STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1680

In the Matter of the Welfare of the Children of: J. V. Z., Father.

Filed June 30, 2025
Affirmed
Bratvold, Judge

Ramsey County District Court
File No. 62-JV-19-1996

Jennifer L. Thompson, JLT Law & Mediation, Litchfield, Minnesota (for appellant father J.V.Z.)

m boulette, Seungwon R. Chung, Taft, Stettinius & Hollister, Minneapolis, Minnesota; and

Rebecca A. Randen, Randen Family Law, Edina, Minnesota (for respondent mother A.H.)

John J. Choi, Ramsey County Attorney, Lisa Michelle Thompson, Amanda Sackmaster, Assistant County Attorneys, St. Paul, Minnesota (for respondent Ramsey County Human Services)

Amanda Weitekamp, St. Paul, Minnesota (for child 4 and child 5)

Marylene Herady, St. Paul, Minnesota (guardian ad litem)

Considered and decided by Bratvold, Presiding Judge; Bjorkman, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this appeal from the district court's order denying appellant father's motion to modify parenting time following an order transferring permanent sole legal and sole

physical custody of their joint children to respondent mother in a juvenile-protection proceeding, father argues that the district court clearly erred in its factual findings and abused its discretion in its best-interests determination. We discern no reversible error in the district court's factual findings. We also conclude that the district court did not abuse its discretion in its best-interests determination. Thus, we affirm.

FACTS

Appellant J.V.Z. (father) and respondent A.H. (mother) are the parents of eight joint children (child 1-8), born between 2004 and 2018. The following summarizes the district court's factual findings in its order denying modification of parenting time along with other portions of the record relevant to the issues on appeal.

On September 30, 2019, child 4, who was 12 years old at the time, told mother that father "had touched her inappropriately." Child 4 participated in a forensic interview in which she described multiple instances of sexual abuse. On October 10, 2019, the county "made a maltreatment determination of sexual abuse of Child 4" by father.

Also in October 2019, the State of Minnesota charged father with second-degree criminal sexual conduct. The district court filed a domestic-abuse no-contact order (DANCO) prohibiting father from having contact with child 4. Later, father pleaded guilty to fifth-degree criminal sexual conduct and was placed on probation. Father admitted to violating the DANCO by contacting child 4 in a video call and sending a third party to bring food and a toy to child 4. He was placed on probation for that offense, as well.

On December 20, 2019, respondent Ramsey County Human Services (the county) petitioned to terminate father's parental rights. In December 2020, the parties reached a

settlement agreement that resolved the petition for termination of father's parental rights. The settlement stated that the parties agreed (1) to the "transfer of permanent sole legal and physical custody of all children to" mother, (2) that father could have contact and supervised visitation with the children if he enrolled and participated in a sex-offender treatment program and followed other conditions, and (3) that father "may petition the court for additional custody and/or parenting time of the children" after completing treatment. The district court issued a permanency order that incorporated the settlement agreement, made relevant findings about mother's ability to parent, and "awarded [mother] permanent, sole legal and physical custody" of all eight children.

Mother and father divorced in 2021. At some point after the permanency order, father began parenting time with child 5, child 6, child 7, and child 8 on Wednesday and Friday evenings and during the day on alternating weekends.

In September 2023, father moved to modify parenting time for the four youngest children (child 5, child, 6, child 7, and child 8). Child 5 and child 6 are girls and were born, respectively, in September 2010 and April 2014. Child 7 and child 8 are twin boys who were born in March 2018.[1] In his motion, father asked for overnight parenting time on one weeknight every week and every other weekend, as well as vacation and holiday parenting time.

[1] Father stated in his affidavit that he did not seek parenting time with child 1 (born July 2004) and child 2 (born October 2005) because child 1 was already emancipated and child 2 was about to turn 18. He also did not seek parenting time with child 3 (born February 2009) and child 4 (born April 2007); father stated that child 3 and child 4 did not want parenting time.

In his affidavit attached to the motion, father averred that he "successfully completed" a sex-offender treatment program and attends weekly therapy. Father also averred that he is remarried and lives with his spouse in a five-bedroom home in St. Paul, about 1.5 miles from mother's home. Father's affidavit addressed the 12 best-interests factors set out in Minn. Stat. § 518.17, subd. 1(a) (2022), contending that they weighed in favor of granting him additional parenting time.

