The Minnesota Court of Appeals Standards of Review

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INTRODUCTION

When deciding a case, the first task of an appellate court is to identify the applicable standard of review. The standard of review defines the manner in which each issue is reviewed, delineates the boundaries of appellate argument, and often determines the outcome on appeal. Accordingly, the Minnesota Court of Appeals conscientiously identifies and applies a specific standard of review to each issue before the court.

The most persuasive appellate briefs explicitly state the applicable standard of review at the beginning of each issue and then apply it. This outline is intended as a tool for finding and applying various standards of review. Although this manual contains many standards of review, the cases set forth herein are not meant to provide the definitive standard of review for every appeal. Further research may be necessary, depending on the facts and issues on appeal. This manual does not address the scope of review, which concerns the extent to which specific questions or decisions may be raised on appeal.

This outline was originally proposed by Justice Peter Popovich, the first Chief Judge of the Minnesota Court of Appeals and later Chief Justice of the Minnesota Supreme Court. It has been updated periodically, under the supervision of other chief judges and with the efforts of law clerks and staff of the court.

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I. CIVIL – GENERAL

A. IN GENERAL

1. Jurisdiction and Justiciability

"Jurisdiction is a question of law that we review de novo." *In re Comm'r of Pub. Safety*, 735 N.W.2d 706, 710 (Minn. 2007) (quotation omitted).

"Subject-matter jurisdiction is a question of law that we review de novo." *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 644 (Minn. 2019).

A dispute over "which court has the authority to decide [a party's] claims raises a question of subject-matter jurisdiction that we review de novo." *Zweber v. Credit River Twp.*, 882 N.W.2d 605, 608 (Minn. 2016).

"Whether personal jurisdiction exists is a question of law, which we review de novo." *Rilley v. MoneyMutual, LLC*, 884 N.W.2d 321, 326 (Minn. 2016) (quotation omitted); *see also Juelich v. Yamazaki Mazak Optonics Corp*., 682 N.W.2d 565, 569 (Minn. 2004); *C.H. Robinson Worldwide, Inc. v. FLS Transp., Inc.*, 772 N.W.2d 528, 533 (Minn. App. 2009).

Appellate jurisdiction is a question of law subject to de novo review. *Howard v. Svoboda*, 890 N.W.2d 111, 114 (Minn. 2017).

"Justiciability is an issue of law that we review de novo." *Snell v. Walz*, 985 N.W.2d 277, 283 (Minn. 2023) (mootness); *see also Cruz-Guzman v. State*, 916 N.W.2d 1, 7 (Minn. 2018) (political question).

"Standing is a question of law that we determine de novo." *Minnesota Sands, LLC v. County of Winona*, 940 N.W.2d 183, 192 (Minn. 2020), *cert. denied*, 141 S. Ct. 1054 (2021); *see also In re Gillette Child.'s Specialty Healthcare*, 883 N.W.2d 778, 784 (Minn. 2016) ("[W]e evaluate decisions on standing de novo." (quotation omitted)).

2. General Standards of Review

a. Questions of Law

"We review a district court's application of the law de novo." *Harlow v. State, Dep't of Human Servs.*, 883 N.W.2d 561, 568 (Minn. 2016).

"No deference is given to a lower court on questions of law." *Modrow v. JP Foodservice, Inc.*, 656 N.W.2d 389, 393 (Minn. 2003).

"The application of law to stipulated facts is a question of law, which we . . . review de novo." *In re Est. of Barg*, 752 N.W.2d 52, 63 (Minn. 2008).

"When the material facts are not in dispute, we review the lower court's application of the law de novo." *In re Collier*, 726 N.W.2d 799, 803 (Minn. 2007).

b. Mixed Questions of Law and Fact

"When reviewing mixed questions of law and fact, we correct erroneous applications of law, but accord the district court discretion in its ultimate conclusions and review such conclusions under an abuse of discretion standard." *In re Est. of Sullivan*, 868 N.W.2d 750, 754 (Minn. App. 2015) (quotation omitted).

c. Questions of Fact

"Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the [district] court to judge the credibility of the witnesses. The findings of a referee, to the extent adopted by the court, shall be considered as the findings of the [district] court." Minn. R. Civ. P. 52.01.

A 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." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quoting *Tonka Tours, Inc. v. Chadima*, 372 N.W.2d 723, 726 (Minn. 1985)). When reviewing findings of fact for clear error, appellate courts (a) "view the evidence in the light most favorable to the findings[;]" (b) do not find their own facts; (c) do not "reweigh the evidence[;]" and (d) do not "reconcile conflicting evidence." *Id.* at 221-22 (quotations omitted). "When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id.* at 223 (quotation omitted).

"[W]e review the district court's factual findings for clear error. That is, we examine the record to see if there is reasonable evidence in the record to support the court's findings. And when determining whether a finding of fact is clearly erroneous, we view the evidence in the light most favorable to the verdict. To conclude that findings of fact are clearly erroneous we must be left with the definite and firm conviction that a mistake has been made." *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013) (quotations and citations omitted).

d. Equitable Determinations

"We have said that we review equitable determinations for [an] abuse of discretion." *City of North Oaks v. Sarpal*, 797 N.W.2d 18, 23 (Minn. 2011) (citing *Lilyerd v. Carlson*, 499 N.W.2d 803, 807, 811 (Minn. 1993) (bench trial) and *Nadeau v. County of Ramsey*, 277 N.W.2d 520, 524 (Minn. 1979) (motion for reinstatement following grant of motion for new trial)); *see also Herlache v. Rucks*, 990 N.W.2d 443, 449-50 (Minn. 2023) (reviewing "the district court's ultimate decision to grant equitable relief for abuse of discretion").

BUT: "The supreme court has not deviated from a de novo standard of review of legal issues simply because the claims at issue are for equitable relief." *Drewitz v. Motorwerks, Inc.*, 867 N.W.2d 197, 204 n.2 (Minn. App. 2015) (quotation omitted), *rev. denied* (Minn. Sept. 15, 2015); *see also Melrose Gates, LLC v. Moua*, 875 N.W.2d 814, 822 (Minn. 2016) (concluding that deferential standard of review was not justified when district court "neither weighed the equities, nor made its decision based on factual findings that it was uniquely well-suited to make," but rather decided that equitable relief was not available as a matter of law); *Brown v. Lee*, 859 N.W.2d 836, 839-40 (Minn. App. 2015) (explaining that de novo standard of review applies to determinations that equitable relief is not available as a matter of law), *rev. denied* (Minn. May 19, 2015).

***See also* Section I(E)(2), at 18.**

3. Rules of Construction

a. Constitution

"Issues of constitutional interpretation are questions of law, which we review de novo." *Schroeder v. Simon*, 985 N.W.2d 529, 536 (Minn. 2023); *see also Cruz-Guzman v. State*, 916 N.W.2d 1, 7 (Minn. 2018).

b. Common Law

"The application or extension of our common law is a question of law that we review de novo." *Soderberg v. Anderson*, 922 N.W.2d 200, 203 (Minn. 2019).

c. Statutes

(1) Constitutionality of Statutes

"We review de novo the constitutionality of statutes, 'proceed[ing] on the presumption that Minnesota statutes are constitutional.'" *Otto v. Wright County*, 910 N.W.2d 446, 451 (Minn. 2018) (quoting *Assoc. Builders & Contractors v. Ventura*, 610 N.W.2d 293, 298–99 (Minn. 2000)); *see also Fletcher Props., Inc. v. City of Minneapolis*, 947 N.W.2d 1, 9 (Minn. 2020) (applying rule to interpretation of ordinance).

"The constitutionality of a statute is a question of law that we review de novo." *Rew v. Bergstrom*, 845 N.W.2d 764, 776 (Minn. 2014) (citing *Schatz v. Interfaith Care Ctr.*, 811 N.W.2d 643, 653 (Minn. 2012)).

(2) Interpretation/Construction and Application of Statutes

"The interpretation of a statute is a question of law reviewed de novo." *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016); *see also Swenson v. Nickaboine*, 793 N.W.2d 738, 741 (Minn. 2011).

"[S]tatutory construction is a question of law, which we review de novo." *Lee v. Lee*, 775 N.W.2d 631, 637 (Minn. 2009).

"Because the district court's application of the statute to undisputed facts involves a question of law, its decision is not binding on this court." *Green v. Kellen*, 921 N.W.2d 768, 771 (Minn. App. 2018), *rev. denied* (Minn. Feb. 19, 2019).

"The application of statutes, administrative regulations, and local ordinances to undisputed facts is a legal conclusion and is reviewed de novo." *City of Morris v. Sax Invs., Inc.*, 749 N.W.2d 1, 5 (Minn. 2008).

(3) Statutes of Limitations/Repose

"We review de novo the interpretation and application of a statute of limitations." *Ford v. Minneapolis Pub. Sch.*, 874 N.W.2d 231, 232 (Minn. 2016).

"We review de novo the construction and application of a statute of limitations, including the law governing the accrual of a cause of action." *Sipe v. STS Mfg., Inc.*, 834 N.W.2d 683, 686 (Minn. 2013) (quotation omitted).

"[T]he construction and applicability of a statute of limitation or repose is a question of law subject to de novo review." *State Farm Fire & Cas. v. Aquila Inc.*, 718 N.W.2d 879, 883 (Minn. 2006).

d. Rules of Procedure

Civil: "The interpretation of the Minnesota Rules of Civil Procedure is a question of law that we review de novo." *Gams v. Houghton*, 884 N.W.2d 611, 616 (Minn. 2016); *see also County of Hennepin v. Bhakta*, 922 N.W.2d 194, 197 (Minn. 2019); *Crowley v. Meyer*, 897 N.W.2d 288, 292 (Minn. 2017) (concerning the Rules of Civil Appellate Procedure).

Criminal: "We review the interpretation of procedural rules de novo." *State v. Martinez-Mendoza*, 804 N.W.2d 1, 6 (Minn. 2011); *see also Evans v. State*, 880 N.W.2d 357, 359 (Minn. 2016).

e. Municipal Charters and Ordinances

(1) Interpretation of Charters

Interpretation of a city charter presents a legal question that is reviewed de novo. *Spann v. Minneapolis City Council*, 979 N.W.2d 66, 73 (Minn. 2022).

(2) Interpretation of Ordinances

"The interpretation of statutes and municipal resolutions involves questions of law we review de novo." *Eagan Econ. Dev. Auth. v. U-Haul Co. of Minn.*, 787 N.W.2d 523, 529 (Minn. 2010).

"The interpretation of an existing ordinance is a question of law for the court. We review a question of law de novo." *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 75 (Minn. 2015) (quotation omitted).

(2) Preemption of Ordinance

"Preemption of municipal ordinances by state law is a legal question subject to de novo review." *Bicking v City of Minneapolis*, 891 N.W.2d 304, 312 (Minn. 2017); *see also Minn. Chamber of Commerce v. City of Minneapolis*, 944 N.W.2d 441, 446 (Minn. 2020); *Graco, Inc. v. City of Minneapolis*, 937 N.W.2d 756, 759 (Minn. 2020).

f. Contracts

(1) In General

"[T]he existence and terms of a contract are questions for the fact finder." *Morrisette v. Harrison Int'l Corp.*, 486 N.W.2d 424, 427 (Minn. 1992); *see also Hall v. City of Plainview*, 954 N.W.2d 254, 259-60 (Minn. 2021).

"Absent ambiguity, the interpretation of a contract is a question of law." *Roemhildt v. Kristall Dev., Inc.*, 798 N.W.2d 371, 373 (Minn. App. 2011), *rev. denied* (Minn. July 19, 2011).

"When the intent of the parties can be determined from the writing of the contract, the construction of the instrument is a question of law for the court to resolve, and this court need not defer to the district court's findings." *Alpha Real Estate Co. of Rochester v. Delta Dental Plan of Minn.*, 671 N.W.2d 213, 221 (Minn. App. 2003) (quotation omitted), *rev. denied* (Minn. Jan. 20, 2004).

(2) Ambiguity Determination

"Whether language in a contract is plain or ambiguous is a question of law that we review de novo." *Storms, Inc. v. Mathy Constr. Co.*, 883 N.W.2d 772, 776 (Minn. 2016); *see also Glacial Plains Coop. v. Chippewa Valley Ethanol Co.*, 912 N.W.2d 233, 236 (Minn. 2018).

"Whether a contract is ambiguous is a question of law that we review de novo." *Dykes v. Sukup Mfg. Co.*, 781 N.W.2d 578, 582 (Minn. 2010). "The language of a contract is ambiguous if it is susceptible to two or more reasonable interpretations." *Id.*

"The determination of whether a contract is unambiguous depends on the meaning assigned to the words and phrases in accordance with the apparent purpose of the contract as a whole." *Halla Nursery, Inc. v. City of Chanhassen*, 781 N.W.2d 880, 884 (Minn. 2010).

(3) Specific Types of Contracts

(a) Employment Contracts

Whether statements made by an employer are definite enough to constitute a unilateral contract is a question of law to be resolved by the court and to be reviewed de novo by the appellate courts. *Martens v. Minn. Mining & Mfg. Co.*, 616 N.W.2d 732, 740 (Minn. 2000); *see Alexandria Hous. & Redev. Auth. v. Rost*, 756 N.W.2d 896, 904 (Minn. App. 2008). Whether alleged facts "rise to the level of promissory estoppel presents a question of law." *Martens*, 616 N.W.2d at 746.

(b) Settlement Agreements

"A settlement agreement is a contract, and we review the language of the contract to determine the intent of the parties. When the language is clear and unambiguous, we enforce the agreement of the parties as expressed in the language of the contract. But if the language is ambiguous, parol evidence may be considered to determine intent. Whether a contract is ambiguous is a question of law that we review de novo. The language of a contract is ambiguous if it is susceptible to two or more reasonable interpretations." *Dykes v. Sukup Mfg. Co.*, 781 N.W.2d 578, 581-82 (Minn. 2010) (citations omitted).

(c) Insurance Contracts **(See Section IV(A) at 62.)**

B. PRETRIAL MATTERS

1. Service of Process

"Whether service of process was effective, and personal jurisdiction therefore exists, is a question of law that we review de novo." *Shamrock Dev., Inc. v. Smith*, 754 N.W.2d 377, 382 (Minn. 2008); *see also Melillo v. Heitland*, 880 N.W.2d 862, 864 (Minn. 2016).

"[W]hen reviewing whether substitute service is effective, we must defer to the district court's factual findings on the residency of the individual served unless they are clearly erroneous." *Jaeger v. Palladium Holdings, LLC*, 884 N.W.2d 601, 607 (Minn. 2016).

2. Amendment of Pleadings – Generally

Whether an amended pleading satisfies the requirements of Minn. R. Civ. P. 15.03 to have the amendment relate back to the original complaint is a question of law, subject to de novo review. *Bigay v. Garvey*, 575 N.W.2d 107, 109 (Minn. 1998); *see Metro. Bldg. Cos. v. Ram Bldgs., Inc.*, 783 N.W.2d 204, 211 (Minn. App. 2010), *rev. denied* (Minn. Aug. 10, 2010).

"Generally, the decision to permit or deny amendments to pleadings is within the discretion of the district court and will not be reversed absent a clear abuse of discretion." *Johns v. Harborage I, Ltd.*, 664 N.W.2d 291, 295 (Minn. 2003).

"Whether the district court has abused its discretion in ruling on a motion to amend may turn on whether it was correct in an underlying legal ruling." *Doe v. F.P.*, 667 N.W.2d 493, 500-01 (Minn. App. 2003), *rev. denied* (Minn. Oct. 21, 2003).

3. Amendment of Pleadings – Punitive Damages

"[W]e review an order denying a motion to amend a complaint [to add punitive damages] for abuse of discretion." *Bjerke v. Johnson*, 727 N.W.2d 183, 196 (Minn. App. 2007), *aff'd* 742 N.W.2d 660 (Minn. 2007). *But see Swanlund v. Shimano Indus. Corp.*, 459 N.W.2d 151, 155 (Minn. App. 1990) (reviewing denial of motion to amend to add punitive damages claim de novo in pretrial discretionary appeal), *rev. denied* (Minn. Oct. 5, 1990).

"This court may not reverse a district court's denial of a motion to add a claim for punitive damages absent an abuse of discretion." *J.W. ex rel. B.R.W. v. 287 Intermediate Dist.*, 761 N.W.2d 896, 904 (Minn. App. 2009) (quotation omitted); *see also McKenzie v. N. States Power Co.*, 440 N.W.2d 183, 184 (Minn. App. 1989).

4. Discovery Issues

The district court has wide discretion to issue discovery orders and, absent a clear abuse of that discretion, its discovery orders will not be disturbed. *In re Comm'r of Pub. Safety*, 735 N.W.2d 706, 711 (Minn. 2007). "We review a district court's order for an abuse of discretion by determining whether the district court made findings unsupported by the evidence or by improperly applying the law." *Id.*

"A referee has broad discretion to issue discovery orders and will be reversed on appeal only upon an abuse of such discretion." *In re Overboe*, 745 N.W.2d 852, 861 (Minn. 2008) (quotation omitted).

