of her motion to modify custody, which was based on her assertion of endangerment to the child.

She argues: (1) that the district court abused its discretion by (a) admitting evidence relating to events that happened before the prior custody order, (b) making clearly erroneous findings of fact, (c) limiting the motion-hearing proceedings to 90 minutes, and (d) insufficiently explaining its finding that mother did not show endangerment and improperly applying the law in determining that custody modification was unwarranted; and (2) that remand to a different judicial officer is necessary because the district court judge who denied her custody-modification motion is facing disciplinary proceedings based on allegations that he is biased against immigrants.

"District courts have broad discretion on matters of custody and parenting time." *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). "A district court abuses

[2] The district court also ordered that mother and father "complete a co-parenting class and file proof of attendance within ninety (90) days of [its] order."

its discretion by making findings unsupported by the evidence or improperly applying 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) (quoting *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022)). When reviewing factual findings for clear error, appellate courts (1) view the evidence in the light most favorable to the findings, (2) do not find their own facts, (3) do not reweigh the evidence, and (4) do not reconcile conflicting evidence. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221–22 (Minn. 2021); *see also Ewald v. Nedrebo*, 999 N.W.2d 546, 552 (Minn. App. 2023) (citing *Kenney* in a family-law appeal), *rev. denied* (Minn. Feb. 28, 2024). 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.

Kenney, 963 N.W.2d at 222 (quotations and citation omitted); *see also Vangsness v. Vangsness*, 607 N.W.2d 468, 472, 474 (Minn. App. 2000) (similarly discussing the clear-error standard of review); *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) (explaining that the district court's "findings must be sustained unless clearly erroneous" and that "[d]eference must be given to the opportunity of the [district] court to assess the credibility of the witnesses" (quotation omitted)).

Below, we address each of mother's arguments in turn.

I. The district court did not abuse its discretion by denying mother's motion to modify custody.

A. The district court did not prejudicially abuse its discretion by admitting evidence about events that occurred before the March 2022 order.

Mother asserts that the district court "repeatedly misapplied the law" by admitting evidence of events that occurred before the March 2022 order, over her objections. Father responds that the challenged evidence was unknown to the district court at the time of the prior order and was thus "completely permissible." We conclude that mother has not shown that the district court's evidentiary rulings amounted to a prejudicial abuse of discretion.

"[E]videntiary rulings are within the district court's discretion and are also reviewed under an abuse-of-discretion standard." *Braith v. Fischer*, 632 N.W.2d 716, 721 (Minn. App. 2001), *rev. denied* (Minn. Oct. 24, 2001). "Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected . . . ." Minn. R. Evid. 103(a). "In civil cases, the complaining party must demonstrate prejudicial error to be entitled to a new trial or hearing based on an erroneous evidentiary ruling." *Olson v. Olson*, 892 N.W.2d 837, 841 (Minn. App. 2017) (quotation omitted). "An evidentiary error is prejudicial if it might reasonably have influenced the fact-finder and changed the result of the proceeding." *Id.* at 842.

"A judicial action on placement of custody is based on the 'present' circumstances of the child, not solely on the history of care." *Hassing v. Lancaster*, 570 N.W.2d 701, 703 (Minn. App. 1997). But "[t]he history of a child's care is a relevant consideration in addressing the child's current circumstances. The history of care may indicate what can be presently expected." *Id.*

Mother correctly asserts that, during the evidentiary hearing, father "introduced evidence and offered or solicited testimony for events that occurred prior to the most recent" custody order. For example, while cross-examining the preschool owner, father asked whether she knew that mother had moved from California with the child "illegally." And while cross-examining mother, father asked several questions and introduced exhibits related to the history of the parties' relationship. Mother's counsel objected to the admission of this evidence. But the district court granted father some leeway in the presentation of his case, overruled most of the objections, and stated: "I'm going to allow you some latitude[.] . . . [W]e're litigating a request for physical and legal custody here[,] . . . [s]o I'm going to give you a little latitude . . . ."

We conclude that the district court did not abuse its discretion in admitting the challenged evidence because "[t]he history of [the] child's care is a relevant consideration in addressing the child's current circumstances" and "indicate[s] what can be presently expected." *Id.* And even if the district court did abuse its discretion by admitting this evidence, mother has not shown on appeal that such error prejudicially affected her substantial rights by "influenc[ing] the fact-finder and chang[ing] the result of the proceeding." *Olson*, 892 N.W.2d at 842; *see also* Minn. R. Evid. 103(a).

B. Mother has not demonstrated prejudice resulting from the findings of fact she challenges as clearly erroneous.

Mother contends that the district court clearly erred in its factual findings on (1) the abuse allegations and (2) whether mother lied about a restraining order against father in California and about using a fake social media account in an attempt to get J.K.H. fired

from her job. Reviewing each of the challenged factual findings for clear error, we conclude that any clearly erroneous findings are harmless.