Father submitted several supporting documents, including a treatment-progress plan and report. The report stated that father was "discharge[d] from [a] previous treatment program in which he was enrolled," favorably described father's conduct during supervised visits, and noted that "no recommendation has been made restricting [father's] contact with minor males" and that "therefore visitation with" child 7 and child 8 "is supported . . . with no restriction." Father also submitted a letter from his therapist, who stated that father was diagnosed with a personality disorder and that he has "implemented several behavioral changes in order to prevent him from any form of physical touch with his daughters that could lead to inappropriate thoughts or actions on his part."

Mother opposed father's motion. Mother submitted an affidavit in which she discussed the 12 best-interests factors set out in Minn. Stat. § 518.17, subd. 1(a), contending that modification of father's parenting time was not in the children's best interests. Mother attached several documents to her affidavit. First, father's discharge form from a treatment program stated that he was involuntarily discharged for a "[m]ajor rule violation" because he violated a treatment condition restricting contact with child 4 and his other children. Second, the criminal complaint alleged criminal-sexual-conduct charges

against father. Third, a letter from father's niece stated that, in 2013, father "came up to [her] room once" and "got onto the mattress" with her; father "got on top of [niece,] supporting his weight on his arms," and "began trying to kiss [her] lips."

The guardian ad litem (GAL) for the children submitted a report discussing father's modification motion on April 12, 2024. The report summarized interviews with father and mother and conversations with and observations of the four youngest children. The GAL recommended that father "be granted up to four (4) overnights per month[], exclusively during the weekends," if he met certain conditions, including completing a new psychosexual evaluation and providing "Child 5 and Child 6 with safe and adequate spaces" in his home.

The GAL provided an updated report on September 10, 2024, in which she stated that father had completed a new psychosexual evaluation. The GAL recommended that father be granted overnight parenting time every week, "two non-consecutive weeks of vacation time each summer," and holiday parenting time.

On September 17, 2024, the county submitted a letter opposing "any change to [father's] contact with Child 5 and Child 6" and stating that the county "would not recommend changes to his contact with Child 7 and Child 8" because modifying parenting time would not be in the children's best interests. The county attached an affidavit by a social worker, attesting that father's recent psychosexual evaluation showed that he exhibited "insight into his past actions." But the affidavit also stated that father "admitted to experiencing arousal around an underaged female child, having toxic thoughts that

included comparing her to his wife, and rationalizing those thoughts." The psychosexual assessment was filed in the district court record under a protective order.

The GAL submitted an amended report on September 19, 2024, adding recommended conditions for father's overnight parenting time—that another adult must be present during father's parenting time with child 5 and child 6 and that father "should refrain from entering Child 5 and Child 6's bedrooms at all times."

After a motion hearing that included testimony from the GAL, the district court denied father's modification motion in a written order that included 51 factual findings and a four-page discussion of the best-interests factors set out in Minn. Stat. § 518.17, subd. 1(a).

Father appeals.

DECISION

Father argues that the district court's factual findings are clearly erroneous and that its best-interests determination reflects an abuse of discretion. To begin, we address mother's argument that "[f]ather failed to preserve many of his challenges against the district court's order" by failing to raise them to the district court.

On appeal, father argues that the district court erred by admitting hearsay evidence and evidence that lacks foundation and that the district court was biased. Mother points out that father raises these three issues for the first time on appeal. "[T]his court generally considers only those issues argued before and considered by the district court." *In re Welfare of D.W.*, 731 N.W.2d 828, 835 (Minn. App. 2007) (citing *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988)). Because father did not object to hearsay or lack of

foundation during district court proceedings, we conclude that father forfeited these evidentiary arguments.

Generally, we also do not consider issues of judicial bias for the first time on appeal. *See Gummow v. Gummow*, 375 N.W.2d 30, 34 (Minn. App. 1985) (noting that a claim of judicial bias should be raised at the district court to be considered on appeal). But it is unclear when father would have raised a judicial-bias argument during district court proceedings. Father appears to argue that judicial bias became evident upon receiving the district court's order. Even if we assume that father properly challenges judicial bias, we are not persuaded that the district court's order shows bias.