5. Intervention of Parties/Interpleader

For cases concerning permissive intervention under Minn. R. Civ. P. 24.02, a "decision concerning intervention is left to the discretion of the [district] court and will be reversed only when there has been a clear abuse of its discretion." *Norman v. Refsland*, 383 N.W.2d 673, 676 (Minn. 1986). "Orders concerning intervention as a matter of right, pursuant to

Minn. R. Civ. P. 24.01, are subject to de novo review and are independently assessed on appeal." *State Fund Mut. Ins. Co. v. Mead*, 691 N.W.2d 495, 499 (Minn. App. 2005).

"Because interpleader actions are equitable in nature, the standard of review is abuse of discretion." *Faegre & Benson, LLP v. R & R Invs.*, 772 N.W.2d 846, 852 (Minn. App. 2009), *rev. denied* (Minn. Dec. 23, 2009).

6. Removal of Judges

"Whether a removal notice complies with Minn. R. Civ. P. 63.03 is a question of law. This court, therefore, need not defer to the trial court on this issue." *Citizens State Bank of Clara City v. Wallace*, 477 N.W.2d 741, 742 (Minn. App. 1991).

"Whether to honor a request for removal based on allegations of actual prejudice is a matter for the [district] court's discretion." *Durell v. Mayo Found.*, 429 N.W.2d 704, 705 (Minn. App. 1988) (emphasis omitted), *rev. denied* (Minn. Nov. 16, 1988).

7. Disqualification of Counsel

"We review the district court's decision regarding disqualification of counsel for an abuse of discretion." *State ex rel. Swanson v. 3M Co.*, 845 N.W.2d 808, 816 (Minn. 2014).

8. Claim Preclusion and Issue Preclusion

"We review the application of res judicata de novo." *Rucker v. Schmidt*, 794 N.W.2d 114, 117 (Minn. 2011).

"Whether collateral estoppel precludes litigation of an issue is a mixed question of law and fact that we review de novo." *Hauschildt v. Beckingham*, 686 N.W.2d 829, 837 (Minn. 2004). "Once the reviewing court determines that collateral estoppel is available, the decision to apply collateral estoppel is left to the district court's discretion." *In re Est. of Perrin*, 796 N.W.2d 175, 179 (Minn. App. 2011) (quotation omitted).

9. Motion for Continuance

"The granting of a continuance is a matter within the discretion of the [district] court and its ruling will not be reversed absent a showing of clear abuse of discretion." *Dunshee v. Douglas*, 255 N.W.2d 42, 45 (Minn. 1977). "We review district court rulings on continuance and new trial motions for abuse of discretion." *Torchwood Props., LLC v. McKinnon*, 784 N.W.2d 416, 418 (Minn. App. 2010).

10. Temporary Injunctions and Restraining Orders

"We review the district court's decision to grant a temporary injunction for an abuse of discretion. The district court abuses its discretion when it grants a temporary injunction based on an erroneous interpretation of the law." *DSCC v. Simon*, 950 N.W.2d 280, 286 (Minn. 2020) (citing *Dahlberg Bros. v. Ford Motor Co.*, 137 N.W.2d 314, 323 (Minn. 1965)) (other citations omitted).

"A decision on whether to grant a temporary injunction is left to the discretion of the [district] court and will not be overturned on review absent a clear abuse of that discretion." *Carl Bolander & Sons Co. v. City of Minneapolis*, 502 N.W.2d 203, 209 (Minn. 1993).

"This court reviews a district court decision granting injunctive relief for an abuse of discretion. A district court's findings regarding entitlement to injunctive relief will not be set aside unless clearly erroneous. But we apply a de novo standard of review to statutory interpretation and the application of a statute to undisputed facts." *Leppink v. Water Gremlin Co.*, 944 N.W.2d 493, 498 (Minn. App. 2020) (citations and quotation omitted).

11. Class Certification

This court reviews a district court's decision granting or denying class certification for abuse of discretion. *Whitaker v. 3M Co.*, 764 N.W.2d 631, 635 (Minn. App. 2009), *rev. denied* (Minn. July 22, 2009); *see also Bacon v. Bd. of Pensions of the Evangelical Lutheran Church in Am.*, 930 N.W.2d 437, 440 (Minn. App. 2019) (same).

12. Governmental Immunity

"The applicability of immunity is a legal question that we review de novo." *Kariniemi v. City of Rockford*, 882 N.W.2d 593, 599 (Minn. 2016); *see also J.E.B. v. Danks*, 785 N.W.2d 741, 746 (Minn. 2010); *see also Jepsen as Tr. for Dean v. Cnty. of Pope*, 966 N.W.2d 472, 482 (Minn. 2021).

"Whether government entities and public officials are protected by statutory immunity and official immunity is a legal question which this court reviews de novo." *Johnson v. State*, 553 N.W.2d 40, 45 (Minn. 1996).

"Whether qualified immunity shields a government official from liability is a legal question that we review de novo." *McDeid v. Johnston*, 984 N.W.2d 864, 872 (Minn. 2023).

C. PRETRIAL JUDGMENTS

1. Default Judgment and Motions to Vacate

"We review an entry of default judgment for abuse of discretion." *Laymon v. Minn. Premier Props., LLC*, 903 N.W.2d 6, 17 (Minn. App. 2017), *aff'd*, 913 N.W.2d 449 (Minn. 2018).

"The decision whether to grant Rule 60.02 relief is based on all the surrounding facts of each specific case, and is committed to the sound discretion of the district court. As such, a district court will not be reversed on appeal except for a clear abuse of discretion." *Gams v. Houghton*, 884 N.W.2d 611, 620 (Minn. 2016) (citations and quotations omitted).

"This court will not overturn a ruling on a motion to vacate a default judgment unless the district court abused its discretion." *Roehrdanz v. Brill*, 682 N.W.2d 626, 631 (Minn. 2004).

"The discretion of the district court in opening a default judgment is particularly broad when the court's decision is based upon an evaluation of conflicting affidavits." *Roehrdanz v. Brill*, 682 N.W.2d 626, 631-32 (Minn. 2004).

"As is the case with motions to vacate district court judgments . . . the decision on a motion to vacate a conciliation court judgment is vested in the sound discretion of the district court." *Kern v. Janson*, 800 N.W.2d 126, 132 (Minn. 2011).

2. Dismissal of Actions

a. Minn. R. Civ. P. 12.02(e) – Failure to State a Claim

"We review de novo whether a complaint sets forth a legally sufficient claim for relief. We accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party." *Walsh v. U.S. Bank, N.A,* 851 N.W.2d 598, 606 (Minn. 2014) (citation omitted); *see also Engstrom v. Whitebirch*, *Inc.*, 931 N.W.2d 786, 790 (Minn. 2019).

"When reviewing a case dismissed pursuant to Minn. R. Civ. P. 12.02(e) for failure to state a claim on which relief can be granted, the question before this court is whether the complaint sets forth a legally sufficient claim for relief. Our review is de novo." *Hebert v. City of Fifty Lakes*, 744 N.W.2d 226, 229 (Minn. 2008) (citation omitted).

"We . . . review de novo the district court's grant of a motion to dismiss under Minn. R. Civ. P. 12.02(e). In so doing, we consider only the facts alleged in the complaint, accepting those facts as true." *Sipe v. STS Mfg., Inc*., 834 N.W.2d 683, 686 (Minn. 2013) (quotation and citation omitted).

b. Minn. R. Civ. P. 12.03 – Judgment on the Pleadings

"We review a district court's decision on a Rule 12.03 motion de novo to determine whether the complaint sets forth a legally sufficient claim." *Burt v. Rackner, Inc.*, 902 N.W.2d 448, 451 (Minn. 2017) (quotation omitted); *see also Sec. Bank & Tr. Co. v. Larkin, Hoffman, Daly & Lindgren, Ltd*., 916 N.W.2d 491, 495 (Minn. 2018).

c. Minn. R. Civ. P. 41.01-.02

This court will not reverse a district court's decision on a rule 41 motion unless the district court abuses its discretion. *Kelbro Co. v. Vinny's on the River, LLC*, 893 N.W.2d 390, 398 (Minn. App. 2017).

An appellate court "evaluate[s] the district court's" dismissal under Minn. R. Civ. P. 41.02 "under an abuse of discretion standard." *Modrow v. JP Foodservice, Inc.*, 656 N.W.2d 389, 395 (Minn. 2003).

d. Other Bases for Dismissal

"We will reverse a district court's dismissal of a malpractice claim for noncompliance with expert disclosure only if the district court abused its discretion." *Broehm v. Mayo Clinic Rochester*, 690 N.W.2d 721, 725 (Minn. 2005).

A district court's "dismissal of an action for procedural irregularities will be reversed on appeal only if it is shown that the [district] court abused its discretion." *Sorenson v. St. Paul Ramsey Med. Ctr.*, 457 N.W.2d 188, 190 (Minn. 1990) (reviewing dismissal for failure to comply with statutory requirements); *Juetten v. LCA-Vision, Inc.*, 777 N.W.2d 772, 775 (Minn. App. 2010), *rev. denied* (Minn. Apr. 28, 2010).

A district court has "a wide discretion in determining whether dismissals shall be with or without prejudice." *Falkenstein v. Braufman*, 88 N.W.2d 884, 889 (Minn. 1958); *see also Kelbro Co. v. Vinny's on the River, LLC*, 893 N.W.2d 390, 398 (Minn. App. 2017) ("The district court has wide discretion in determining whether to grant a plaintiff's motion for dismissal. The court also has discretion to determine whether the dismissal should be with prejudice." (Quotations and citation omitted)).

3. Summary Judgment

a. Scope of Review

"The district court's denial of a motion for summary judgment is not within the scope of review on appeal from a judgment entered after a jury verdict." *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 912 (Minn. 2009) (syllabus by the court). But the supreme court has recognized that an exception to this rule may exist if the denial of summary judgment is "based on a legal conclusion on an issue that is not presented to the jury for determination." *Id.* at 918 n.9; *see also Schmitz v. Rinke, Noonan, Smoley, Deter, Colombo, Wiant, Von Korff & Hobbs, Ltd.*, 783 N.W.2d 733, 735 (Minn. App. 2010) ("On appeal from the grant of judgment as a matter of law at the close of the plaintiff's case in chief, a district court's denial of a pretrial motion for summary judgment is within the scope of appellate review when the denial of summary judgment was based on a question of law.") (syllabus by the court), *rev. denied* (Minn. Sept. 21, 2010).

b. Review of Certification Under Minn. R. Civ. P. 54.02

"Whether an order can properly be certified under Minn. R. Civ. P. 54.02 raises a legal question that requires construction and application of a procedural rule, which we review de novo. If an order can properly be certified, we review the district court's decision whether or not to do so for an abuse of discretion." *T.A. Schifsky & Sons, Inc. v. Bahr Constr. LLC*, 773 N.W.2d 783, 786-87 (Minn. 2009) (citation omitted); *see also T & R Flooring, LLC v. O'Byrne*, 826 N.W.2d 833, 836 (Minn. App. 2013).

c. Standard of Review

"We review the grant of summary judgment de novo to determine 'whether there are genuine issues of material fact and whether the district court erred in its application of the law.'" *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (quoting *Stringer v. Minn. Vikings Football Club, LLC*, 705 N.W.2d 746, 754 (Minn. 2005)); *see also Kenneh v. Homeward Bound, Inc.*, 944 N.W.2d 222, 228 (Minn. 2020).

"We review a district court's summary judgment decision de novo. In doing so, we determine whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment." *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010) (citation omitted)

"On appeal from summary judgment, we review whether there are any genuine issues of material fact and whether the district court erred in its application of the law. We view the evidence in the light most favorable to the party against whom summary judgment was granted. We review de novo whether a genuine issue of material fact exists. We also review de novo whether the district court erred in its application of the law." *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76-77 (Minn. 2002) (citations omitted).

d. Equitable Issues

De novo review applies to a district court's "equitable determinations . . . made as a matter of law on summary judgment." *Herlache v. Rucks*, 990 N.W.2d 443, 450 n.4 (Minn. 2023); *see also Melrose Gates, LLC v. Moua*, 875 N.W.2d 814, 822 (Minn. 2016) (concluding that deferential standard of review was not justified when district court "neither weighed the equities, nor made its decision based on factual findings that it was uniquely well-suited to make," but rather decided that equitable relief was not available as a matter of law).

D. TRIAL MATTERS

1. Evidentiary Issues

a. Admission and Exclusion of Evidence

"We afford the district court broad discretion when ruling on evidentiary matters, and we will not reverse the district court absent an abuse of that discretion. . . . But the erroneous exclusion of evidence is grounds for a new trial unless the exclusion was harmless." *Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015).

"[T]he [district] court has the discretion to refuse to receive inadmissible evidence offered without objection." *St. Croix Eng'g Corp. v. McLay*, 304 N.W.2d 912, 914 (Minn. 1981).

"Evidentiary rulings concerning materiality, foundation, remoteness, relevancy, or the cumulative nature of the evidence are within the [district] court's sound discretion and will only be reversed when that discretion has been clearly abused." *Johnson v. Washington County*, 518 N.W.2d 594, 601 (Minn. 1994) (quotation omitted).

"The application of the parol evidence rule is a question of law subject to de novo review." *Mollico v. Mollico*, 628 N.W.2d 637, 640 (Minn. App. 2001); *see Borgersen v. Cardiovascular Sys., Inc.*, 729 N.W.2d 619, 625 (Minn. App. 2007) ("Whether an agreement is completely integrated and therefore not subject to variance by parol evidence is an issue of law.").

"A district court's decision whether to take judicial notice of proffered facts is an evidentiary ruling that we review only for abuse of discretion." *Federal Home Loan Mortg. Corp. v. Mitchell*, 862 N.W.2d 67, 71 (Minn. App. 2015), *rev. denied* (Minn. June 30, 2015).

b. Foundation for Evidence

"We review a district court's evidentiary rulings, including rulings on foundational reliability, for an abuse of discretion." *Doe 76C v. Archdiocese of St. Paul*, 817 N.W.2d 150, 164 (Minn. 2012).

"[A] decision on sufficiency of foundation is within the discretion of the [district] court." *McKay's Family Dodge v. Hardrives, Inc.*, 480 N.W.2d 141, 147 (Minn. App. 1992) (quotation omitted), *rev. denied* (Minn. Mar. 26, 1992).

c. Opinion Evidence

"[W]hether expert testimony is required to establish a prima facie case is a question of law that we review de novo." *Guzick v. Kimball*, 869 N.W.2d 42, 46-47 (Minn. 2015).

"The standard of review of admissibility determinations under *Frye-Mack* is two-pronged. Whether a particular principle or technique satisfies the first prong, general acceptance in the relevant scientific field, is a question of law that [appellate courts] review de novo. District court determinations under the second prong, foundational reliability, are reviewed under an abuse of discretion standard, as are determinations of expert witness qualifications and helpfulness." *Goeb v. Tharaldson*, 615 N.W.2d 800, 815 (Minn. 2000) (citation omitted).

2. Witnesses

a. Examination of Witnesses

"The [district] court's decisions with respect to when leading questions will be permitted will not be reversed in the absence of a clear abuse of discretion."

Ossenfort v. Associated Milk Producers, Inc., 254 N.W.2d 672, 679 n.7 (Minn. 1977).

"[W]hat is proper rebuttal evidence rests almost wholly in the discretion of the [district] court." *Riley Brothers Constr., Inc. v. Shuck*, 704 N.W.2d 197, 205 (Minn. App. 2005) (quotation omitted).

b. Lay Witnesses

The competence of a lay witness to give opinion evidence "is peculiarly within the province of the [district court], whose ruling will not be reversed unless it is based on an erroneous view of the law or clearly not justified by the evidence." *Muehlhauser v. Erickson*, 621 N.W.2d 24, 29 (Minn. App. 2000) (quotation omitted).

c. Expert-Witness Testimony

"We review the district court's decision to admit expert testimony for an abuse of discretion. Generally, the exclusion of expert medical testimony lies within the sound discretion of the [district] court, and its ruling will not be reversed unless it is based on an erroneous view of the law or it constitutes an abuse of discretion. When exercising its discretion, the district court has wide latitude in determining whether there is sufficient foundation upon which an expert may state an opinion. And we apply a very deferential standard to the district court when reviewing a determination as to expert qualification, refusing to reverse even if we would reach a different conclusion with respect to the sufficiency of the foundation. These determinations demand a case by case analysis that is best left to the trial judge familiar with the setting of the case." *Marquardt v. Schaffhausen*, 941 N.W.2d 715, 719 (Minn. 2020) (quotations and citations omitted).