"Where a decisive finding of fact is supported by sufficient evidence and is adequate to sustain the conclusions of law, it is immaterial whether some other findings are not so sustained." *Hanka v. Pogatchnik*, 276 N.W.2d 633, 636 (Minn. 1979). And "no error or defect in any ruling or order . . . is ground for granting a new trial[[3]] . . . or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice." Minn. R. Civ. P. 61.

1. Abuse Allegations

Mother challenges the district court's factual findings on the abuse allegations as clearly erroneous.

We agree that the record does not reasonably support some of the district court's findings about the details of the abuse allegations. The district court found that "there was an allegation regarding *[mother's] nephew* sexually touching" the child and that "there was an allegation regarding *[mother's] son* allegedly showing his penis to" the child. (Emphasis added.) But at the motion hearing, father described four incidents in which: (1) mother's boyfriend had spanked the child; (2) mother's adult son had touched the child inappropriately; (3) the child's preschool teacher had exposed her vagina to the child; and (4) the child's eight-year-old cousin had shown his penis to the child. And during the evidentiary hearing, both mother and father provided testimony about those four

[3] We are mindful that, here, the proceeding from which mother appeals was an evidentiary hearing and not a trial.

allegations, as just described. The district court's factual findings about the details of the abuse allegations are therefore clearly erroneous because the record shows that father alleged that *mother's adult son* had touched the child inappropriately and that *the child's eight-year-old cousin* had shown his penis to the child—not the inverse, as the district court found.

But we conclude that this error is harmless. As discussed above, the district court's decisive finding of fact about the abuse allegations is that, although none of them were corroborated, "none of them were completely disproved, . . . with the exception of [the child's] teacher after an internal investigation by the childcare center's owner." In other words, the district court rejected mother's claim that the abuse allegations were uniformly false. Thus, despite the transposition of some details in the district court's findings of fact relating to two of the four abuse allegations, because the district court's "decisive finding of fact is supported by sufficient evidence and is adequate to sustain the [court's] conclusions of law, it is immaterial . . . [that the challenged] findings are not so sustained." *Hanka*, 276 N.W.2d at 636. Nor has mother demonstrated that affirming the district court's order, notwithstanding the erroneous details in the court's factual findings about the abuse allegations, is "inconsistent with substantial justice." Minn. R. Civ. P. 61.

2. Restraining Order and Social Media Account

Mother also challenges the district court's findings that she "admitted on cross-examination that she ha[d] lied previously in relation to a restraining order she obtained against [father] in California" and that she had also been untruthful about posting a fake social media review "in an attempt to get [J.K.H.] fired from her job."

We agree that the district court's factual finding about mother lying in relation to a restraining order against father is not reasonably supported by the record. When father asked mother if she made false allegations against him to obtain a restraining order, mother stated, "I didn't make any false allegation." Mother also testified that she petitioned for a restraining order against father because of "sexual harassment." Thus, the district court clearly erred in finding that mother admitted on cross-examination that she had lied about a restraining order she obtained against father in California because that finding is not reasonably supported by the record.

But this error was harmless. Although the district court "made a slight negative credibility determination" based in part on its findings about the restraining order, the court explained that "this negative credibility determination did not result in the court outright disbelieving [mother's] reasoning and testimony." We therefore conclude that affirming the district court's order despite this clearly erroneous finding of fact is not "inconsistent with substantial justice." Minn. R. Civ. P. 61.

Turning to the district court's factual finding about the social media account, we are not convinced by mother's argument that the social media finding lacked reasonable support in the record. Indeed, when mother was asked whether she remembered creating a fake social media account, her response was, "Yes." Thus, the district court's finding about the social media account was not clearly erroneous. And as much as the district court's "decisive finding of fact" about the believability of mother's testimony is a "slight negative credibility determination" that "did not result in the court outright disbelieving [mother's] reasoning and testimony," "it is immaterial" that the restraining-order finding is clearly

erroneous because the social media finding independently supports the court's credibility determination. *Hanka*, 276 N.W.2d at 636.

We thus conclude that any clearly erroneous factual findings by the district court are harmless because, as explained above, the court's decision not to modify custody is otherwise reasonably supported by the evidence.

C. The district court neither abused its discretion nor prejudiced mother's right to a fair custody hearing by limiting the proceedings to 90 minutes.

Invoking her due-process rights, mother also challenges the district court's decision to limit each party's presentation of their case to 45 minutes. Mother claims that she "was not afforded the opportunity to make the case that her child was emotionally endangered or that the child's emotional[] development was impaired by [father's] actions." We disagree.