A judge must not be biased against a litigant and must also "satisfy the appearance of justice." *In re Murchison*, 349 U.S. 133, 136 (1955) (quotation omitted). But "opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings" do not show that a judge is biased "unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." *State v. Burrell* (*In re State)*, 743 N.W.2d 596, 603 (Minn. 2008) (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). Father's bias arguments relate to the district court's adverse determinations about his credibility and the weight of the evidence. These determinations were within the district court's discretion and do not "display a deep-seated favoritism or antagonism." *Id.* (quotation omitted). And appellate courts defer to a district court's credibility determinations and weighing of the evidence. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-23 (Minn. 2021). Therefore, father's judicial-bias argument lacks merit.

Next, we consider the remaining issues in father's appeal: first, whether the district court's findings of fact were clearly erroneous and, second, whether the district court abused its discretion by determining that a parenting-time modification was not in the children's best interests.

I. We discern no reversible error in the district court's factual findings.

To resolve father's motion to modify his parenting time, the district court received affidavits along with some testimony at a motion hearing. *See* Minn. Stat. §§ 518.185 (stating that a moving party should provide affidavits "setting forth facts supporting" a requested modification of a custody order and that the other parties "may file opposing affidavits"), 260C.521, subd. 2(a) (stating that Minn. Stat. § 518.185 applies in permanency modification proceedings) (2024). After the record was closed, the district court made written factual findings.

A district court's factual findings "will not be reversed unless clearly erroneous or unsupported by substantial evidence." *In re Welfare of B.A.B.*, 572 N.W.2d 776, 778 (Minn. App. 1998). A factual finding is clearly erroneous if it is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Kenney*, 963 N.W.2d at 221 (quotation omitted). "Even if the record might support findings different from those made by the court, this does not show that the court's findings are defective." *In re Welfare of Child of J.L.L.*, 801 N.W.2d 405, 414 (Minn. App. 2011), *rev. denied* (Minn. July 28, 2011). This court has previously concluded that "challenging a district court's findings of fact by simply marshalling evidence that could support findings that differ from those made by the district court is an inadequate way to challenge those

findings." *Arise v. Naresh*, No. A23-0379, 2024 WL 14994, at *3 (Minn. App. Jan. 2, 2024).[2]

In other words, appellate courts do not disturb findings of fact based on conflicting evidence unless the findings are "manifestly and palpably contrary to the evidence as a whole." *In re S.G.*, 828 N.W.2d 118, 127 (Minn. 2013) (quotation omitted). "[A]n 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." *Kenney*, 963 N.W.2d at 222 (quotation omitted). And, as mentioned above, appellate courts defer to a district court's credibility determinations. *Id.* at 221-23.

To warrant reversal, any error during district court proceedings must be prejudicial. *See* Minn. R. Civ. P. 61 ("The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties."); *Katz v. Katz*, 408 N.W.2d 835, 839 (Minn. 1987) (stating that "we will not reverse a correct decision simply because it is based on incorrect reasons"); *In re Welfare of Child of A.H.*, 879 N.W.2d 1, 6 (Minn. App. 2016) (same).

Father challenges 39 of the district court's 51 written findings of fact. Father argues that the "majority of the district court's substantive findings are not supported by facts in evidence, are clearly erroneous, and led to multiple abuses of discretion." The county responds that "the district court's findings of fact should stand," emphasizing that "[j]ust

[2] We are not bound by nonprecedential opinions but may consider them as persuasive authority. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) ("Nonprecedential opinions and order opinions are not binding authority . . . but nonprecedential opinions may be cited as persuasive authority."). *Arise* is persuasive authority on the standard of review.

because [father] focuses on different facts than the district court did, does not mean the district court's findings are clearly erroneous as they are amply supported by the record." Mother argues that the district court's factual findings are supported by the record. We organize father's challenges to the factual findings into four categories for ease of discussion.

A. Father's arguments seeking additional or different factual findings are unavailing.

Father challenges several factual findings, not by arguing that the finding was unsupported by the record, but by contending that the record supports *other* findings that the district court *could* have made. For example, first, father argues that the district court erred by referring to the county's social worker as "the social worker who works with the family" without stating that "she met with the children only two times in the year she had been assigned to the matter." Second, he argues that the district court erred by finding that the GAL submitted reports that "supported modification of parenting time to allow overnight visits" without also finding "the weight of the consistency in the GAL's reports," and he argues that the GAL observed some things in one report that are not in other reports. Third, father argues that the district court erred in its findings about his second marriage, participation in therapy, and the desire of two children to not see father, claiming solely that the district court's order failed to state facts in the record. Father's arguments are unavailing because, "[e]ven if the record might support findings different from those made by the court, this does not show that the court's findings are defective." *J.L.L.*, 801 N.W.2d at 414.