"A district court's evidentiary ruling on the admissibility of an expert opinion rests within the sound discretion of the [district] court and will not be reversed unless it is based on an erroneous view of the law or it is an abuse of discretion. The district court has considerable discretion in determining the sufficiency of foundation laid for expert opinion. Even if evidence has probative value, it is still within the district court's discretion to exclude the testimony. This is a very deferential standard. In fact, we have stated that even if this court would have reached a different conclusion as to the sufficiency of the foundation, the decision of the district court judge will not be reversed absent clear abuse of discretion." *Gross v. Victoria Station Farms, Inc.*, 578 N.W.2d 757, 760-61 (Minn. 1998) (quotations and citations omitted); *see also Reinhardt v. Colton*, 337 N.W.2d 88, 93 (Minn. 1983).

Whether expert testimony is required to establish a prima facie case is a question of law. *Tousignant v. St. Louis County*, 615 N.W.2d 53, 58 (Minn. 2000).

3. Presenting Questions to the Jury

a. Framing Special-Verdict Questions

"District courts have broad discretion to decide whether to use special verdicts and what form special verdicts are to take." *Poppler v. Wright Hennepin Coop. Elec. Ass'n*, 845 N.W.2d 168, 171 (Minn. 2014).

b. Submission of Equitable Claims

"Whether an action is of an equitable nature so as to require determination by a court without a jury rests largely in the sound discretion of the [district] court." *Johnson v. Johnson*, 137 N.W.2d 840, 850 (Minn. 1965).

When reviewing an equitable remedy, "we have not interfered unless the [district] court clearly abuses its discretion." *Lilyerd v. Carlson*, 499 N.W.2d 803, 811 (Minn. 1993).

4. Directed Verdict, now known as Judgment as a Matter of Law (JMOL). (See Section I(F)(2) at 22.)

5. Jury Instructions

"The district court has broad discretion in determining jury instructions and we will not reverse in the absence of abuse of discretion." *Hilligoss v. Cargill, Inc.*, 649 N.W.2d 142, 147 (Minn. 2002).

"District courts are allowed considerable latitude in selecting language used in the jury charge and determining the propriety of a specific instruction." *Morlock v. St. Paul Guardian Ins. Co.*, 650 N.W.2d 154, 159 (Minn. 2002).

6. Jury Findings

a. General Verdicts

"First, the evidence must be reviewed in the light most favorable to the verdict. Second, an appellate court will overturn a jury verdict only if no reasonable mind could find as the jury did." *Reedon of Faribault, Inc. v. Fid. & Guar. Ins. Underwriters, Inc.*, 418 N.W.2d 488, 491 (Minn. 1988) (citations omitted).

"[J]ury verdicts are to be set aside only if manifestly contrary to the evidence viewed in a light most favorable to the verdict. A verdict will not be set aside unless the evidence against it is practically conclusive." *Ouellette by Ouellette v. Subak*, 391 N.W.2d 810, 817 (Minn. 1986) (citations omitted).

b. Special Verdicts

> "A special verdict form is to be liberally construed to give effect to the intention of the jury and on appellate review it is the court's responsibility to harmonize all findings if at all possible." *Milner v. Farmers Ins. Exch.*, 748 N.W.2d 608, 618 (Minn. 2008) (quotation omitted).
>
> "An answer to a special verdict question should be set aside only if it is perverse and palpably contrary to the evidence, or where the evidence is so clear as to leave no room for differences among reasonable persons." *Moorhead Econ. Dev. Auth. v. Anda*, 789 N.W.2d 860, 888 (Minn. 2010) (quotation omitted).
>
> "Review [of a special verdict] is particularly limited when the jury finding turns largely upon an assessment of the relative credibility of witnesses whose testimonial demeanor was observed only by the jury and the [district] court and the latter has approved the findings made." *Kelly v. City of Minneapolis*, 598 N.W.2d 657, 662-63 (Minn. 1999).
>
> "The test is whether the special verdict answers can be reconciled in any reasonable manner consistent with the evidence and its fair inferences. If the answers to special verdict questions can be reconciled on *any* theory, the verdict will not be disturbed." *Dunn v. Nat'l Beverage Corp.*, 745 N.W.2d 549, 555 (Minn. 2008) (quotations and citation omitted).
>
> "[A] jury's answer to a special verdict form can be set aside only if no reasonable mind could find as did the jury." *Domtar, Inc. v. Niagara Fire Ins. Co.*, 563 N.W.2d 724, 734 (Minn. 1997).

7. Court Findings and Conclusions

"In an appeal from a bench trial, we do not reconcile conflicting evidence. We give the district court's factual findings great deference and do not set them aside unless clearly erroneous. However, we are not bound by and need not give deference to the district court's decision on a purely legal issue. When reviewing mixed questions of law and fact, we correct erroneous applications of law, but accord the district court discretion in its ultimate conclusions and review such conclusions under an abuse of discretion standard." *Porch v. Gen. Motors Acceptance Corp.*, 642 N.W.2d 473, 477 (Minn. App. 2002) (quotation and citations omitted), *rev. denied* (Minn. June 26, 2002).

"On appeal from judgment following a court trial, this court reviews whether the district court's findings were clearly erroneous and whether the district court erred as a matter of law. A finding is clearly erroneous if we are left with the definite and firm conviction that a mistake has been made. We review issues of law de novo." *In re Distrib. of Attorney's Fees between Stowman Law Firm, P.A. & Lori Peterson Law Firm*, 855 N.W.2d 760, 761 (Minn. App. 2014) (citations and quotation omitted), *aff'd*, 870 N.W.2d 755 (Minn. 2015).

"Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the [district] court to judge the credibility of the witnesses. The findings of a referee, to the extent adopted by the court, shall be considered as the findings of the court." Minn. R. Civ. P. 52.01.

In applying Minn. R. Civ. P. 52.01, "we view the record in the light most favorable to the judgment of the district court." *Rogers v. Moore*, 603 N.W.2d 650, 656 (Minn. 1999). "The decision of a district court should not be reversed merely because the appellate court views the evidence differently." *Id*. "Rather, the findings must be manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Id.* (quotation omitted). "Findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made." *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999) (quotation omitted). And "[i]f there is reasonable evidence to support the district court's findings, we will not disturb them." *Rogers*, 603 N.W.2d at 656.

Note: A 1985 amendment to rule 52.01 requires findings of fact "whether based on oral or documentary evidence" to be reviewed for clear error. *See First Trust Co. v. Union Depot Place Ltd. P'ship*, 476 N.W.2d 178, 181-82 (Minn. App. 1991) (addressing 1985 amendment), *rev. denied* (Minn. Dec. 13, 1991).

E. REMEDIES

1. Monetary Remedies

a. Amount of Award in General

"Generally, we will not disturb a damage award unless the 'failure to do so would be shocking or would result in plain injustice.'" *Dunn v. Nat'l Beverage Corp.*, 745 N.W.2d 549, 555 (Minn. 2008) (quoting *Hughes v. Sinclair Mktg., Inc.*, 389 N.W.2d 194, 199 (Minn. 1986)).

The district court's determination on whether an award of damages is excessive "will only be disturbed for a clear abuse of discretion." *Dallum v. Farmers Union Cent. Exch., Inc.*, 462 N.W.2d 608, 614 (Minn. App. 1990) (quoting *Nelson v. Nelson*, 283 N.W.2d 375, 379 (Minn. 1979)), *rev. denied* (Minn. Jan. 14, 1991); *see Myers v. Hearth Techs., Inc.*, 621 N.W.2d 787, 792 (Minn. App. 2001), *rev. denied* (Minn. Mar. 13, 2001).

A reviewing court should not set aside a jury verdict on damages "unless it is manifestly and palpably contrary to the evidence viewed as a whole and in the light most favorable to the verdict." *Raze v. Mueller*, 587 N.W.2d 645, 648 (Minn. 1999) (quotation omitted).

b. Additur and Remittitur

The district court exercises discretion in granting or denying remittitur, and appellate courts will not reverse unless there was a clear abuse of discretion. *Myers v. Hearth Techs., Inc.*, 621 N.W.2d 787, 792 (Minn. App. 2001), *rev. denied* (Minn. Mar. 13, 2001).

When a district court has examined the jury's verdict and outlined the reasons for its decision on a motion for remittitur, an appellate court is unlikely to tamper with that decision absent an abuse of discretion. *Sorenson v. Kruse*, 293 N.W.2d 56, 63 (Minn. 1980).

It is within the district court's discretion to determine whether damages are excessive and whether the cure therefor is remittitur or a new trial. *Ray v. Miller Meester Advert., Inc.*, 664 N.W.2d 355, 368 (Minn. App. 2003), *aff'd*, 684 N.W.2d 404 (Minn. 2004).

The decision of whether to grant additur rests within the district court's discretion. *Rush v. Jostock*, 710 N.W.2d 570, 577 (Minn. App. 2006), *rev. denied* (Minn. May 24, 2006).

c. Special and Punitive Damages

Whether a particular type of claimed damage may be recovered as "special damages" is a question of law reviewed de novo. *Paidar v. Hughes*, 615 N.W.2d 276, 279 (Minn. 2000).

"[T]he amount of punitive damages to award is a decision that is almost exclusively within the province of the jury[;] we will not disturb the award on appeal unless it is so excessive as to be unreasonable." *Stuempges v. Parke, Davis & Co.*, 297 N.W.2d 252, 259 (Minn. 1980); *see Ray v. Miller Meester Advert., Inc.*, 664 N.W.2d 355, 371 (Minn. App. 2003), *aff'd*, 684 N.W.2d 404 (Minn. 2004).

2. Equitable Remedies

a. In General

When the district court "weighed the equities and made its decision based on disputed factual findings after a court trial, we review the district court's equitable determinations for abuse of discretion." *Herlache v. Rucks*, 990 N.W.2d 443, 450 n.4 (Minn. 2023).

"Granting equitable relief is within the sound discretion of the [district] court. Only a clear abuse of that discretion will result in reversal." *Nadeau v. County of Ramsey*, 277 N.W.2d 520, 524 (Minn. 1979); *see Citizens State Bank v. Raven Trading Partners, Inc.*, 786 N.W.2d 274, 277 (Minn. 2010).

BUT: "The supreme court has not deviated from a de novo standard of review of legal issues simply because the claims at issue are for equitable relief." *Drewitz v. Motorwerks, Inc.*, 867 N.W.2d 197, 204 n.2 (Minn. App. 2015) (quotation omitted), *rev. denied* (Minn. Sept. 15, 2015); *see also Melrose Gates, LLC v. Moua*, 875 N.W.2d 814, 822 (Minn. 2016) (concluding that deferential standard of review was not justified when district court "neither weighed the equities, nor made its decision based on factual findings that it was uniquely well-suited to make," but rather decided that equitable relief was not available as a matter of law).

b. Specific Performance

"We review a district court's decision to award equitable relief, including specific performance, for abuse of discretion." *Dakota Cnty. HRA v. Blackwell*, 602 N.W.2d 243, 244 (Minn. 1999).

c. Injunctions

"'The granting of an injunction generally rests within the sound discretion of the [district] court, and its action will not be disturbed on appeal unless, based upon the whole record, it appears that there has been an abuse of such discretion.'" *St. Jude Med., Inc. v. Carter*, 913 N.W.2d 678, 684 (Minn. 2018) (quoting *Cherne Indus., Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 91 (Minn. 1979)).

***See also* Section I(B)(10), at 8 regarding temporary injunctions.**

d. Interpleader

"Because interpleader actions are equitable in nature, the standard of review is abuse of discretion." *Faegre & Benson, LLP v. R & R Invs.*, 772 N.W.2d 846, 852 (Minn. App. 2009), *rev. denied* (Minn. Dec. 23, 2009).

e. Appointment of a Receiver

"Appointment of a receiver is within the discretion of the [district] court." *Minn. Hotel Co. v. ROSA Dev. Co.*, 495 N.W.2d 888, 891 (Minn. App. 1993).

f. Mandamus Relief

"Mandamus is an extraordinary remedy, issued upon equitable principles in the exercise of sound judicial discretion. But where a decision on a writ of mandamus is based solely on a legal determination, our review is de novo." *In re Welfare of Child of S.L.J.*, 782 N.W.2d 549, 553 (Minn. 2010) (citation omitted); *see also Spann v. Minneapolis City Council*, 979 N.W.2d 66, 78 (Minn. 2022).

On appeal, we will reverse a district court's order on an application for mandamus relief "only when there is no evidence reasonably tending to sustain the [district] court's findings." *Coyle v. City of Delano*, 526 N.W.2d 205, 207 (Minn. App. 1995).

"When a decision on a writ of mandamus is based solely on a legal determination, we review that decision de novo." *Breza v. City of Minnetrista*, 725 N.W.2d 106, 110 (Minn. 2006).

g. Equitable Estoppel

"[A] district court's conclusion on equitable estoppel after a bench trial is reviewed for abuse of discretion." *City of North Oaks v. Sarpal*, 797 N.W.2d 18, 24 (Minn. 2011).

3. Other Remedies

a. Contempt of Court

"The district court's decision to invoke its contempt powers is subject to reversal for abuse of discretion. We review an order for an abuse of discretion by determining whether the district court made findings unsupported by the evidence or by improperly applying the law." *Sehlstrom v. Sehlstrom*, 925 N.W.2d 233, 239 (Minn. 2019) (citation and quotations omitted); *see also In re Welfare of Child. of J.B.*, 782 N.W.2d 535, 538 (Minn. 2010).

b. Sanctions

"We review a district court's decision to impose spoliation sanctions for abuse of discretion. A party challenging the district court's choice of a sanction has the difficult burden of convincing an appellate court that the district court abused its discretion. A district court abuses its discretion when it bases its conclusions on an erroneous view of the law." *Miller v. Lankow*, 801 N.W.2d 120, 127 (Minn. 2011) (citations omitted).

We review a district court's award of sanctions under rule 11 for an abuse of discretion. *Collins v. Waconia Dodge, Inc.*, 793 N.W.2d 142, 145 (Minn. App. 2011), *rev. denied* (Minn. Mar. 15, 2011).

Levying of civil penalties is within the district court's discretion. *See State by Humphrey v. Alpine Air Prods., Inc.*, 490 N.W.2d 888, 897 (Minn. App. 1992), *aff'd*, 500 N.W.2d 788 (Minn. 1993).

"The district court's discovery-related orders will not be disturbed absent an abuse of discretion." *Frontier Ins. Co. v. Frontline Processing Corp.*, 788 N.W.2d 917, 922 (Minn. App. 2010), *rev. denied* (Minn. Dec. 14, 2010).

The party challenging the district court's choice of sanctions for spoliation of evidence "has the difficult burden of convincing an appellate court that the [district] court abused its discretion—a burden which is met only when it is clear that no reasonable person would agree with the [district] court's assessment of what

sanctions are appropriate." *Patton v. Newmar Corp.*, 538 N.W.2d 116, 119 (Minn. 1995) (quotation omitted).

"An appellate court applies an abuse-of-discretion standard when reviewing a district court's decision to impose sanctions under Minn. R. Civ. P. 11." *Conant v. Robins, Kaplan, Miller & Ciresi, L.L.P.*, 603 N.W.2d 143, 150 (Minn. App. 1999), *rev. denied* (Minn. Mar. 14, 2000).

c. Costs and Disbursements

"We generally review a district court's award of costs and disbursements for an abuse of discretion. Whether the district court erred in its interpretation of the statute authorizing the award of costs and disbursements to [respondent], however, is a legal question that we review de novo." *Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 155 (Minn. 2014) (citation omitted).

The district court shall allow reasonable costs to a prevailing party in a district court action. *Benigni v. County of St. Louis*, 585 N.W.2d 51, 54 (Minn. 1998). The district court retains discretion to determine which party, if any, qualifies as a prevailing party when considering a request for costs incurred. *Id.* at 54-55 (citing *In re Will of Gershcow*, 261 N.W.2d 335, 340 (Minn. 1977)).

Generally, an award of costs and disbursements is a matter within the district court's sound discretion and will not be disturbed absent an abuse of that discretion. *Lake Superior Ctr. Auth. v. Hammel, Green & Abrahamson, Inc.*, 715 N.W.2d 458, 482 (Minn. App. 2006), *rev. denied* (Minn. Aug. 23, 2006).

d. Attorney Fees

"The proper method to calculate an award of attorney fees is a question of law that we review de novo. Once the method is established, we review the reasonableness of a particular award for an abuse of discretion." *State by Comm'r of Transp. v. Krause*, 925 N.W.2d 30, 32-33 (Minn. 2019) (citations omitted).

"We will not reverse the district court's decision on attorney fees absent an abuse of discretion." *Carlson v. SALA Architects, Inc.*, 732 N.W.2d 324, 331 (Minn. App. 2007), *rev. denied* (Minn. Aug. 21, 2007).