Whether a parent's due-process rights have been violated is a question of law that this court reviews de novo. *See In re Welfare of Child of T.M.A.*, 11 N.W.3d 346, 360 (Minn. App. 2024). "The parent-child relationship is among the fundamental rights protected by the constitutional guarantees of due process." *In re Welfare of Child. of D.F.*, 752 N.W.2d 88, 97 (Minn. App. 2008). "Due process requires reasonable notice, a timely opportunity for a hearing, the right to counsel, the opportunity to present evidence, the right to an impartial decision-maker, and the right to a reasonable decision based solely on the record." *Id.*

Mother's argument that the district court denied her a fair custody hearing lacks merit. Before the May 2024 evidentiary hearing, the district court ordered that each party

would have 45 minutes to present their case. Thus, mother received notice prior to the hearing that the presentation of her case would be limited to 45 minutes. Father requested a continuance, asserting that the district court's pre-hearing order did not give him enough time to prepare his witnesses. But mother made no similar pre-hearing motion, nor did she request that the district court allot more time to the parties to present their cases. Instead, mother submitted a detailed list of exhibits and witnesses to the district court. Mother's failure to preserve this issue in the district court thwarts appellate review. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts address only those questions previously presented to and considered by the district court).

Even assuming without deciding that mother's due-process claim is properly before us, her argument remains unavailing. At the evidentiary hearing, mother was represented by counsel and presented evidence. There is nothing in the record suggesting that mother was denied an opportunity to be heard at any point in the proceedings, including by the 45-minute limitation that the district court placed on the presentation of the parties' cases. We therefore cannot conclude that the district court violated mother's due-process rights or otherwise denied mother a fair hearing.

D. The district court sufficiently explained its finding that mother did not show endangerment and the court did not improperly apply the law in determining that custody modification was unwarranted.

Mother argues that the district court's order "is devoid of any analysis of [Minnesota Statutes section 518.175, subdivision 5(b) (2024)[4]] and fails to explain how the evidence

[4] Minnesota Statutes section 518.175, subdivision 5(b), addresses modification of "the decision-making provisions of a parenting plan or an order granting or denying parenting

at [the evidentiary hearing] either serves to support a change in legal custody or fa[i]led to support a change in legal custody." She also seems to assert that the district court's order did not "[in]dicate whether or not the child is endangered by her present environment." Father counters that the district court's determination is supported by the evidence. We conclude that the district court sufficiently explained its finding that mother did not show endangerment and that the court did not improperly apply the law in determining that custody modification was unwarranted.

A party seeking a custody modification based on allegations of endangerment must show that: (1) "since the prior order or [based on facts] that were unknown to the court at the time of the prior order, . . . a change has occurred in the circumstances of the child or the parties"; (2) "modification is necessary to serve the best interests of the child"; and (3) "the child's present environment endangers the child's physical or 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." Minn. Stat. § 518.18(d)(iv). "If the [district] court conducts an evidentiary hearing on a custody modification motion it must set down in specific detail its findings sufficiently indicating that the court has adequately considered the applicable statutory factors in reaching its

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time," not custody modification, which is governed by Minnesota Statutes section 518.18 (2024). Thus, as much as mother is challenging the district court's application of the law in its determination that custody modification was unwarranted, we review the court's decision under section 518.18, which—like section 518.175, subdivision 5(b)—requires the court to determine whether "modification is necessary to serve the best interests of the child." Minn. Stat. § 518.18(d)(iv).

decision to either modify or not modify custody." *Abbott v. Abbott*, 481 N.W.2d 864, 868 (Minn. App. 1992).

In particular, the existence of endangerment is a question of fact that we review for clear error. *Sharp v. Bilbro*, 614 N.W.2d 260, 263–64 (Minn. App. 2000), *rev. denied* (Minn. Sept. 26, 2000). And "lack of endangerment is fatal to a motion to modify custody." *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 292 (Minn. App. 2007) (citing authorities). Because we conclude that the district court did not clearly err in its finding that mother did not show endangerment, we need not consider the other two custody-modification factors under section 518.18(d)(iv).[5] *See id.*