B. Father's claims of clear error based on how the district court phrased some factual findings lack merit.

Father argues about the way the district court worded its factual findings. For example, father argues that the district court erred by finding that mother was "awarded" custody in the permanency order, reasoning that this language suggests a "contested dissolution" when custody transferred to mother as the result of a settlement agreement. Father also urges that the district court erred by finding that his home had bedrooms in the "basement" when the home has a "lower level." We reject each of these arguments because the district court's word choice and phrasing are not "manifestly contrary to the weight of the evidence." *Kenney*, 963 N.W.2d at 221 (quotation omitted). Father claims that some of the district court's phrasing suggests bias. But the record does not show bias, and appellate courts do not presume error. *See Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949) (stating that "on appeal error is never presumed"). Therefore, we reject father's claim that the district court's phrasing was due to an improper reason.

C. Father's challenges to many factual findings fail because the record supports those findings.

Father claims that many factual findings are clearly erroneous because they lack support in the record. After a careful review of the record, we disagree and conclude that the record supports the following factual findings.

Father challenges *finding 16*, which discusses the GAL's summary of father's "safety practices" during his visits with the children, specifically father's statements about "not hugging, not kissing and keeping the children at a safe distance" and that "it can be hard to maintain these boundaries." Father argues that the finding "does not comport with

[father's] statements or the report of the GAL." But the GAL's report from April 12, 2024, relays father stating that "he learned to set physical boundaries, such as not hugging, not kissing, and keeping the children at a safe distance" and "he accepts" these boundaries even though "it can be hard at times."

Father challenges *finding 21*, which states that four of the children "do not wish to have contact with him" and lists the GAL's recollection of the current agreed-upon parenting-time schedule. There is conflicting information in the record about whether child 1 and child 2 wish to have contact with father. *Finding 21*, however, is supported by mother's affidavit, which states that "[child 5] is the oldest of the children that are okay with still spending time with [father]." The district court implicitly credited mother's affidavit, and appellate courts defer to a district court's credibility determinations. *See Kenney*, 963 N.W.2d at 221-23.

And the district court seems to be noting in *finding 21* that the GAL mistakenly described the parenting-time schedule. In *finding 11*, the district court found that father "has parenting time every Wednesday from 5:00 p.m. to 8:30 p.m., every Friday from 5:00 p.m. to 8:30 p.m. and alternatively on Saturday and Sunday from 10:00 a.m. to 8:30 p.m." Father does not dispute *finding 11*. But in *finding 21*, the district court found that, "[i]ntestestingly, [the GAL] stated that [father's] parenting time is only two days per week." This finding is supported by the GAL's recommendation that father should "continue to have parenting time two days per week." Thus, the record supports the district court's finding about the *GAL's description* of the parenting-time schedule.

Father challenges *finding 29*, which states that mother believes father is "the fun dad who spoils" the children and that mother takes on "day-to-day routines, chores, and discipline." The district court also found that mother averred father "slapped" one of the twin boys "on the leg so hard it left a hand print." Father argues that these findings are contradictory and illogical. But the district court's findings about mother's averments are accurate and, read together, find that mother avers that father is a "fun" parent but has also slapped one of the twin boys one time to discipline him.

Father challenges *finding 31*, which states that mother "is concerned that Child 7 and 8 are too young to understand grooming behaviors by [father]." This finding is supported by mother's affidavit, which states that "the boys," referring to child 7 and child 8, "are too young to understand what could happen to them or what grooming looks like."

Father challenges *finding 32*, which says that "Child 5 and Child 6 are emotionally struggling" and that child 6 "struggles with behavioral issues and ADHD" and "receives therapeutic services." This is supported by the GAL's report, which states that mother told the GAL that "Child 5 and Child 6 are emotionally struggling"; "Child 6 struggles with behavioral issues and ADHD"; and "both Child 5 and Child 6 receive therapeutic services."

Father challenges *finding 33*, which states that, "[w]hile Child 5 has been ambivalent about staying with her father overnight, she did state she would not stay there if Child 6 did not stay there overnight." This is supported by the GAL's report, which says

that "[mother] reported Child 5 had been more ambivalent about going to their father or staying overnight, and that Child 5 has stated they would not stay if Child 6 does not stay."