The reasonable value of counsel's work is a question of fact and we must uphold the district court's findings on that issue unless they are clearly erroneous. *Amerman v. Lakeland Dev. Corp.*, 203 N.W.2d 400, 400-01 (Minn. 1973).

"Although the reasonable value of attorney fees is a question of fact, when considering whether the district court employed the proper method to calculate the amount of an attorney lien, we undertake a de novo review." *Thomas A. Foster & Assocs. v. Paulson*, 699 N.W.2d 1, 4 (Minn. App. 2005) (citations omitted).

F. POSTTRIAL MATTERS

1. Motion for New Trial

"We review a district court's decision to grant or deny a new trial for an abuse of discretion." *Christie v. Est. of Christie*, 911 N.W.2d 833, 838 (Minn. 2018) (citing *Moorhead Econ. Dev. Auth. v. Anda*, 789 N.W.2d 860, 892 (Minn. 2010)).

Because the district court has the discretion to grant a new trial, the appellate courts will not disturb the decision absent a clear abuse of that discretion. Where the district court exercised no discretion and ordered a new trial because of an error of law, a de novo standard of review applies. *Halla Nursery, Inc. v. Baumann-Furrie & Co.*, 454 N.W.2d 905, 910 (Minn. 1990).

An appellate court "will not set aside a jury verdict on an appeal from a district court's denial of a motion for a new trial unless it is manifestly and palpably contrary to the evidence viewed as a whole and in the light most favorable to the verdict." *Navarre v. S. Wash. Cnty. Sch.*, 652 N.W.2d 9, 21 (Minn. 2002) (quotations omitted).

"The discretion to grant a new trial on the ground of excessive damages rests with the [district] court, whose determination will only be overturned for abuse of that discretion." *Advanced Training Sys., Inc. v. Caswell Equip. Co.*, 352 N.W.2d 1, 11 (Minn. 1984).

2. Motion for Judgment as a Matter of Law (JMOL), formerly known as Motion for Judgment Notwithstanding the Verdict (JNOV)

"We review de novo a district court's decision to deny a motion for judgment as a matter of law, applying the same standard used by the district court and viewing the evidence in the light most favorable to [the nonmoving party]." *Christie v. Est. of Christie*, 911 N.W.2d 833, 838 n.5 (Minn. 2018) (quotation omitted); *see also Kedrowski v. Lycoming Engines*, 933 N.W.2d 45, 54-55 (Minn. 2019).

"We apply de novo review to the district court's denial of a Rule 50 motion." *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 919 (Minn. 2009).

"Viewing the evidence in a light most favorable to the nonmoving party, this court makes an independent determination of whether there is sufficient evidence to present an issue of fact for the jury." *Jerry's Enters., Inc. v. Larkin, Hoffman, Daly & Lindgren, Ltd.*, 711 N.W.2d 811, 816 (Minn. 2006).

Note: In 2006, the Minnesota Rules of Civil Procedure Advisory Committee eliminated the nominal distinction between motions for directed verdict and motions for judgment notwithstanding the verdict (JNOV), which have historically been decided under the same standard. Both are now characterized by the rule as motions for judgment as a matter of law. *See* Minn. R. Civ. P. 50.04 2006 advisory comm. cmt.

3. Motion to Amend Findings

"We review the district court's decision whether to grant a motion for amended findings for an abuse of discretion." *Landmark Cmty. Bank, N.A. v. Klingelhutz*, 927 N.W.2d 748, 754 (Minn. App. 2019).

G. DECLARATORY-JUDGMENT ACTIONS

"When reviewing a declaratory judgment action, we apply the clearly erroneous standard to factual findings, and review the district court's determinations of law de novo." *Onvoy, Inc. v. ALLETE, Inc.*, 736 N.W.2d 611, 615 (Minn. 2007) (citations omitted); *see also Skyline Vill. Park Ass'n v. Skyline Vill. L.P.*, 786 N.W.2d 304, 306 (Minn. App. 2010).

"In a declaratory judgment action tried without a jury, the court as the trier of facts must be sustained in its findings unless they are palpably and manifestly contrary to the evidence." *Samuelson v. Farm Bureau Mut. Ins. Co.*, 446 N.W.2d 428, 430 (Minn. App. 1989), *rev. denied* (Minn. Nov. 22, 1989).

II. CIVIL – FAMILY

A. IN GENERAL

1. Jurisdiction, Venue, and Standing

a. Jurisdiction

Questions of subject-matter jurisdiction are reviewed de novo. *Johnson v. Murray*, 648 N.W.2d 664, 670 (Minn. 2002); *Burkstrand v. Burkstrand*, 632 N.W.2d 206, 209 (Minn. 2001); *see In re Welfare of Child. of D.M.T.-R*, 802 N.W.2d 759, 762 (Minn. App. 2011) (stating "[w]hether subject-matter jurisdiction exists presents a question of law, which we review de novo"); *Stern v. Stern*, 839 N.W.2d 96, 99 (Minn. App. 2013) (stating that "[t]he existence of subject-matter jurisdiction and a determination of the meaning of statutes addressing subject-matter jurisdiction present legal questions, which this court reviews de novo") (quoting *Wareham v. Wareham*, 791 N.W.2d 562, 564 (Minn. App. 2010)); *In re Welfare of Child. of A.I. (Deceased)*, 779 N.W.2d 886, 894 (Minn. App. 2010) (stating that "[j]urisdiction in juvenile court matters is a question of law, reviewed de novo"), *review dismissed* (Minn. Apr. 20, 2010); *In re Welfare of S.R.S.*, 756 N.W.2d 123, 126 (Minn. App. 2008) (stating that "[t]his court reviews questions of jurisdiction and interpretation of statutes de novo"), *rev. denied* (Minn. Dec. 16, 2008).

"Whether service of process was effective, and personal jurisdiction therefore exists, is a question of law that we review de novo. But in conducting this review, we must apply the facts as found by the district court unless those factual findings are clearly erroneous." *Shamrock Dev., Inc. v. Smith*, 754 N.W.2d 377, 382 (Minn. 2008); *see Rodewald v. Taylor*, 797 N.W.2d 729, 731 (Minn. App. 2011) (applying *Shamrock* in a family-law case) (citations omitted).

"The parties cannot by their actions or agreement confer jurisdiction on the court, and an appellate court will determine the jurisdictional facts on its own motion even if neither party has raised the issue." *Davidner v. Davidner*, 232 N.W.2d 5, 7 (Minn. 1975); *see Ferraro v. Ferraro*, 364 N.W.2d 821, 822 (Minn. App. 1985) (applying *Davidner*); *see also Gossman v. Gossman*, 847 N.W.2d 718, 724 (Minn. App. 2014) (stating that "parties may not confer jurisdiction upon a district court by stipulation or agreement").

This court reviews legal issues concerning jurisdiction de novo. *McLain v. McLain*, 569 N.W.2d 219, 222 (Minn. App. 1997), *rev. denied* (Minn. Nov. 18, 1997); *cf. In re Welfare of Child. of L.L.P.*, 836 N.W.2d 563, 567 (Minn. App. 2013) (making this statement in the context of addressing whether an appeal should be dismissed for lack of appellate jurisdiction because the ruling from which the appeal was taken was not appealable).

In the context of the Uniform Interstate Family Support Act, "we review de novo whether the Minnesota tribunal retains continuing, exclusive jurisdiction to modify

its prior child-support order." *Wareham v. Wareham*, 791 N.W.2d 562, 564 (Minn. App. 2010).

"Application of the [Uniform Child Custody Jurisdiction and Enforcement Act] involves questions of subject-matter jurisdiction, which appellate courts review de novo. A district court's underlying findings of fact, however, are not set aside unless they are clearly erroneous." *Cook v. Arimitsu*, 907 N.W.2d 233, 238 (Minn. App. 2018) (quotation and citation omitted), *rev. denied* (Minn. Apr. 17, 2018); *see Easter v. Alyea*, 983 N.W.2d 455, 460 (Minn. App. 2022) (making a similar statement), *rev. denied* (Minn. Mar. 14, 2023); *Schroeder v. Schroeder*, 658 N.W.2d 909, 911 (Minn. App. 2003) (stating that "[a]pplication of the Uniform Child Custody Jurisdiction [and Enforcement] Act (UCCJEA) involves questions of subject matter jurisdiction").

"[A] finding of proper domicile to confer jurisdiction for commencement of a divorce action will not be reversed unless it is palpably contrary to the evidence." *Davidner v. Davidner*, 232 N.W.2d 5, 7 (Minn. 1975).

b. Venue

"We review a district court's denial of a motion for a change of venue in a family law case under an abuse-of-discretion standard." *Toughill v. Toughill*, 609 N.W.2d 634, 642 (Minn. App. 2000); *see Buckheim v. Buckheim*, 43 N.W.2d 113, 116 (Minn. 1950) (holding that although moving party's affidavits were sufficient to allow change of venue, district court did not abuse its discretion in denying motion when counter affidavits supported district court's decision to deny motion).

c. Standing

The existence of standing is reviewed de novo. *Richards v. Reiter*, 796 N.W.2d 509, 512 (Minn. 2011); *In re Best Interest of M.R.P.-C.*, 794 N.W.2d 373, 376 (Minn. App. 2011).

"This court applies a *de novo* standard of review to a district court's determination that a party has standing to bring a paternity action." *In re Welfare of C.F.N.*, 923 N.W.2d 325, 329 (Minn. App. 2018), *rev. denied* (Minn. Mar. 19, 2019).

"Minnesota case law . . . requires that a party have standing before a court can court exercise jurisdiction." *Richards v. Reiter*, 796 N.W.2d 509, 512 (Minn. 2011).

2. Findings of Fact

a. Generally

"Appellate [courts] set aside a district court's findings of fact only if clearly erroneous, giving deference to the district court's opportunity to evaluate witness credibility. Findings of fact are clearly erroneous where an appellate court is left

with the definite and firm conviction that a mistake has been made." *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (quotations and citations omitted).

When reviewing whether the record on appeal supports a district court's findings of fact, an appellate court need not always recite all of the evidence in the record which supports each challenged finding. *See In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 222 (Minn. 2021) (noting that "an appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the trial court [and that] 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" (quotations omitted)); *Wilson v. Moline*, 47 N.W.2d 865, 870 (Minn. 1951) (stating that the function of "an appellate court does not require [it] to discuss and review in detail the evidence for the purpose of demonstrating that it supports the trial court's findings" and an appellate court's "duty is performed when [it] consider[s] all the evidence . . . and determine[s] that it reasonably supports the findings"); *Cook v. Arimitsu*, 907 N.W.2d 233, 240 n.3 (Minn. App. 2018) (applying this aspect of *Wilson* in a family law case), *rev. denied* (Minn. Apr. 17, 2018); *Peterka v. Peterka*, 675 N.W.2d 353, 357-58 (Minn. App. 2004) (same).

"When determining whether findings are clearly erroneous, the appellate court views the record in the light most favorable to the [district] court's findings." *Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000).

"That the record might support findings other than those made by the [district] court does not show that the court's findings are defective." *Vangsness v. Vangsness*, 607 N.W.2d 468, 474 (Minn. App. 2000); *see In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (stating that 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") (quotation omitted). In order to successfully challenge a district court's findings of fact, "the party challenging the findings must show that despite viewing that evidence in the light most favorable to the [district] court's findings . . . , the record still requires the definite and firm conviction that a mistake was made." *Vangsness*, 607 N.W.2d at 474; *see Tornstrom v. Tornstrom*, 887 N.W.2d 680, 683-84 (Minn. App. 2016) (explaining this court's role in reviewing a district court's findings of fact), *rev. denied* (Minn. Feb. 14, 2017).

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).

Appellate courts defer to district court credibility determinations. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021); *Sefkow v. Sefkow*,

427 N.W.2d 203, 210 (Minn. 1988); *see Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (stating that, on appeal, appellate courts "neither reconcile conflicting evidence nor decide issues of witness credibility, which are exclusively the province of the factfinder").

"When evidence relevant to a factual issue consists of conflicting testimony, the district court's decision is necessarily based on a determination of witness credibility, which we accord great deference on appeal." *Alam v. Chowdhury*, 764 N.W.2d 86, 89 (Minn. App. 2009).

A district court's recitation of the parties' assertions "is not making true findings" because findings "must be affirmatively stated as findings of the [district] court." *Dean v. Pelton*, 437 N.W.2d 762, 764 (Minn. App. 1989); *see Geske v. Marcolina*, 624 N.W.2d 813, 817 n.3 (Minn. App. 2001) (citing *Dean*).

"There is caselaw authority that the mislabeling of a finding of fact as a conclusion of law, or vice versa, is not determinative of the true nature of the item." *Dailey v. Chermak*, 709 N.W.2d 626, 631 (Minn. App. 2006) (citing *Graphic Arts Educ. Found., Inc. v. State*, 59 N.W.2d 841, 844 (Minn. 1953)); 2 David F. Herr & Roger S. Haydock, *Minnesota Practice* § 52.5 (2004)), *rev. denied* (Minn. May 16, 2006).

Generally, the district court's failure to make findings on relevant statutory factors requires a remand. *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989) (remanding maintenance question because findings were inadequate to allow review). *But see In re Welfare of M.M.*, 452 N.W.2d 236, 239 (Minn. 1990) (allowing independent review of record under extraordinary circumstances); *Grein v. Grein*, 364 N.W.2d 383, 387 (Minn. 1985) (declining to remand and affirming the district court in a custody case where the district court failed to make adequate findings of fact, but "from reading the files, the record, and the court's findings, on remand the [district] court would undoubtedly make findings that comport with the statutory language" and reach the same result).

b. Stipulations

"Whether there is a substantial change in circumstances rendering an existing support obligation unreasonable and unfair generally requires comparing the parties' circumstances at the time support was last set or modified to their circumstances at the time of the motion to modify. Unless a support order provides a baseline for future modification motions by reciting the parties' then-existing circumstances, the litigation of a later motion to modify that order becomes unnecessarily complicated because it requires the parties to litigate not only their circumstances at the time of the motion, but also their circumstances at the time of the order sought to be modified." *Maschoff v. Leiding*, 696 N.W.2d 834, 840 (Minn. App. 2005) (citations omitted); *see Hecker v. Hecker*, 568 N.W.2d 705, 709 (Minn. 1997) (noting in context of motion to modify stipulated maintenance award that stipulation identifies "baseline circumstances" against which claims of changed circumstances are evaluated).

3. Reopening of Judgment

Note: Whether to reopen a prior ruling in a family law case is addressed by Minn. Stat. § 518.145, subd. 2. The distinction between reopening a prior dissolution judgment under Minn. Stat. § 518.145, subd. 2, and reopening a prior dissolution judgment to address "omitted" property is discussed in detail in *Pooley v. Pooley*, 979 N.W.2d 867, 875-77 (Minn. 2022).

Whether to reopen a dissolution judgment under Minn. Stat. § 518.145, subd. 2 is discretionary with the district court. *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022); *see Kornberg v. Kornberg*, 542 N.W.2d 379, 386 (Minn. 1996) (reviewing refusal to reopen for abuse of discretion); *Clark v. Clark*, 642 N.W.2d 459, 465 (Minn. App. 2002) (reciting general rule); *Haefele v. Haefele*, 621 N.W.2d 758, 761 (Minn. App. 2001) (reviewing decision to reopen judgment for abuse of discretion), *rev. denied* (Minn. Feb. 21, 2001).

"A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quotation omitted). A district judge's findings of fact are not set aside unless clearly erroneous." *Knapp v. Knapp*, 883 N.W.2d 833, 835 (Minn. App. 2016) (citations and quotations omitted).

A district court's findings as to whether the judgment was prompted by mistake, duress, or fraud will not be set aside unless they are clearly erroneous. *Hestekin v. Hestekin*, 587 N.W.2d 308, 310 (Minn. App. 1998).

When reviewing a district court's decision regarding whether to reopen an existing ruling for newly discovered evidence under Minn. Stat. § 518.145, subd. 2(2), appellate courts use an abuse of discretion standard to review the district court's determinations that the evidence in question (1) would not, with the exercise of due diligence, have been discoverable before the relevant proceeding; (2) would be relevant and admissible; and (3) would not be cumulative, contradictory, or impeaching, and would likely affect the outcome of the case. *Bender v. Bernhard*, 971 N.W.2d 257, 263 (Minn. 2022).

"A district court's decision to reopen the judgment and decree based on fraud on the court will be sustained absent an abuse of discretion. If there is evidence to support the district court's decision, an abuse of discretion will not be found." *Alam v. Chowdhury*, 764 N.W.2d 86, 89 (Minn. App. 2009) (citation omitted).

Regarding the reopening of a dissolution judgment, appellate courts "defer to the district court's credibility determinations as to conflicting affidavits." *Knapp v. Knapp*, 883 N.W.2d 833, 837 (Minn. App. 2016).