[5] Even if we were to review the district court's analysis of the other two custody-modification factors for an abuse of discretion, we would conclude that the court did not misapply the law and that it adequately explained its decision, which is reasonably supported by the evidence. Our close examination of the record reveals that the district court's finding that there had not been a substantial change in circumstances since the March 2022 order is reasonably supported by the evidence. Insofar as mother's claim of endangerment relies on a change of circumstances arising from father's purportedly false allegations of abuse to the child, we cannot reweigh the evidence, *see Sefkow*, 427 N.W.2d at 210, particularly as to the district court's determination that "none of [the abuse allegations] were completely disproved, . . . with the exception of [the allegation relating to the child's] teacher, after an internal investigation by the childcare center's owner." The record otherwise reasonably supports the district court's finding that there had not been a real change in circumstances—but rather ongoing problems had continued—since the March 2022 order. *See Roehrdanz v. Roehrdanz*, 438 N.W.2d 687, 690 (Minn. App. 1989), *rev. denied* (Minn. June 21, 1989). And mother has forfeited the best-interests issue by failing to challenge any of the district court's determinations about the best-interests factors that the court considered. *Jundt v. Jundt*, 12 N.W.3d 201, 204 (Minn. App. 2024) ("A party's failure to brief and argue an issue on appeal results in forfeiture of that issue . . . ."), *rev. denied* (Minn. Dec. 31, 2024). Because "[i]t is not this court's duty to weigh all of the evidence and come to an independent conclusion concerning the child's best interests[,]" we discern no abuse of discretion in the district court's determination that modification was not necessary to serve the best interests of the child.

The endangerment "element has two parts: the environment must be dangerous to the child; and the harm from [changing the child's environment] must be outweighed by the advantages of the change." *Id.* at 293. "The concept of endangerment is unusually imprecise, but a party must demonstrate a significant degree of danger to satisfy the endangerment element of section 518.18(d)(iv)." *Goldman v. Greenwood*, 748 N.W.2d 279, 285 (Minn. 2008) (quotation omitted). "[T]he danger may be purely to emotional development." *Geibe v. Geibe*, 571 N.W.2d 774, 778 (Minn. App. 1997).

Here, the district court determined that the child's "present environment does not endanger her physical or emotion[al] health, and . . . modification of her present environment by changing custody would likely create detriments that would outweigh any potential advantage." And the district court explained that, based on the evidentiary hearing, it "was left with the distinct impression that [the child's] present environment does not endanger her physical or emotion[al] health."

We conclude that the district court did not clearly err in its finding that mother did not show endangerment. Mother offered scant proof that father's conduct endangered the child. At the motion and evidentiary hearings, mother expressed her desire for the child to attend therapy based on the recommendation of a child protection worker and mother's concerns with the child having potential body-image issues. Although there is some indication in the record that father might have contributed to the child's body-image issues and that father had at first refused to cooperate with mother's efforts to get the child into therapy, the evidence also reflects that father ultimately placed the child on a waitlist for a mental-health provider. And much of the testimony at the evidentiary hearing relates to the

unsubstantiated abuse allegations that the district court determined were not completely disproved, as well as mother and father's continued disagreements about making decisions for the child, as shown by their communications. On this record, we cannot say that the district court clearly erred by making findings that are unsupported by the evidence.

Moreover, we conclude that the district court did not improperly apply the law in determining that custody modification was unwarranted. The district court set down in specific detail its findings, which sufficiently indicate that the court adequately considered the applicable statutory endangerment factors—including whether modification would be in the child's best interests—in deciding not to modify custody. *See Abbott*, 481 N.W.2d at 868; *see also* Minn. Stat. §§ 518.175, subd. 5(b), 518.18(d)(iv).

In sum, we conclude that the district court did not abuse its discretion in denying mother's motion to modify custody.

II. Mother forfeited her claim of bias against the district court judge.

Finally, mother contends that, at the time of the motion and evidentiary hearings, she was unaware that "the judicial officer in her case [was] facing discipline for allegations of bias against immigrants, when she is an immigrant." Mother maintains that this "is a very serious matter that can only be cured by remand[] . . . to the district court for a new [evidentiary hearing] before a different judicial officer."[6] We are not persuaded that mother's arguments compel the remand that she requests.

[6] In the addendum to her appellate brief, mother included extra-record documents related to a formal complaint against the district court judge. But the appellate record consists of "[t]he documents filed in the [district] court, the exhibits, and the transcript of the proceedings." Minn. R. Civ. App. P. 110.01. And "[a] reviewing court must generally

"Generally, a party who fails to remove a judge before the start of trial[7] has lost [their] opportunity to do so unless [the party] demonstrates prejudice or implied or actual bias." *Uselman v. Uselman*, 464 N.W.2d 130, 139 (Minn. 1990). Mother did not remove the district court judge before the start of the evidentiary hearing. And based on our careful review of the record, we discern neither prejudice nor implied or actual bias by the district court in the underlying proceedings. We therefore conclude that mother has forfeited her right to seek removal of the district court judge, including in this appeal. *See id.*

Affirmed.

consider only those issues that the record shows were presented and considered by the [district] court in deciding the matter before it." *Thiele*, 425 N.W.2d at 582 (quotation omitted). We therefore decline to consider the extra-record documents related to the formal complaint against the district court judge that mother included in the addendum to her brief.

[7] We again acknowledge that the proceeding from which mother appeals was an evidentiary hearing, not a trial.