Father challenges *finding 36*, which describes father's psychosexual evaluation. Father disputes the finding that "the author of the Static and Stable assessments explicitly states that these assessment instruments tend to underrepresent the risk of actual offending." The record supports this finding. The psychosexual evaluation states that one of its developers "acknowledges that this instrument tends to underrepresent the risk of actual offending since many offenses are unreported and the conclusions are based on the likelihood of a conviction for an offense."

Father challenges *finding 38*, in which the district court found that mother stated that "Child 5 felt pressured to have overnights with her father so that she could be present to protect her younger sister, child 6." Father contends that other record evidence contradicts this finding because child 5 and child 6 stated that they felt safe at father's home. But *finding 38* is supported by the record evidence that child 5 told mother she "would not stay [at father's home] if Child 6 does not [also] stay."

Father argues that *finding 47* is clearly erroneous because its footnote stated that the intake form from father's sex-offender treatment program did not mention that father was involuntarily terminated from his previous treatment program. Father points out that a program report refers to his discharge from a previous program. While the program's treatment progress and plan review stated that father was "discharge[d] from the previous treatment program in which he was enrolled," this document did not mention father's "involuntary termination." Thus, the record supports *finding 47*.

We also reject father's arguments asking us to reweigh evidence or reassess credibility. For example, father argues that the district court clearly erred in (1) finding that it "cannot fully rely upon the psychosexual evaluation's conclusions," (2) failing to find proper "value" in the importance of "strengthening of [the] bond between parent and children," (3) crediting mother's opinions, and (4) determining that the children wanted to spend time with father for reasons that father claimed were "superficial." Appellate courts do not reweigh evidence or reassess credibility determinations by the district court. *Kenney*, 963 N.W.2d at 222-23. Therefore, these challenged findings are not clearly erroneous.

D. Father challenges some factual findings that are not supported by the record, but these errors are harmless.

Father challenges some factual findings that are not supported by the record. Each challenged finding is addressed in turn, and we conclude that any error is harmless.

Father argues that the district court erred by finding that the settlement agreement was executed in 2023 rather than 2020; omitting part of a quote from the settlement agreement; finding that a child told father they were sick, even though mother told father; and incorrectly calculating the age of child 7 and child 8, who are twins. These errors are harmless because they did not affect the district court's best-interests analysis and therefore did not affect father's substantial rights. *See* Minn. R. Civ. P. 61 (stating that courts "must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties").[3]

[3] The only relevance to the age of child 7 and child 8, perhaps, is that the district court found that child 7 and child 8 were "too young to express a preference." The district court also found that child 5, child 6, child 7, and child 8 expressed some interest in spending

Father argues that *finding 22* was clearly erroneous because the district court found that father's niece was a "teenager" at the time of father's sexually inappropriate behavior. Father points out that the niece stated that she graduated college in 2011 and alleged that inappropriate conduct occurred in 2013 and that, therefore, the niece was not a teenager when the conduct occurred. Father is correct that most of the niece's allegations were from 2013 and that the niece likely was not a teenager at that time because she had graduated from college. The niece's letter, however, described one instance from her "youth" in which father "held [her] by the waist claiming to be teaching [her] a breathing technique." While this is a close call, there is some evidence in the record of alleged inappropriate conduct by father that occurred when the niece was a "youth." Even if the district court clearly erred in finding the niece was a teenager at the time of father's sexually inappropriate behavior, this finding was not prejudicial because the district court did not include father's behavior with the niece in the best-interests analysis.

Father challenges *finding 35*, which states that, "[w]hen Child 5 was asked directly if she felt unsafe with her father, Child 5 agreed by nodding." Father is correct that the child nodded when asked "if they meant they *don't feel unsafe* with their father." (Emphasis added.) Although this finding is clearly erroneous, it is not prejudicial when viewed in the context of the best-interests analysis, as is discussed below.

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more time with father and that child 5 disclosed uneasiness. Still, the district court's error of one year in stating the twins' age did not affect father's substantial rights because the district court did not determine that this factor weighed against modification.