The standard for reviewing whether a moving party made a prima facie case that a dissolution judgment was based on fraud and that there should be an evidentiary hearing to address whether to reopen the judgment is analogous to the review of a grant of summary

judgment. *See Doering v. Doering*, 629 N.W.2d 124, 128-32 (Minn. App. 2001), *rev. denied* (Minn. Sept. 11, 2001); *see also Thompson v. Thompson*, 739 N.W.2d 424, 429-30 (Minn. App. 2007) (stating, in context of reviewing whether district court should have granted an evidentiary hearing on motion to reopen dissolution judgment because it was no longer equitable to enforce judgment, that "[w]hether to hold an evidentiary hearing on a motion generally is a discretionary decision of the district court, which we review for an abuse of discretion").

4. Abuse of Discretion

A district court abuses its discretion if its findings of fact are unsupported by the record or if it improperly applies the law or if it resolves the question in a manner that is contrary to logic and the facts on record. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022); *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022); *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 & n.3 (Minn. 1997); *see Honke v. Honke*, 960 N.W.2d 261, 265 (Minn. 2021) (making a similar statement).

"Among other ways, a district court abuses its discretion if it acts against logic and the facts on record, or if it enters fact findings that are unsupported by the record, or if it misapplies the law." *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010) (citations and quotation omitted).

"A district court abuses its discretion when it makes findings unsupported by the evidence or when it improperly applies the law." *Hemmingsen v. Hemmingsen*, 767 N.W.2d 711, 716 (Minn. App. 2009), *rev. granted* (Minn. Sept. 29, 2009) *and appeal dismissed* (Minn. Feb. 1, 2010); *see In re Welfare of Child. of M.A.H.*, 839 N.W.2d 730, 740 (Minn. App. 2013).

"An abuse of discretion occurs when the district court resolves the matter in a manner that is 'against logic and the facts on [the] record.'" *O'Donnell v. O'Donnell*, 678 N.W.2d 471, 474 (Minn. App. 2004) (quoting *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984)).

"Misapplying the law is an abuse of discretion." *Bauerly v. Bauerly*, 765 N.W.2d 108, 110 (Minn. App. 2009); *Schisel v. Schisel*, 762 N.W.2d 265, 272 (Minn. App. 2009) (stating, in the context of a child-support dispute, that "[t]he [district] court abuses its discretion if it erroneously applies the law to the case").

B. PROPERTY DIVISION

1. Identifying Marital and Nonmarital Property

"Whether property is marital or nonmarital is a question of law, but a reviewing court must defer to the [district] court's underlying findings of fact. However, if [the reviewing court is] left with the definite and firm conviction that a mistake has been made, [it] may find the [district] court's decision to be clearly erroneous, notwithstanding the existence of evidence to support such findings." *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997) (quotation and citation omitted); *see Gill v. Gill*, 919 N.W.2d 297, 301 (Minn. 2018) (citing

this aspect of *Olsen*); *Baker v. Baker*, 753 N.W.2d 644, 649 (Minn. 2008) (stating that "[appellate courts] independently review the issue of whether property is marital or nonmarital, giving deference to the district court's findings of fact"); *Gottsacker v. Gottsacker*, 664 N.W.2d 848, 852 (Minn. 2003) ("Determining whether property is marital or nonmarital . . . is an issue over which [appellate courts] exercise independent review, though deference is given to the district court's findings of fact.").

"When marital and nonmarital assets have been commingled, the party asserting the nonmarital claim must adequately trace the nonmarital funds in order to establish their nonmarital character. Whether a nonmarital interest has been traced is also a question of fact." *Kerr v. Kerr*, 770 N.W.2d 567, 571 (Minn. App. 2009) (citation omitted).

2. Marital Property

a. Valuing Property

A district court's valuation of an item of property is a finding of fact, and it will not be set aside unless it is clearly erroneous on the record as a whole. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001); *see Muschik v. Conner-Muschik*, 920 N.W.2d 215, 224 (Minn. App 2018).

An appellate court does not require the district court to be exact in its valuation of assets. "[I]t is only necessary that the value arrived at lies within a reasonable range of figures." *Johnson v. Johnson*, 277 N.W.2d 208, 211 (Minn. 1979) (citing *Hertz v. Hertz*, 229 N.W.2d 42, 44 (Minn. 1975)); *see Passolt v. Passolt*, 804 N.W.2d 18, 25 (Minn. App. 2011) (citing *Johnson v. Johnson*, 277 N.W.2d 208, 211 (Minn. 1979)), *rev. denied* (Minn. Nov. 15, 2011).

b. Division of Marital Property

"A [district] court has broad discretion in evaluating and dividing property in a marital dissolution and will not be overturned except for abuse of discretion. [An appellate court] will affirm the [district] court's division of property if it had an acceptable basis in fact and principle even though we might have taken a different approach." *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002) (citation omitted); *see Lee v. Lee*, 775 N.W.2d 631, 637 (Minn. 2009) (stating that a district court has "broad discretion regarding the division of property" and that its division of property "will only be reversed on appeal if the [district] court abused its discretion"); *Sirek v. Sirek*, 693 N.W.2d 896, 898 (Minn. App. 2005) ("District courts have broad discretion over the division of marital property and appellate courts will not alter a district court's property division absent a clear abuse of discretion or an erroneous application of the law.") (citing *Chamberlain v. Chamberlain*, 615 N.W.2d 405, 412 (Minn. App. 2000), *rev. denied* (Minn. Oct. 25, 2000)).

> A district court abuses its discretion in dividing property if it resolves the matter in a manner "that is against logic and the facts on record." *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984).
>
> Pension division is generally discretionary with the district court. *Faus v. Faus*, 319 N.W.2d 408, 413 (Minn. 1982); *Johnson v. Johnson*, 627 N.W.2d 359, 362 (Minn. App. 2001), *rev. denied* (Minn. Aug. 15, 2001).
>
> A district court has broad discretion in dividing property and setting reasonable valuation dates. *Desrosier v. Desrosier*, 551 N.W.2d 507, 510 (Minn. App. 1996).
>
> Whether to consider the tax consequences of a property distribution lies within the district court's discretion. *Maurer v. Maurer*, 623 N.W.2d 604, 608 (Minn. 2001); *see Miller v. Miller*, 352 N.W.2d 738, 744 (Minn. 1984); *O'Brien v. O'Brien*, 343 N.W.2d 850, 853-54 (Minn. 1984); *see also Schmidt v. Schmidt*, 964 N.W.2d 221, 229 (Minn. App. 2021) (noting that "[t]he scope of a district court's discretion [regarding how to address the tax consequences of a property division] necessarily depend on the evidentiary record"). *But see Curtis v. Curtis*, 887 N.W.2d 249, 255-56 (Minn. 2016) (noting that "a district court is not free under *Maurer* to ignore the tax consequences of a decision that effectively requires one of the spouses to reallocate his or her assets").
>
> "[W]hether disability funds are income or marital property is a question of law, subject to de novo review." *Walswick-Boutwell v. Boutwell*, 663 N.W.2d 20, 22 (Minn. App. 2003), *rev. denied* (Minn. Aug. 19, 2003).

C. SPOUSAL MAINTENANCE

An appellate court reviews a district court's original award of maintenance for an abuse of the district court's broad discretion. *Curtis v. Curtis*, 887 N.W.2d 249, 252 (Minn. 2016); *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997); *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989); *Erlandson v. Erlandson*, 318 N.W.2d 36, 38 (Minn. 1982).

"In general, [appellate courts] appl[y] an abuse-of-discretion standard of review to a district court's decision concerning the amount and duration of an award of spousal maintenance." *Schmidt v. Schmidt*, 964 N.W.2d 221, 226 (Minn. App. 2021).

An appellate court reviews a district court's decision regarding whether to modify an existing maintenance award for an abuse of discretion. *Hecker v. Hecker*, 568 N.W.2d 705,709 (Minn. 1997); *see also Claybaugh v. Claybaugh*, 312 N.W.2d 447, 449 (Minn. 1981) (stating that "[a]lthough the [district] court is vested with broad discretion to determine the propriety of a modification, we have suggested that [district] courts exercise that discretion carefully and only reluctantly alter the terms of a stipulation governing maintenance"). Further,

> [a] district court abuses its discretion in making such a decision if it makes findings of fact that are not supported by the record, misapplies the law, or resolves the matter in a manner that is

> contrary to logic and the facts on record. To the extent that a modification decision depends on findings of fact, we apply a clear-error standard of review to those findings of fact.

Madden v. Madden, 923 N.W.2d 688, 696 (Minn. App. 2019) (citation omitted).

A district court abuses its discretion regarding maintenance if its findings of fact are unsupported by the record or if it improperly applies the law or if it resolves the question in a manner that is contrary to logic and the facts on record. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 & n.3 (Minn. 1997); *see Honke v. Honke*, 960 N.W.2d 261, 265 (Minn. 2021) (making a similar statement).

"Findings of fact concerning spousal maintenance must be upheld unless they are clearly erroneous." *Gessner v. Gessner*, 487 N.W.2d 921, 923 (Minn. App. 1992); *see* Minn. R. Civ. P. 52.01 (stating that findings of fact "shall not be set aside unless clearly erroneous").

"A district court's determination of income for maintenance purposes is a finding of fact and is not set aside unless clearly erroneous." *Peterka v. Peterka*, 675 N.W.2d 353, 357 (Minn. App. 2004).

"[The appellate courts] review[] questions of law related to spousal maintenance de novo." *Melius v. Melius*, 765 N.W.2d 411, 414 (Minn. App. 2009).

The district court's decision regarding the effective date of the modification will be reviewed for an abuse of discretion if the statutory conditions for retroactive modification of maintenance are met. *Kemp v. Kemp*, 608 N.W.2d 916, 920 (Minn. App. 2000); *see Sinda v. Sinda*, 949 N.W.2d 170, 181 (Minn. App. 2020) (stating that an appellate court "review[s] the district court's decisions regarding retroactivity for an abuse of discretion.").

D. CHILDREN

1. Juvenile protection matters – generally

a. Constitutional questions

"Whether a statute violates the Constitution is a question that we review de novo." *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 131 (Minn. 2014).

"Whether a parent's due-process rights have been violated in a TPR proceeding is a question of law, which [appellate courts] review de novo." *In re Welfare of Child. of D.F.*, 752 N.W.2d 88, 97 (Minn. App. 2008).

b. Jurisdictional matters

"We review jurisdiction [in juvenile protection matters] de novo as a question of law." *In re Welfare of Child of A.H.*, 879 N.W.2d 1, 4 (Minn. App. 2016); *In re Welfare of Child. of D.M.T.-R.*, 802 N.W.2d 759, 762 (Minn. App. 2011) (making a similar statement in the context of an attempt to terminate parental rights to

children who were not citizens of the United States); *see also In re Welfare of J.R. Jr.*, 655 N.W.2d 1, 2 (Minn. 2003) (noting that the existence of appellate jurisdiction in a juvenile protection matter is reviewed de novo); *see generally*, *Stern v. Stern*, 839 N.W.2d 96, 99-104 (Minn. App. 2013) (addressing, generally, a juvenile court's "original and exclusive jurisdiction" in juvenile protection matters); *Moore v. Moore,* 734 N.W.2d 285, 287 n.1 (Minn. App. 2007) (cautioning that courts and parties "often use concepts and language associated with 'jurisdiction' imprecisely to refer to, among other things, nonjurisdictional claims-processing rules or nonjurisdictional limits on a court's authority to address a question."), *rev. denied* (Minn. Sept. 18, 2007).

c. Construction of statues and rules

"Interpretation of a [juvenile protection] statute involves a question of law, which is subject to de novo review." *In re Welfare of Child. of R.W.*, 678 N.W.2d 49, 54 (Minn. 2004); *see In re Welfare of Child. of J.D.T.*, 946 N.W.2d 321, 327(Minn. 2020) (citing *R.W.*).

The de novo standard of review typically applied to a district court's reading of a Minnesota statute also applies to review of a district court's reading of the federal Indian Child Welfare Act. *See In re Welfare of Child. of S.R.K.*, 911 N.W.2d 821, 827 (Minn. 2018).

Appellate courts review a district court's construction of juvenile protection rules and statues de novo. *In re Welfare of Child of R.S.*, 805 N.W.2d 44, 48-49 (Minn. 2011).

d. Other matters

> When statutes explicitly entrust the district court to determine what is appropriate, we review [the district court's determination of what is actually appropriate] for an abuse of discretion. In such cases, we will not conclude that a district court has abused its discretion absent a resolution of the question that is against logic and the facts on record.

In re Welfare of Child of A.M.C., 920 N.W.2d 648, 660 (Minn. App. 2018) (citation omitted).

A district court's decision that the county made reasonable efforts to reunite the family is reviewed for an abuse of discretion. *See In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 323 (Minn. App. 2015) (ruling that the district court's "reasonable-efforts finding was not an abuse of discretion"), *rev. denied* (Minn. July 20, 2015).

"'[W]hether to admit or exclude evidence is discretionary with the district court. A district court abuses its discretion if it improperly applies the law.'" *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 320 (Minn. App. 2015) (quoting *In re Welfare of J.K.T.*, 814 N.W.2d 76, 93 (Minn. App. 2012)), *rev. denied* (Minn. July 20, 2015).

"Whether a written case plan is required is a question of statutory interpretation, which we review de novo." *In re Welfare of Child. of A.R.B.*, 906 N.W.2d 894, 897 (Minn. App. 2018).

"Whether the district court correctly applied the law is a legal question, which we review de novo." *In re Welfare of Child. of M.A.H.*, 839 N.W.2d 730, 746 (Minn. App. 2013).

Appellate courts review a juvenile court's denial of a motion to withdraw an admission for an abuse of discretion. *In re Welfare of Child of M.K.*, 805 N.W.2d 856, 862 (Minn. App. 2011).

When reviewing a district court's decision on a motion to dismiss a permanency petition, appellate courts review for an abuse of discretion the district court's determination of whether the petitioning party made a prima facie case. *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 318-19 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015).

Because "'any admission [of the statutory grounds asserted in a CHIPS petition] must be made under oath[,]'" a district court "erred as a matter of law" where, despite the fact that there was "no dispute" that parents did not make their admissions under oath, the juvenile court accepted those admissions. *In re Welfare of Child of M.K.*, 805 N.W.2d 856, 865 (Minn. App. 2011) (quoting Minn. R. Juv. Prot. P. 35.03, subd. 1).

> Whether termination of parental rights is in a child's best interests is a decision that rests within the district court's discretion. Therefore, when the district court finds that a parent has violated the conditions of a stay, the decision whether to revoke the stay based on that violation is a matter committed to the district court's discretion. And we will not reverse the district court's decision to revoke a conditional stay of a voluntary termination of parental rights absent an abuse of that discretion.

In re Welfare of Child. of D.F., 752 N.W.2d 88, 95 (Minn. App. 2008) (citation omitted).

"[T]he district court did not abuse its discretion by bifurcating mother's proceeding from father's proceeding and allowing mother's proceeding to proceed in a timely fashion." *In re Welfare of Child. of J.B.,* 698 N.W.2d 160, 171 (Minn. App. 2005).

2. Termination of Parental Rights

a. Generally

"[T]ermination of parental rights is always discretionary with the juvenile court." *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136 (Minn. 2014); *see In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011) (stating that "[appellate courts] review a district court's ultimate determination that termination is in a child's best interest for an abuse of discretion."), *rev. denied* (Minn. Jan. 6, 2012); *In re Welfare of A.M.C.*, 920 N.W.2d 648, 657 (Minn. App. 2018) (applying an abuse-of-discretion standard of review to a district court's conclusion that a termination of parental rights was in a child's best interests.).

An appellate court "exercises great caution in termination proceedings, finding such action proper only when the evidence clearly mandates such a result." *In re Welfare of S.Z.*, 547 N.W.2d 886, 893 (Minn. 1996).

On appeal, "[c]onsiderable deference is due to the district court's decision because a district court is in a superior position to assess the credibility of witnesses." *In re Welfare of L.A.F.*, 554 N.W.2d 393, 396 (Minn. 1996).

"[Appellate courts] affirm the district court's termination of parental rights when at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the best interests of the child, provided that the county has made reasonable efforts to reunite the family." *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008) (citations omitted).

b. Best interests

Appellate courts "apply an abuse-of-discretion standard of review to a district court's conclusion that termination of parental rights is in a child's best interests." *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 657 (Minn. App. 2018); *see In re Welfare of Child of J.R.R.*, 943 N.W.2d 661, 669 (Minn. App. 2020) (same); *In re Welfare of Child of K.L.W.*, 924 N.W.2d 649, 656 (Minn. App. 2019) (same), *rev. denied* (Minn. Mar. 8, 2019).

"[D]etermination of a child's best interests 'is generally not susceptible to an appellate court's global review of a record,' and . . . 'an appellate court's combing through the record to determine best interests is inappropriate because it involves credibility determinations.'" *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 546 (Minn. App. 2009) (quoting *In re Tanghe*, 672 N.W.2d 623, 625 (Minn. App. 2003)).

c. Statutory Basis for Involuntary Termination

> [Appellate courts] review an order [involuntarily] terminating parental rights to determine whether the district court's findings (1) address the statutory criteria and (2) are supported by substantial evidence. [Appellate courts] must closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing. Ultimately, however, [appellate courts] review the factual findings for clear error and [whether a] statutory basis [to involuntarily terminate parental rights exists] for abuse of discretion. A 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. An abuse of discretion occurs if the district court improperly applied the law.

In re Welfare of Child of J.K.T., 814 N.W.2d 76, 87 (Minn. App. 2012) (citations and quotations omitted); *see In re Welfare of Child. of T.R.*, 750 N.W.2d 656, 660–61 (Minn. 2008); *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008); *In re Welfare of J.M.*, 574 N.W.2d 717, 724 (Minn. 1998); *In re Welfare of A.D.*, 535 N.W.2d 643, 648 (Minn. 1995); *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012).

d. Rebuttal of presumed palpable unfitness

"[T]he presumption [of palpable unfitness to be a party to the parent-child relationship created by Minn. Stat. § 260C.301, subd. 2(b)(4) when a parent's parental rights to another child have been previously terminated] is easily rebuttable. . . . [T]he parent needs to produce only enough evidence to support a finding that the parent is suitable to be entrusted with the care of the children." *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 137 (Minn. 2014) (quotation omitted); *see also In re Welfare of Child of J.A.K.*, 907 N.W.2d 241, 245 n.1 (Minn. App. 2018) (noting that *R.D.L.* casts doubt on previous court of appeals decisions), *rev. denied* (Minn. Feb. 26, 2018).

> The statutory presumption [of palpable unfitness under Minn. Stat. § 260C.301, subd. 1(b)(4)] is . . . easily rebuttable. The statutory presumption imposes only a burden of production, which means that a parent may rebut the statutory presumption merely by introducing evidence that would justify a finding of fact that the parent is not palpably unfit. In other words, a parent seeking to rebut the statutory presumption needs to produce only enough evidence

> to support a finding that the parent is suitable to be entrusted with the care of the children.
>
> Whether the evidence satisfies the burden of production is determined on a case-by-case basis. When reviewing the parent's evidence, a district court must determine whether the evidence is sufficient to create a genuine issue of fact on the issue of palpable unfitness. If a parent introduces such evidence, the statutory presumption is rebutted and has no further function at the trial. If the statutory presumption has been rebutted, the district court shall find the existence or nonexistence of the alleged palpable unfitness upon all the evidence exactly as if there never had been a presumption at all.
>
> This court applies a *de novo* standard of review to a district court's determination as to whether a parent has rebutted the statutory presumption.

In re Welfare of Child of J.A.K., 907 N.W.2d 241, 245-46 (Minn. App. 2018) (quotations and citations omitted), *rev. denied* (Minn. Feb. 26, 2018).

e. Indian Child Welfare Act & ICWA-related matters

"[T]he application of ICWA to undisputed facts presents a question of law, which we review de novo." *In re Welfare of Child. of R.M.B.*, 735 N.W.2d 348, 351 (Minn. App. 2007), *rev. denied* (Minn. Sept. 26, 2007).

The Indian Child Welfare Act requires that parental rights of Native Americans may be terminated only if supported by "evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent . . . is likely to result in serious emotional or physical damage to the child." *In re Welfare of Chosa*, 290 N.W.2d 766, 769 (Minn. 1980) (citing 25 U.S.C.A. § 1912(f)); *see In re Welfare of Child. of S.R.K.*, 911 N.W.2d 821, 824 & 831 (Minn. 2018) (applying elevated ICWA standard for the termination of parental rights to a non-Indian who was a parent of an Indian child).

The weight and credibility of a qualified expert witness under the Indian Child Welfare Act "are left to the factfinder." *In re Welfare of S.R.K.*, 911 N.W.2d 821, 831 (Minn. 2018).

"'Generally, whether a witness qualifies as an expert is an issue within the discretion of the district court.'" *In re Welfare of Child. of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quoting *In re Welfare of Child. of J.B.,* 698 N.W.2d 160, 166 (Minn. App. 2005) (making this statement in the context of addressing whether

a witness was an expert for ICWA purposes), *review dismissed* (Minn. May 3, 2005)), *rev. denied* (Minn. Mar. 28, 2007).

The de novo standard of review typically applied to a district court's reading of a Minnesota statute also applies to review of a district court's reading of the federal Indian Child Welfare Act. *See In re Welfare of S.R.K.*, 911 N.W.2d 821, 827 (Minn. 2018).

Whether to vacate an order transferring a juvenile protection case to tribal court is reviewed for an abuse of discretion. *See In re Welfare of Child. of R.A.J.*, 769 N.W.2d 297, 303-04 (Minn. App. 2009).

f. Voluntary Termination of Parental Rights

"In general, a voluntary termination order may be rescinded only upon a showing of fraud, duress, or undue influence. When a [district] court's findings in a termination case are challenged, appellate courts are limited to determining whether the findings address the statutory criteria, whether those findings are supported by substantial evidence, and whether they are clearly erroneous. As in all termination cases, our paramount concern is for the child's best interests." *In re Welfare of D.D.G.*, 558 N.W.2d 481, 484 (Minn. 1997) (citations omitted).

Whether to allow a parent to withdraw a voluntary consent to a termination of parental rights is discretionary with the district court. *See In re Welfare of the Child of J.L.L.*, 801 N.W.2d 405, 411 (Minn. App. 2011) (concluding that district court "did not abuse its discretion in allowing [the parent] to withdraw her consent to a voluntary TPR"), *rev. denied* (Minn. July 28, 2011).

"The [district] court's finding of good cause [for a voluntary termination of parental rights] . . . must be upheld if supported by substantial evidence and not clearly erroneous. 'Good cause' under the voluntary termination statute exists under a variety of circumstances. . . . [T]he test is whether [the parent] had sound reasons for consenting at the time of termination—a determination which is not restricted by the existence of cause for *involuntary* termination." *In re Welfare of D.D.G.*, 558 N.W.2d 481, 485-86 (Minn. 1997) (citations omitted).

3. Child in Need of Protection or Services

"On appeal of a juvenile-protection order, we review the juvenile court's factual findings for clear error and its findings of a statutory basis for the order for abuse of discretion." *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015).

"We are . . . bound by a very deferential standard of review [of factual findings on appeal from a district court's CHIPS determination]." *In re Welfare of Child of S.S.W.*, 767 N.W.2d 723, 734 (Minn. App. 2009).

"Findings in a CHIPS proceeding will not be reversed unless clearly erroneous or unsupported by substantial evidence. Under the 'clearly erroneous' portion of this court's review of the district court's findings, a district court's individual fact-findings will not be set aside unless the review of the entire record leaves the court with the definite and firm conviction that a mistake has been made." *In re Welfare of B.A.B.*, 572 N.W.2d 776, 778 (Minn. App. 1998) (quotation and citations omitted); *see In re A.R.M.*, 611 N.W.2d 43, 50 (Minn. App. 2000) (stating "[f]indings in CHIPS proceedings are not reversed unless clearly erroneous or unsupported by substantial evidence").

4. Custody

a. Generally

"[Appellate courts] review the district court's interpretation of the custody statute de novo." *Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019).

"Determining the proper statutory standard to be applied to custody decisions presents a question of law." *Crowley v. Meyer*, 897 N.W.2d 288, 293 (Minn. 2017) (citing *Ayers v. Ayers*, 508 N.W.2d 515, 518 (Minn. 1993)); *see Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (stating that determining the legal standard to be applied to a motion to modify child custody is a legal question).

A district court has broad discretion to provide for the custody of the parties' children. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984); *In re Best Interest of M.R.P.-C.*, 794 N.W.2d 373, 378 (Minn. App. 2011); *see Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019) (noting that "a district court needs great leeway in making a custody decision that serves a child's best interests, in light of each child's unique family circumstance").

> To the extent that a party challenges a district court's findings on factual issues relevant to custody, this court applies a clear-error standard of review. If the facts are not in dispute, we apply an abuse-of discretion standard of review to a district court's award of child custody. A trial court has broad discretion in making custody decisions; there is scant if any room for this court to question a district court's balancing of best-interests considerations.

In re Welfare of C.F.N., 923 N.W.2d 325, 334 (Minn. App. 2018) (citations and internal quotation omitted), *rev. denied* (Minn. Mar. 19, 2019); *see Thornton v. Bosquez*, 933 N.W.2d 781, 794 (Minn. 2019) (stating that "[b]ecause these challenges [to the custody award] turn on a balancing of the best interests of the child, we review the district court's determination for an abuse of discretion").

"Appellate review of custody determinations is limited to whether the [district] court abused its discretion by making findings unsupported by the evidence or by

improperly applying the law." *Pikula v. Pikula*, 374 N.W.2d 705, 710 (Minn. 1985).

"[Appellate courts] review the [district court's] findings [of fact] for clear error, giving deference to the district court's opportunity to evaluate witness credibility and reversing only if we are left with the definite and firm conviction that a mistake has been made." *Thornton v. Bosquez*, 933 N.W.2d 781, 790 (Minn. 2019) (citation and internal quotations omitted); *see* Minn. R. Civ. P. 52.01 (stating that findings of fact are not set aside unless clearly erroneous).

"Even though the [district] court is given broad discretion in determining custody matters, it is important that the basis for the court's decision be set forth with a high degree of particularity." *Durkin v. Hinich*, 442 N.W.2d 148, 151 (Minn. 1989) (quotation omitted).

The law "leaves scant if any room for an appellate court to question the [district] court's balancing of best-interests considerations." *Vangsness v. Vangsness*, 607 N.W.2d 468, 477 (Minn. App. 2000).

A district court's decision regarding whether to order a custody report will not be altered on appeal absent an abuse of discretion. *J.W. by D.W. v. C.M.*, 627 N.W.2d 687, 696 (Minn. App. 2001), *rev. denied* (Minn. Aug. 15, 2001).

"The district court has broad discretion in making child custody, parenting time, and child-support determinations and in deciding whether to grant recusal motions." *Matson v. Matson*, 638 N.W.2d 462, 465 (Minn. App. 2002).

"[A] district court has an affirmative obligation to inquire into whether [the Indian Child Welfare Act] applies to a custody determination when it has reason to believe that the child subject to the determination is an Indian child as defined by the act." *In re Best Interest of M.R.P.-C.*, 794 N.W.2d 373, 379 (Minn. App. 2011); *cf. In re Welfare of Child. of A.J.J.*, 975 N.W.2d 130, 131 (Minn. App. 2022) (stating that "[i]n a termination-of-parental-rights proceeding, a district court may order investigation into whether children involved in that proceeding are Indian children under the Indian Child Welfare Act or the Minnesota Indian Family Preservation Act, notwithstanding a prior ruling in a related child-in-need-of-protection-or-services proceeding that the same children were not Indian children" (syllabus)), *rev. denied* (June 21, 2022).

b. Modification

Whether a proposed modification of parenting time is actually a de facto modification of physical custody is reviewed for an abuse of discretion. *Bayer v. Bayer*, 979 N.W.2d 507, 512 (Minn. App. 2022).

Determining the legal standard to be applied to a motion to modify child custody is a legal question. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022); *see*

Crowley v. Meyer, 897 N.W.2d 288, 293 (Minn. 2017) (stating that "[d]etermining the proper statutory standard to be applied to custody decisions presents a question of law").

On appeal from a district court's denial, without an evidentiary hearing, of motion to modify custody or a motion to restrict parenting time, this court

> review[s] three discrete determinations. First, we review de novo whether the district court properly treated the allegations in the moving party's affidavits as true, disregarded the contrary allegations in the nonmoving party's affidavits, and considered only the explanatory allegations in the nonmoving party's affidavits. Second, we review for an abuse of discretion the district court's determination as to the existence of a prima facie case for the modification or restriction. Finally, we review de novo whether the district court properly determined the need for an evidentiary hearing.

Boland v. Murtha, 800 N.W.2d 179, 185 (Minn. App. 2011); *see Amarreh v. Amerrah*, 918 N.W.2d 228, 230-31 (Minn. App. 2018) (same), *rev. denied* (Minn. Oct. 24, 2018); *Spanier v. Spanier*, 852 N.W.2d 284, 287 (Minn. App. 2014) (same); *see also Woolsey v. Woolsey*, 975 N.W.2d 502, 507 (Minn. 2022) (noting that a movant makes a prima facie case "by alleging facts that, if true, would provide sufficient grounds for modification").

"A district court is required under section 518.18(d) to conduct an evidentiary hearing only if the party seeking to modify a custody order makes a prima facie case for modification." *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008); *see Woolsey v. Woolsey*, 975 N.W.2d 502, 508 (Minn. 2022) (same); *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 292 (Minn. App. 2007) ("Whether a party makes a prima facie case to modify custody is dispositive of whether an evidentiary hearing will occur on the motion. A district court, however, has discretion in deciding whether a moving party makes a prima facie case to modify custody." (citations omitted)).

c. Joint Physical Custody

In determining the nature of a stipulated custody arrangement arrangement as joint custody or sole custody, the label put on the arrangement by the parties and adopted by the district court is binding. *Nolte v. Mehrens*, 648 N.W.2d 727, 730 (Minn. App. 2002). "Although it could be argued that some earlier caselaw indicates that discerning whether a physical-custody award is sole or joint requires an examination of the amount of time the parties spend with their child, [*Ayers v. Ayers*, 508 N.W.2d 515 (Minn. 1993)] and its progeny have superseded such cases." *Id.* at 730 n.3.

d. Removal

"Whether to hold an evidentiary hearing on a motion generally is a discretionary decision of the district court, which we review for an abuse of discretion." *Anh Phuong Le v. Holter*, 838 N.W.2d 797, 800 (Minn. App. 2013) (quoting *Thompson v. Thompson*, 739 N.W.2d 424, 430 (Minn. App. 2007)), *rev. denied* (Minn. Dec. 31, 2013).

"Appellate review of custody modification and removal cases is limited to considering whether the [district] court abused its discretion by making findings unsupported by the evidence or by improperly applying the law. Appellate courts set aside a district court's findings of fact only if clearly erroneous, giving deference to the district court's opportunity to evaluate witness credibility. Findings of fact are clearly erroneous where an appellate court is left with the definite and firm conviction that a mistake has been made." *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (quotations and citations omitted); *see Silbaugh v. Silbaugh*, 543 N.W.2d 639, 641 (Minn. 1996); *Anh Phuong Le v. Holter*, 838 N.W.2d 797, 801 (Minn. App. 2013) (citing and applying *Goldman*), *rev. denied* (Minn. Dec. 31, 2013) *Rutz v. Rutz*, 644 N.W.2d 489, 492-93 (Minn. App. 2002), *rev. denied* (Minn. July 16, 2002).

"Determination of the applicable statutory standard, and the interpretation of statutes, are questions of law that [appellate courts] review de novo." *Anh Phuong Le v. Holter*, 838 N.W.2d 797, 801 (Minn. App. 2013) (quoting *Goldman v. Greenwood*, 748 N.W.2d 279, 282 (Minn. 2008) (citations omitted)), *rev. denied* (Minn. Dec. 31, 2013).

e. Locale/LaChapelle Restrictions

"As a threshold issue, we consider whether the locale restriction in the district court's custody order is valid. Appellate review of custody determinations is limited to whether the district court abused its discretion by making findings unsupported by the evidence or by improperly applying the law. District courts have broad discretion in determining custody matters, and we agree with the recognition of the court of appeals in *Dailey v. Chermak* 'that there is no absolute prohibition under Minnesota law against awarding child custody on the condition of maintaining a specific geographic residence for the child, as long as that residence is shown clearly and genuinely to serve the child's best interests,' 709 N.W.2d 626, 630 (Minn. App. 2006), *rev. denied* (Minn. May 16, 2006)." *Goldman v. Greenwood*, 748 N.W.2d 279, 281-82 (Minn. 2008) (other quotations and citations omitted).

Addressing a district court's ability to place in-state limits on a child's residence, this court has stated:

> The bedrock principle underlying any decision affecting the custody of minor children is that their best interests must be protected and

> fostered. A child's best interests are the fundamental focus of custody decisions. In determining issues of custody and residence under the authority granted in Minn. Stat. § 518.17, subd. 3(a)(2) [(2012)], the district court enjoys broad discretion. The appellate courts will not reverse the district court's custody decision absent a showing of a clear abuse of discretion. The district court abuses its discretion if its findings are clearly erroneous. The court also abuses its discretion if its findings are insufficient to support its custody ruling.