Father argues that the district court clearly erred in *finding 46* when it found that "[t]he GAL did not review or consider the Discharge Report from" the sex-offender program that involuntarily discharged father. But the GAL reviewed "[a]ll Court filings in this matter," which would include the discharge report because it was attached as an exhibit with mother's affidavit. Therefore, the district court clearly erred in finding that the GAL did not review the discharge report. Although the GAL acknowledges father's discharge from the previous program, she does not mention the discharge report in her report or list it as a consideration in making her recommendations, which supports the district court's finding that the GAL did not "consider" the discharge report. Given that the record supports the gist of the district court's finding, any error in *finding 46* is harmless. *See* Minn. R. Civ. P. 61.

II. The district court did not abuse its discretion by determining that modification of father's parenting time was not in the children's best interests.

"The juvenile court has original and exclusive jurisdiction in proceedings concerning any child who is alleged to be in need of protection or services . . . ." Minn. Stat. § 260C.101, subd. 1 (2024). An order for permanent legal and physical custody to another relative "may be modified using standards under sections 518.18 and 518.185." Minn. Stat. § 260C.521, subd. 2(a).[4] Minnesota Statutes section 518.18(d) (2024) states that a district court "shall not modify a prior custody order or a parenting plan provision

[4] Here, father's motion related to parenting time and not custody; however, under Minn. Stat. § 518.003, subd. 3(f) (2024), "'[c]ustody determination' means a court decision and court orders and instructions providing for the custody of a child, *including parenting time*." (Emphasis added.)

which specifies the child's primary residence unless it finds . . . that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child." Here, the district court determined that modification was not in the children's best interests and did not determine whether a change in circumstances had occurred.

The best interests of a child, in the juvenile-protection context, "means all relevant factors to be considered and evaluated." Minn. Stat. § 260C.511(a) (2024). Here, the district court applied the 12 best-interests factors from the family-law statutes as stated in Minn. Stat. § 518.17, subd. 1(a). Father does not challenge this statutory framework on appeal, and both father's and mother's arguments exclusively focus on the 12 factors set out in Minn. Stat. § 518.17, subd. 1(a). The county argues that, "while the district court cited Minn. Stat. § 518.17 in the family-law statutes with regard to the best interests of the child analysis rather than the standard in the juvenile protection realm," the juvenile best-interests standard allows "all relevant factors to be considered and evaluated." The county adds that the "factors under § 518.17 are certainly relevant," urging that any error is harmless.

The factors relevant to a best-interests analysis vary with the question before the court. *See In re Welfare of Child. of M.L.S.*, 964 N.W.2d 441, 452 n.6 (Minn. App. 2021) (noting that there is no universally applicable set of best-interests factors). A district court's misidentification of the relevant set of best-interests factors, however, is not fatal to that district court's best-interests analysis. We addressed a similar issue in *In re Welfare of Children of B.S.F.-J.*, in which we determined that the district court erred in citing a

family-law statute, Minn. Stat. § 518.175 (2022), when deciding a parenting-time modification motion following a permanency order. No. A24-0072, 2024 WL 3249287, at *2-4 (Minn. App. July 1, 2024).[5] In *B.S.F.-J.*, we determined that the reference to Minn. Stat. § 518.175 was harmless error "because the district court's analysis turned on Minn. Stat. § 518.18 and tracked the best-interests standard in Minn. Stat. § 260C.511 (2022)." *Id.* at *4.

We similarly conclude here that any error in referring to the family-law framework is harmless. Minnesota Statutes section 260C.511(a) allows consideration of "all relevant factors" when modifying a permanency order, and the best-interests factors that the district court considered are relevant. Like the district court in *B.S.F.-J.*, the district court here considered "all relevant factors" when determining the children's best interests. *Id.* (quotation omitted).

We therefore consider father's arguments about the 12 best-interests factors set out in Minn. Stat. § 518.17, subd. 1(a). This court reviews "a juvenile court's assessment of best-interest factors for an abuse of discretion." *A.H.*, 879 N.W.2d at 7. "A district court abuses its discretion if it makes findings unsupported by the evidence or when it improperly applies the law." *In re Welfare of Child. of M.A.H.*, 839 N.W.2d 730, 740 (Minn. App. 2013) (quotation omitted).

[5] *See supra* note 2 (discussing persuasive authority). *B.S.F.-J.* is persuasive authority because it analyzed a similar issue about the best-interests standard for modification of a permanency order.