Schisel v. Schisel, 762 N.W.2d 265, 270 (Minn. App. 2009) (citations omitted).

f. Third-Party Custody and Visitation

"Appellate review of custody determinations is generally limited to determining whether the district court has abused its discretion. However, the interpretation and construction of statutes are questions of law that [appellate courts] review de novo." *Lewis-Miller v. Ross*, 710 N.W.2d 565, 568 (Minn. 2006) (citation omitted); *see In re Custody of N.A.K.*, 649 N.W.2d 166, 174 (Minn. 2002) ("District courts have broad discretion to determine matters of custody. Appellate review of custody determinations is limited to whether the district court abused its discretion by making findings unsupported by the evidence or by improperly applying the law. When determining whether findings are clearly erroneous, an appellate court views the record in the light most favorable to the [district] court's findings. As a general matter, appellate courts review questions of law de novo." (citations omitted)).

5. Parenting Time

"In 2000, legislation was passed replacing the term 'visitation' with 'parenting time' and allowing parties to create 'parenting plans.' 2000 Minn. Laws ch. 444, art. 1, §§ 1-8. Minnesota statutes now refer to parenting time, not visitation." *In re Welfare of B.K.P.*, 662 N.W.2d 913, 914 n.1 (Minn. App. 2003); *see Hagen v. Schirmers*, 783 N.W.2d 212, 215 (Minn. App. 2010) (stating "[t]his dispute concerns allocation of parenting time, formerly known as visitation, *see* 2000 Minn. Laws ch. 444, art. 1, §§ 1-8 (changing visitation provisions to parenting-time provisions)").

"Parenting plans must include a number of elements, one of which is a schedule of the time each parent spends with a child." *In re Welfare of B.K.P.*, 662 N.W.2d 913, 914 n.1 (Minn. App. 2003).

The district court has broad discretion in deciding parenting-time questions and will not be reversed absent an abuse of discretion. *Shearer v. Shearer*, 891 N.W.2d 72, 75 (Minn. App. 2017); *Olson v. Olson*, 534 N.W.2d 547, 550 (Minn. 1995); *Matson v. Matson*, 638 N.W.2d 462, 465 (Minn. App. 2002); *Braith v. Fischer*, 632 N.W.2d 716, 721 (Minn. App. 2001), *rev. denied* (Minn. Oct. 24, 2001).

"Reversible abuses of discretion include misapplying the law or relying on findings of fact that are not supported by the record." *Shearer v. Shearer*, 891 N.W.2d 72, 75 (Minn. App. 2017) (quotation and citation omitted); *see Hagen v. Schirmers*, 783 N.W.2d 212, 215 (Minn. App. 2010) (citing *Pikula v. Pikula*, 374 N.W.2d 705, 710 (Minn. 1985)).

A district court's findings of fact, on which a parenting-time decision is based, will be upheld unless they are clearly erroneous. *Griffin v. Van Griffin*, 267 N.W.2d 733, 735 (Minn. 1978).

"Determining the legal standard applicable to a change in parenting time is a question of law and is subject to de novo review." *Dahl v. Dahl*, 765 N.W.2d 118, 123 (Minn. App. 2009); *see Shearer v. Shearer*, 891 N.W.2d 72, 76 (Minn. App. 2017).

"It is well established that the ultimate question in all disputes over visitation is what is in the best interest of the child." *Clark v. Clark*, 346 N.W.2d 383, 385 (Minn. App. 1984), *rev. denied* (Minn. June 12, 1984).

"If modification would serve the best interests of the child, the court shall modify ... an order granting or denying parenting time, if the modification would not change the child's primary residence. Appellate courts recognize that a district court has broad discretion to decide parenting-time questions, and will not reverse a parenting-time decision unless the district court abused its discretion by misapplying the law or by relying on findings of fact that are not supported by the record. On appeal, findings of fact are accepted unless they are clearly erroneous." *Suleski v. Rupe*, 855 N.W.2d 330, 334 (Minn. App. 2014) (citations and quotations omitted).

"Substantial modifications of visitation rights require an evidentiary hearing when, by affidavit, the moving party makes a prima facie showing that visitation is likely to endanger the child's physical or emotional well being. Insubstantial modifications or adjustments of visitation, on the other hand, do not require an evidentiary hearing and are appropriate if they serve the child's best interests." *Braith v. Fischer*, 632 N.W.2d 716, 721 (Minn. App. 2001) (citations omitted), *rev. denied* (Minn. Oct. 24, 2001).

6. Child Support

Note: Before the effective date of the 2006 amendments of the child-support statutes, child support was governed by the child-support guidelines of Minn. Stat. § 518.551, related provisions in chapter 518, and associated caselaw. Many of the cases cited below involve review of child-support decisions made under those child-support guidelines, related statutes, and their predecessors. In 2006, the child-support guidelines were replaced by the income-shares child-support calculations, and most of the child-support-related statutes were removed from chapter 518 and codified in what is now chapter 518A. Generally, the provisions of the 2006 amendments of the child-support statutes became effective January 1, 2007, with the new provisions applying to all child-support orders in effect before January 1, 2007, except that (a) "[t]he provisions [of the new statute] used to calculate [the] parties' [child] support obligations apply to actions or motions filed after January 1, 2007"; and (b) the provisions of the statute "used to calculate [the] parties' support obligations

apply to actions or motions for past support or reimbursement filed after January 1, 2007." 2006 Minn. Laws ch. 280, § 44, at 1145. *See generally*, *In re Dakota County*, 866 N.W.2d 905, 909-11 (Minn. 2015) (summarizing the calculation of child support under the new statute).

a. In General

The district court has broad discretion to provide for the support of the parties' children. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). A district court abuses its discretion when it sets support in a manner that is against logic and the facts on record or it misapplies the law. *See id.* (addressing the setting of support in manner that is against logic and facts on record); *Ver Kuilen v. Ver Kuilen*, 578 N.W.2d 790, 792 (Minn. App. 1998) (addressing an improper application of law).

Questions of interpreting the child-support statutes are reviewed "de novo[,]" and "[t]he purpose of all statutory interpretation is to ascertain and effectuate the intention of the Legislature. When the statutory language is plain and unambiguous, we will look only to that language in ascertaining legislative intent. Therefore, we begin our analysis with the language of the child-support statutes." *Haefele v. Haefele*, 837 N.W.2d 703, 708 (Minn. 2013) (citations omitted); *see Beckendorf v. Fox*, 890 N.W.2d 746, 749 (Minn. App. 2017) (quoting this aspect of *Haefele*).

"A court's determination of income must be based in fact and will stand unless clearly erroneous." *Newstrand v. Arend*, 869 N.W.2d 681, 685 (Minn. App. 2015) (quotation omitted), *rev. denied* (Minn. Dec. 15, 2015).

Whether a source of funds is considered to be income for child-support purposes is a legal question reviewed de novo. *Sherburne Cnty. Soc. Servs. ex rel. Schafer v. Riedle*, 481 N.W.2d 111, 112 (Minn. App. 1992).

Whether distributions from subchapter-S corporations should be treated as income for child-support purposes is generally treated as a question of fact. *Williams v. Williams*, 635 N.W.2d 99, 103 (Minn. App. 2001).

An appellate court will not reverse a district court's decision denying additional child support under Minn. Stat. § 256.87 absent an abuse of discretion. *Ver Kuilen v. Ver Kuilen*, 578 N.W.2d 790, 792 (Minn. App. 1998). It is an abuse of discretion when the district court improperly applies the law to the facts. *Id.* (citing *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988)).

Whether to require a child-support obligor to provide life insurance on the obligor's life to insure his or her support obligation is discretionary with the district court. *Hunley v. Hunley*, 757 N.W.2d 898, 900-01 (Minn. App. 2008).

Allocation of federal-tax exemptions is discretionary with the district court. *Ludwigson v. Ludwigson*, 642 N.W.2d 441, 449 (Minn. App. 2002).

Interpreting the parenting-expense-adjustment statute "is a legal issue reviewed de novo." *Hesse v. Hesse*, 778 N.W.2d 98, 102 (Minn. App. 2009); *see Nelson v. Nelson*, 983 N.W.2d 923, 928-29 (Minn. App. 2022) (addressing the parenting time expense adjustment after its 2016 amendment).

"Whether a parent is voluntarily unemployed is a finding of fact, which we review for clear error." *Welsh v. Welsh*, 775 N.W.2d 364, 370 (Minn. App. 2009); *see Newstrand v. Arend*, 869 N.W.2d 681, 685 (Minn. App. 2015) (quoting this aspect of *Welsh*), *rev. denied* (Minn. Dec. 15, 2015).

b. Child Support Magistrates

On appeal from a child-support magistrate's order which has not been reviewed by the district court, this court uses the same standard to review issues as would be applied if the order had been issued by a district court. *Hesse v. Hesse*, 778 N.W.2d 98, 102 (Minn. App. 2009); *Brazinsky v. Brazinsky*, 610 N.W.2d 707, 710 (Minn. App. 2000); *see Putz v. Putz*, 645 N.W.2d 343, 348 (Minn. 2002) (stating, in a case in which the CSM's ruling was not reviewed by the district court, that the supreme court had "never addressed" the question of the proper standard for reviewing a CSM's decision but nonetheless applied an abuse-of-discretion standard, noting that "the court of appeals applied the abuse of discretion standard and the parties agree that it is the appropriate standard of review").

If there is district-court review of a child-support magistrate's decision, "[t]he district court reviews the CSM's decision de novo." *Davis v. Davis*, 631 N.W.2d 822, 825 (Minn. App. 2001).

"[T]o the extent the reviewer of the CSM's original decision affirms the CSM's original decision, that original decision becomes the decision of the reviewer." *Kilpatrick v. Kilpatrick*, 673 N.W.2d 528, 530 n.2 (Minn. App. 2004).

On appeal from a child support magistrate's ruling that has been affirmed by the district court, the standard of review is the same standard as would have been applied if the decision had been made by a district court in the first instance. *Ludwigson v. Ludwigson*, 642 N.W.2d 441, 445-46 (Minn. App. 2002).

"Failure to submit a transcript to the district court for review of the CSM's decision precludes consideration of the transcript on appeal because the transcript is not part of the record on appeal." *Davis v. Davis*, 631 N.W.2d 822, 826 (Minn. App. 2001).

c. Modification of Child Support

Whether to modify child support is within the broad discretion of the district court. *Shearer v. Shearer*, 891 N.W.2d 72, 77 (Minn. App. 2017); *see Haefele v. Haefele*, 837 N.W.2d 703, 708 (Minn. May 29, 2013) (stating that, generally, appellate courts review orders modifying child support "for abuse of discretion"). A district

court abuses its discretion if its decision is based on a misapplication of the law, is contrary to the facts, or is contrary to logic. *Shearer*, 891 N.W.2d at 77.

A district court has discretion to set the effective date of a child-support modification. *Finch v. Marusich*, 457 N.W.2d 767, 770 (Minn. App. 1990); *see Bauerly v. Bauerly*, 765 N.W.2d 108, 111 (Minn. App. 2009) (same).

"[M]odification of support is generally retroactive to the date the moving party served notice of the motion on the responding party[,]" and when no statutory exception to the general rule applied and there was no indication that the district court had exercised its discretion to make a child-support modification effective as of some other date, modification would be effective as of the date the motion was served. *Bormann v. Bormann*, 644 N.W.2d 478, 482-83 (Minn. App. 2002).

7. Parentage/Adoption/Name Change

a. Parentage

Interpretation of the Minnesota Parentage Act is a question of law that appellate courts review de novo. *In re Petition of M.J.R & C.L.R. to Adopt D.J.R.*, 948 N.W.2d 147, 149 (Minn. App. 2020); *County of Dakota v. Blackwell*, 809 N.W.2d 226, 228 (Minn. App. 2011); *Dorman v. Steffen*, 666 N.W.2d 409, 411 (Minn. App. 2003).

Interpretation of Minn. Stat. § 257.75, regarding recognitions of parentage, is a question of law that appellate courts review de novo. *T.G.G. v. H.E.S. & A.F.K.*, 946 N.W.2d 309, 315 (Minn. 2020).

When the district court granted the motion of adoptive parents to dismiss a biological father's parentage proceeding because the biological father failed to state a claim on which relief could be granted, the supreme court stated:

> Because the district court took notice of matters outside of the pleadings, we treat the court's decision as an entry of summary judgment for Adoptive Parents. Accordingly, we review the district court's decision de novo and examine the evidence in the light most favorable to the party against whom summary judgment was granted, here, Father.

T.G.G. v. H.E.S. & A.F.K., 946 N.W.2d 309, 314 (Minn. 2020) (citation, footnote, and internal quotations omitted).

"This court applies a *de novo* standard of review to a district court's determination that a party has standing to bring a paternity action." *In re Welfare of C.F.N.*, 923 N.W.2d 325, 329 (Minn. App. 2018); *see Zentz v. Graber*, 760 N.W.2d 1, 4 (Minn.

App. 2009) (stating that standing to bring a paternity action is "an issue of statutory interpretation reviewed de novo") *rev. denied* (Minn. Mar. 31, 2009); *see also Richards v. Reiter*, 796 N.W.2d 509, 512 (Minn. 2011); *Witso v. Overby*, 627 N.W.2d 63, 65-66 (Minn. 2001).

b. Adoption

> When reviewing a district court's dismissal of a motion for adoptive placement without an evidentiary hearing, we review de novo whether the district court properly treated the parties' supporting documents, which must be accepted as true. But we review the district court's determination of whether appellants established a prima facie showing for an abuse of discretion. Finally, we review de novo whether the district court properly determined the need for an evidentiary hearing.

In re Welfare of Child. of J.L.G., 924 N.W.2d 9, 15 (Minn. App. 2018) (citations omitted).

On appeal from a district court's dismissal, without an evidentiary hearing, of a motion for adoptive placement, the court of appeals adopted the standard of review applicable to the denial, without an evidentiary hearing, of a motion to modify custody, stating:

> Applying the custody-modification standard, we first review de novo whether the district court properly treated the parties' supporting documents. The district court must accept facts in appellants' supporting documents as true, disregard contrary allegations, and consider the non-moving party's supporting documents only to the extent that they explain or provide context. Second, we review the district court's determination of whether appellants established a prima facie case for abuse of discretion. Third, we review de novo whether the district court properly determined the need for an evidentiary hearing. Whether a party makes a prima facie case ... is dispositive of whether an evidentiary hearing will occur....

In re Welfare of Child. of L.L.P., 836 N.W.2d 563, 570 (Minn. App. 2013) (citations and quotation omitted).

Appellate courts review a district court's decision of whether to grant an adoption petition for an abuse of discretion. *In re S.G.*, 828 N.W.2d 118, 125-26 (Minn.

2013). When doing so, the appellate court recognizes both the substantial latitude conferred on the district court by the statutory and best-interests factors involved in addressing whether a particular adoption should be by a relative or nonrelative, and that a district court's exercise of its discretion must be supported by findings showing that the child's best interests are being served. *Id.*

An appellant's "fail[ure] to challenge" the district court's "independent, procedural basis" for its ruling granting an adoption was "fatal to her appeal." *In re Adoption of T.A.M.*, 791 N.W.2d 573, 577 (Minn. App. 2010).

c. Name Change

In the context of construing Minn. Stat. §§ 259.10-13, which "govern the procedure for seeking a change of name from the district court[,]" the supreme court stated that "[q]uestions of statutory interpretation are reviewed de novo." *In re Application of J.M.M.*, 937 N.W.2d 743, 747 (Minn. 2020).

"We review a district court's grant of a request to change a child's name for abuse of discretion. A district court abuses its discretion when evidence in the record does not support the factual findings, the court misapplied the law, or the court settles a dispute in a way that is against logic and the facts on record." *Foster v. Foster*, 802 N.W.2d 755, 756 (Minn. App. 2011) (citation and quotation omitted).

Questions of interpreting the name-change statutes are reviewed "de novo[,]" and

> [t]he goal of statutory interpretation is to ascertain the intention of the legislature. We read and interpret the statute as a whole. When the plain language of the statute is unambiguous, the letter of the law shall not be disregarded under the pretext of pursuing the spirit. A statute is ambiguous if it is susceptible to more than one reasonable meaning. If we determine that the statute is ambiguous, we apply other canons of construction to discern the legislature's intent.

In re Application of J.M.M., 890 N.W.2d 750, 753 (Minn. App. 2017) (citations and quotations omitted).