For example, in *A.H.*, this court concluded that a district court did not abuse its discretion when it determined that the parent seeking modification of parenting time did not "have the ability to control their behavior or to put the needs of the child first" and was unwilling to "communicate and cooperate" with the child's legal guardian, which was causing stress for the child. 879 N.W.2d at 7. This court also commented that the district court "conducted a thoughtful analysis of the child's best interests" and determined that the district court's findings were not clearly erroneous. *Id.*

Here, the district court determined that seven out of the 12 best-interests factors in Minn. Stat. § 518.17, subd. 1(a), support denying modification; specifically, the district court found that factors 4, 6, 7, 8, 9, 11, and 12 weigh against any modification.[6] Father challenges the district court's analysis on each of these seven factors. Mother disagrees, as does the county. We address each of the seven factors that the district court determined weighed against modification.

Factor 4: Whether domestic abuse has occurred in the household, the nature of such abuse, and the impact on parenting and the children's safety, well-being, and developmental needs

The district court determined that father's history of abuse and DANCO violation weighed against modification. The district court noted that father has been criminally

[6] The district court analyzed the other five factors as follows: factors 1-3 and factor 5 were neutral, although the district court included findings weighing against modification; factor 10—benefit to the children in maximizing parenting time with both parents—favored modification. To the extent that father challenges aspects of the district court's analysis of the other five factors, we discuss those arguments in the first half of this opinion and need not consider these best-interests factors in detail given our conclusion on the other seven best-interests factors.

convicted of sexually abusing child 4 and violating a DANCO by contacting child 4. The district court also found that father "physically assaulted" one of the twins when he slapped him as discipline and that father "lied about always having another adult present when the children are with him." The district court concluded that there were "red flags and questions" about whether father "has internalized the skills he learned in sex offender treatment and can sustain the behavioral changes that he needed to make."

Father argues that the district court failed to consider that he completed treatment, was discharged from probation, and complied with the probation requirements for his criminal cases. Father also urges that the district court is not qualified to determine whether he has "internalized" the skills from his treatment.[7] We disagree. The district court acknowledged that father completed treatment and "was discharged from probation in his DANCO contempt probation." The district court also weighed the evidence when it stated that father has not internalized the skills from his treatment, and we defer to a district court's weighing of evidence. *See Kenney*, 963 N.W.2d at 221-23. Thus, the district court acted within its discretion in determining that this factor weighed against increasing father's parenting time.

[7] Father also argues that we should review this factor de novo because it relates to the application of law to stipulated facts, citing *In re Est. of Barg*, 752 N.W.2d 52, 63 (Minn. 2008). But the record does not show that the district court considered stipulated facts. Accordingly, we review the district court's analysis on this factor for an abuse of discretion.

Factor 6: The history and nature of each parent's participation in providing care for the children

The district court determined that "[t]his factor weighs against modification" because father "has not been the primary parent responsible for the children's needs and day to day care," explaining that, during their marriage, mother stayed home with the children and father was "the breadwinner."

Father argues that the district court abused its discretion by discussing his history of parenting time because he did not have parenting time after mother was granted sole legal and physical custody and his current motion did not request joint custody. Father provides no authority supporting his argument that district courts should not consider this factor when a parent is not seeking joint custody or has not had parenting time in the past. We generally decline to consider issues that lack authority. *See In re Welfare of Child of J.H.*, 968 N.W.2d 593, 602 n.7 (Minn. App. 2021) ("An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection." (quotation omitted)), *rev. denied* (Minn. Dec. 6, 2021). As even father acknowledges, he has, at most, spent little time as the primary caregiver for the children. Thus, the district court appropriately assessed the history of each parent in providing care to the children. We conclude that the district court did not abuse its discretion by determining that this factor weighed against modification.

Factor 7: The willingness and ability of each parent to provide care for the children, meet the children's developmental, emotional, spiritual, and cultural needs, and maintain consistency

The district court "question[ed] whether [father had] the capacity to meet the children's ongoing developmental, emotional, and spiritual needs," given that when he had parenting time, "he [was] not always present or fail[ed] to have another supervising adult present as is required." The district court determined that this factor weighed against modification.

Father argues that the district court's analysis of this factor improperly credited mother's averments about events that occurred several years ago. We disagree and conclude that the district court appropriately considered these past events to assess credibility and weight of evidence. Again, appellate courts defer to a district court's credibility determinations and weighing of evidence. *Kenney*, 963 N.W.2d at 221-23. Thus, the district court did not abuse its discretion by crediting mother's averments and considering past events when it determined that this factor weighed against modification.

Factor 8: The effect on the children's well-being and development of changes to home, school, and community

The district court determined that this factor weighed against a modification allowing overnight visits for several reasons. First, the district court found that the children would be isolated because other "parent[s] in the community with knowledge" will not send their children for play dates or sleepovers at father's home. Second, child 5 indicated that she felt responsible to "watch over" child 6 when at father's home, which the district court found to be "a terrible burden." And third, child 5 and child 6, who are both girls,

would be isolated from the rest of the family because their rooms would be "in the basement."

Father makes a series of arguments about this factor but does not claim that the district court's findings are not supported by the record. Father's arguments are therefore unavailing. For example, father challenges the district court's comment about the basement bedrooms. But the district court appropriately expressed its concern that the girls' basement bedrooms were separated from other family bedrooms and that this isolation would put them at risk of sexual abuse by father. We conclude that the district court did not abuse its discretion in determining that this factor weighed against modification.

Factor 9: The effect of proposed arrangements on the ongoing relationships between the children and each parent, siblings, and other significant persons in the children's lives

The district court acknowledged that "Child 7 and Child 8 do not understand why their stepbrother and half-sister can sleep at their father's home while they cannot." The district court ultimately determined, however, that his factor weighed against modification because, although the modification would allow father to spend more time with the children, it would also give him "more opportunity for having a negative influence on the children." Father argues that child 7 and child 8's understanding is "age-appropriate and completely irrelevant." Even if this is true, we discern no abuse of discretion in the district court's determination that this factor weighed against modification.

Factor 11: The disposition of each parent to support the children's relationship with the other parent and to encourage and permit frequent and continuing contact between the children and the other parent

The district court found that mother "has supported the relationship" between the children and father while complying with appropriate boundaries given father's criminal-sexual-conduct conviction. The district court determined that this factor weighs against modification because father blames mother "for the lack of overnight visits," which "undermines [mother's] relationship with her children."

Father argues that the record does not support this determination because it shows that father supports the children's relationship with mother. The district court's finding is supported by mother's affidavit, which states that father told the children that she did not "want [them] to spend time with [father]" and that father portrays himself as a victim. We defer to the district court's credibility determinations. *Kenney*, 963 N.W.2d at 221-23. We therefore conclude that the district court did not abuse its discretion by determining that this factor weighed against modification.

Factor 12: The willingness and ability of parents to cooperate in the rearing of their children

The district court determined that mother and father do not coparent well, citing mother's affidavit and the attached exhibits, and found that father has "shown a tendency to blame" mother for any disputes. The district court also found that father "has been constructing two bedrooms in his basement" for child 5 and child 6, "even though this Court has not approved overnight visits." The district court reasoned that father "appears to be manipulating the girls into wanting to stay with him where they will have their own

personal spaces, isolated from the rest of the family upstairs." The district court determined that this factor weighs against the modification of parenting time to allow overnight visits.

Father argues that the district court should not have relied on mother's affidavit and exhibits and argues that the district court incorrectly weighed instances when mother and father did not get along over instances when they did. The weighing of evidence is within the discretion of the district court. *Id.* The district court's findings on this factor are proper because, if "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). Thus, we conclude that the district court did not abuse its discretion in determining this factor weighs against modification.

In sum, the district court considered relevant factors and determined that seven factors weighed against modification. The district court properly considered the serious concerns raised by father's motion for unsupervised overnight parenting time. Father pleaded guilty to sexually abusing child 4, and the district court found that "Child 6 is nearing the age" at which father "offended against her sister." Mother also presented evidence that father physically disciplined one of the twins, which the district court found "poses a safety threat." Even though the GAL recommended granting father more parenting time, the district court is not bound to adhere to that recommendation. *See Sydnes v. Sydnes*, 388 N.W.2d 3, 7 (Minn. App. 1986) ("The trial court is not bound to adhere to expert testimony, especially when it is outweighed by other evidence."). We conclude that the district court engaged in a "thoughtful analysis of the [children's] best interests." *A.H.*,

879 N.W.2d at 7. Thus, the district court did not abuse its discretion by determining that modification was not in the children's best interests and denying father's motion.

Affirmed.