E. ATTORNEY FEES

1. Need-Based Attorney Fees

In the context of reviewing a need-based award of attorney fees, the Minnesota Supreme Court has stated: "The standard of review for an appellate court examining an award of attorney fees is whether the district court abused its discretion." *Gully v. Gully*, 599 N.W.2d 814, 825 (Minn. 1999). *But cf.* Minn. Stat. §§ 518.14, subd. 1 (stating that district

court "shall" award need-based attorney fees if statutory requirements are met), 645.44, subd. 16 (stating that shall is mandatory); *Holmberg v. Holmberg*, 588 N.W.2d 720, 727 (Minn. 1999) (stating that Minn. Stat. § 518.14, subd. 1, "requires the court to award attorney fees if the fees are necessary to allow a party to continue an action brought in good faith, the party from whom fees are requested has the means to pay the fees, and the party seeking fees cannot pay the fees"). *See generally Muschik v. Conner-Muschik*, 920 N.W.2d 215, 225 (Minn. App. 2018) (stating that "[a] district court must award attorney fees and costs" if the statutory requirements are met); *Geske v. Marcolina*, 624 N.W.2d 813, 817 n.1 & 816-19 (Minn. App. 2001) (addressing 1990 amendments to Minn. Stat. § 518.14, as well as recovery of attorney fees under Minn. Stat. § 518.14, subd. 1, in both district court and appellate court).

"When an attorney-fee award turns on the construction and application of a statute, it presents a question of law, which is reviewed de novo." *Sanvick v. Sanvick*, 850 N.W.2d 732, 737 (Minn. App. 2014).

2. Conduct-Based Attorney Fees

Conduct-based fee awards "are discretionary with the district court." *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 295 (Minn. App. 2007); *see also* Minn. Stat. §§ 518.14, subd. 1 (stating that conduct-based fees "may" be awarded against a party who unreasonably contributes to the length or expense of the proceeding), 645.44, subd. 15 (stating that may is permissive); *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010) (stating, in context of reviewing conduct-based award of attorney fees, that "[a]mong other ways, a district court abuses its discretion if it acts against logic and the facts on record, or if it enters fact findings that are unsupported by the record, or if it misapplies the law") (quotations and citations omitted)).

NOTE: In its August 6, 2018 order in *Anderson v. Anderson* (No. A16-2006), the supreme court awarded attorney fees on its own authority but did so after discussing conduct-based attorney fees and Minn. Stat. §518.14, subd. 1. *See Madden v. Madden*, 923 N.W.2d 688, 702 (Minn. App. 2019) (mentioning the *Anderson* order).

F. CONTEMPT

In reviewing a district court's decision whether to hold a party in contempt, the factual findings are subject to reversal only if they are clearly erroneous, while the district court's decision to invoke its contempt powers is subject to reversal only for an abuse of discretion. *Mower Cnty. Human Servs. ex rel. Swancutt v. Swancutt*, 551 N.W.2d 219, 222 (Minn. 1996).

"'Th[e contempt] power gives the trial court inherently broad discretion to hold an individual in contempt but only where the contemnor has acted contumaciously, in bad faith, and out of disrespect for the judicial process.' . . . 'The district court's decision to invoke its contempt powers is subject to reversal for abuse of discretion.'" *Newstrand v. Arend*, 869 N.W.2d 681, 691 (Minn. App. 2015) (quoting *Erickson v. Erickson,* 385 N.W.2d 301, 304 (Minn. 1986) (quotation omitted) and *In re Welfare of Child. of J.B.,* 782 N.W.2d 535, 538 (Minn. 2010)).

In reviewing a contempt order, appellate courts consider whether the order "was arbitrary and unreasonable or whether it finds support in the record." *Gustafson v. Gustafson*, 414 N.W.2d 235, 237 (Minn. App. 1987) (quotation omitted).

"The district court has broad discretion to hold an individual in contempt. This court reviews a district court's decision to invoke its contempt power under an abuse-of-discretion standard." *Crockarell v. Crockarell*, 631 N.W.2d 829, 833 (Minn. App. 2001) (citation omitted), *rev. denied* (Minn. Oct. 16, 2001).

G. PROTECTIVE ORDERS

1. Harassment Restraining Orders (HROs)

"Ultimately, the issuance of an HRO is reviewed for abuse of discretion." *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008).

Appellate courts "review the denial of a hearing for an HRO for an abuse of discretion." *Houck v. Houck*, 979 N.W.2d 907, 910 (Minn. App. 2022); *see Houck*, 979 N.W.2d at 911 (stating that "when presented with an HRO petition, a district court abuses its discretion when it does not hold a requested hearing unless it determines that the petition is without merit").

The district court exercises its discretion in issuing a harassment restraining order. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), *rev. denied* (Minn. Sept. 29, 2004).

2. Domestic Abuse Orders for Protection (OFPs)

"[Appellate courts] review the decision to grant an OFP for an abuse of discretion. 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." *Thompson v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018) (quotation and citation omitted). On appeal from a district court's decision regarding whether to grant an OFP, "[a]n appellate court will 'neither reconcile conflicting evidence nor decide issues of witness credibility.'" *Aljubailah v. James*, 903 N.W.2d 638, 643 (Minn. App. 2017) (quoting *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004)); *see Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009); *see also In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (discussing, in detail, the clear error standard of review); *Butler v. Jakes*, 977 N.W.2d 867, 871-72 (Minn. App. 2022) (applying *Kenney* in an OFP appeal).

"Whether to grant relief under the Domestic Abuse Act (Minn. Stat. ch. 518B) is discretionary with the district court." *McIntosh v. McIntosh*, 740 N.W.2d 1, 9 (Minn. App. 2007); *see Braend ex rel. Minor Child. v. Braend*, 721 N.W.2d 924, 926-27 (Minn. App. 2006).

"Rulings [in domestic abuse proceedings] on the admissibility of evidence lie within the district court's discretion, and this court will not disturb an evidentiary ruling unless it is

based on an erroneous view of the law or is an abuse of that discretion." *Aljubailah v. James*, 903 N.W.2d 638, 644 (Minn. App. 2017).

"The manner and scope of cross-examination is left to the discretion of the [district] court, and this court will reverse that determination only if the district court abused its discretion." *Aljubailah v. James*, 903 N.W.2d 638, 644 (Minn. App. 2017) (making this statement in a domestic abuse appeal) (quotation omitted).

"'A district court abuses its discretion if its findings are unsupported by the record or if it misapplies the law.'" *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 98 (Minn. App. 2009) (quoting *Braend ex rel. Minor Child. v. Braend*, 721 N.W.2d 924, 926-27 (Minn. App. 2006)); *see Sperle v. Orth*, 763 N.W.2d 670, 672-73 (Minn. App. 2009).

Absent sufficient evidence, we will reverse an order for protection issued under Minn. Stat. § 518B.01. *Bjergum v. Bjergum*, 392 N.W.2d 604, 606-07 (Minn. App. 1986).

When addressing whether to grant an order for protection, "'[t]he admission of evidence rests within the broad discretion of the [district] court and its ruling will not be disturbed unless it is based on an erroneous view of the law or constitutes an abuse of discretion.'" *Olson on behalf of A.C.O. v. Olson*, 892 N.W.2d 837, 841 (Minn. App. 2017) (quoting *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45-46 (Minn. 1997)).

"The Domestic Abuse Act, as a remedial statute, receives liberal construction but it 'may not be expanded in a way that does not advance its remedial purpose.'" *Sperle v. Orth*, 763 N.W.2d 670, 673 (Minn. App. 2009) (quoting *Swenson v. Swenson*, 490 N.W.2d 668, 670 (Minn. App. 1992)).

Whether to grant an injunction is discretionary with the district court and its decision will not be altered on appeal unless the record shows that the district court abused its discretion. *Geske v. Marcolina*, 642 N.W.2d 62, 67 (Minn. App. 2002).

H. OTHER

1. Construction of statutes

"Interpreting a statute is a question of law, which we review de novo. The first step in statutory interpretation is to determine whether the statute is ambiguous on its face. A statute is ambiguous when the statutory language is subject to more than one reasonable interpretation. In order to determine whether a statute is ambiguous, we interpret words and phrases according to their plain and ordinary meanings. Additionally, we interpret statutes as a whole, and the words and sentences therein are to be understood in the light of their context. Multiple parts of a statute may be read together so as to ascertain whether the statute is ambiguous. If a statute is unambiguous, we apply the statute's plain meaning." *In re Dakota County*, 866 N.W.2d 905, 909 (Minn. 2015) (construing child support statutes) (citations and quotations omitted).

"The interpretation of a statute is a matter we review de novo. If the plain language of a statute is clear and free from ambiguity, the court's role is to enforce the language of the statute and not explore the spirit or purpose of the law." *Nelson v. Nelson*, 866 N.W.2d 901, 903 (Minn. 2015) (addressing statute regarding the division of property) (citation and quotation omitted); *see Dahlin v. Kroening*, 796 N.W.2d 503, 508 (Minn. 2011) (stating that "[w]hen interpreting the statutes, it is our role to rely on what the Legislature intended over what may appear to be supported by public policy").

"The applicability of a statute is an issue of statutory interpretation, which appellate courts review de novo." *Ramirez v. Ramirez*, 630 N.W.2d 463, 465 (Minn. App. 2001).

"Application of a statute to the undisputed facts of a case involves a question of law, and the district court's decision is not binding on this court." *Branch v. Branch*, 632 N.W.2d 261, 263 (Minn. App. 2001).

2. Construction of caselaw & procedural rules

"The interpretation of . . . case law is . . . reviewed de novo." *Richards v. Reiter*, 796 N.W.2d 509, 512 (Minn. 2011); *see Wolf v. Ostreich*, 956 N.W.2d 248, 253 (Minn. App. 2021), *rev. denied* (Minn. May 18, 2021); *Haefele v. Haefele*, 621 N.W.2d 758, 761 (Minn. App. 2001), *rev. denied* (Minn. Feb. 21, 2001).

"The interpretation of procedural rules, including the Rules of Civil Appellate Procedure, presents a question of law that we review de novo." *Crowley v. Meyer*, 897 N.W.2d 288, 292 (Minn. 2017); *see Clark v. Clark*, 642 N.W.2d 459, 464 (Minn. App. 2002) (stating that "[i]nterpretation and application of procedural rules are legal issues that are reviewed de novo").

3. Mediated settlement agreements

> We will set aside a district court's factual findings [regarding mediated settlement agreements] only if they are clearly erroneous, and we give deference to the court's opportunity to evaluate witness credibility. Factual findings are clearly erroneous when they are manifestly against the weight of the evidence or not reasonably supported by the evidence as a whole. When determining whether the district court's findings are clearly erroneous, we view the record in the light most favorable to the court's findings. The question of whether a mediated settlement is enforceable presents a question of law, which we review de novo.

Tornstrom v. Tornstrom, 887 N.W.2d 680, 683-84 (Minn. App. 2016) (citations omitted), *rev. denied* (Minn. Feb. 14, 2017).

4. Putative spouses

"Whether a person is a putative spouse is a question of fact[,]" the district court's resolution of which will not be set aside unless, upon review of the record, the appellate court is left with a definite and firm conviction that a mistake has been made. *Xiong v. Xiong*, 800 N.W.2d 187, 191 (Minn. App. 2011) (quotation omitted), *rev. denied* (Minn. Aug. 16, 2011).

To be a putative spouse under Minn. Stat. § 518.055, a person must have a good faith but incorrect belief that he or she is a spouse. In Minnesota, the existence of a "good faith" belief is judged subjectively while the existence of a "reasonable belief" is measured objectively. Thus, whether a person is a putative spouse under Minn. Stat. § 518.055 is measured subjectively. *Xiong v. Xiong*, 800 N.W.2d 187, 191 (Minn. App. 2011), *rev. denied* (Minn. Aug. 16, 2011).

5. Other

An appellant's "fail[ure] to challenge" the district court's "independent, procedural basis" for its ruling granting an adoption was "fatal to her appeal." *In re Adoption of T.A.M.*, 791 N.W.2d 573, 577 (Minn. App. 2010).

"[Appellate courts] review as-applied challenges to the constitutionality of statutes de novo." *Newstrand v. Arend*, 869 N.W.2d 681, 687 (Minn. App. 2015) (quoting *Schatz v. Interfaith Care Ctr.,* 811 N.W.2d 643, 657 (Minn. 2012)), *rev. denied* (Minn. Dec. 15, 2015).

"'Determination of the applicable statutory standard and the interpretation of statutes are questions of law that we review de novo.'" *Christensen v. Healey*, 913 N.W.2d 437, 440 (Minn. 2018) (quoting *Goldman v. Greenwood*, 748 N.W.2d 279, 282 (Minn. 2008)).

"Whether [a premarital agreement] is procedurally fair is a mixed question of law and fact. For the facts, we rely on the findings of the district court, which we will not overturn unless they are clearly erroneous." *Kremer v. Kremer*, 912 N.W.2d 617, 627 (Minn. 2018).

"Whether res judicata is available in a particular case is a question reviewed de novo." *Sanvick v. Sanvick*, 850 N.W.2d 732, 737 (Minn. App. 2014).

"This court reviews de novo whether the doctrines of res judicata or collateral estoppel apply to a given set of facts." *Mower County Human Servs. v. Graves*, 611 N.W.2d 386, 388 (Minn. App. 2000).

"Factual disputes regarding the adequacy of notice are reviewed for clear error, while the legal adequacy of any notice that may have been given is reviewed de novo." *Cook v. Arimitsu*, 907 N.W.2d 233, 240 (Minn. App. 2018), *rev. denied* (Minn. Apr. 17, 2018).

"Whether service of process was proper is a question of law that we review de novo." *Ayala v. Ayala*, 749 N.W.2d 817, 819 (Minn. App. 2008).

Appellate courts defer to district court credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *see Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (stating that, on appeal, appellate courts "neither reconcile conflicting evidence nor decide issues of witness credibility, which are exclusively the province of the factfinder").

Procedural and evidentiary rulings are within the district court's discretion and are reviewed for an abuse of that discretion. *Braith v. Fischer*, 632 N.W.2d 716, 721 (Minn. App. 2001), *rev. denied* (Minn. Oct. 24, 2001).

"Among other ways, a district court abuses its discretion if it acts against logic and the facts on record, or if it enters fact findings that are unsupported by the record, or if it misapplies the law." *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010) (quotations and citations omitted).

"[W]e review de novo the question of whether federal law preempts state law." *Angell v. Angell*, 791 N.W.2d 530, 534 (Minn. 2010).

"Although some accommodations may be made for pro se litigants, this court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules." *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001).

"Permissive intervention rulings are reviewed under an abuse-of-discretion standard." *J.W. by D.W. v. C.M.*, 627 N.W.2d 687, 691 (Minn. App. 2001), *rev. denied* (Minn. Aug. 15, 2001).

If a district court has authority to vacate an order allowing transfer of a juvenile-protection case to tribal court, whether to do so is discretionary with the district court. *See In re Welfare of Child. of R.A.J.*, 769 N.W.2d 297, 304 (Minn. App. 2009) (concluding, on appeal from an order vacating a transfer of a juvenile-protection case to tribal court, "that the district court did not abuse its discretion by vacating the transfer order").

"Uniform laws are interpreted to effect their general purpose to make uniform the laws of those states that enact them. Accordingly, we give great weight to other states' interpretations of a uniform law." *Johnson v. Murray*, 648 N.W.2d 664, 670 (Minn. 2002) (citation omitted); *see* Minn. Stat. § 645.22 .

III. CIVIL – PROBATE

A. GENERALLY

> An appellate court reviews a district court's findings of fact concerning wills and trusts under a clearly erroneous standard and reviews a district court's conclusions of law de novo. Findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made. However, when reviewing mixed questions of law and fact, we correct erroneous applications of law, but accord the district court discretion in its ultimate conclusions and review such conclusions under an abuse of discretion standard.

In re Est. of Short, 933 N.W.2d 533, 537 (Minn. App. 2019) (citations and quotations omitted).

B. WILLS

1. Interpretation/Construction

"We review a district court's construction of an unambiguous instrument de novo. But where critical evidence in the case turns on extrinsic language about the testator's intent and disputed expert opinions about the language of the instrument, a 'clearly erroneous' standard of review applies." *In re Est. & Trust of Anderson*, 654 N.W.2d 682, 687 (Minn. App. 2002) (citation omitted), *rev. denied* (Minn. Feb. 26, 2003); *see In re Est. of Zych*, 983 N.W.2d 466, 472 (Minn. App. 2022) (stating that "[appellate courts] apply a *de novo* standard of review to both the interpretation of an unambiguous will and to the meaning and application of a statute").

"Whether a will is ambiguous is a question of law that this court reviews de novo." *In re Trust of Shields*, 552 N.W.2d 581, 582 (Minn. App. 1996), *rev. denied* (Minn. Oct. 29, 1996).

2. Findings of Fact

"On appeal from a probate court's decision after a trial without a jury, findings of fact will be disturbed only if clearly erroneous." *In re Est. of Torgersen*, 711 N.W.2d 545, 550 (Minn. App. 2006), *rev. denied* (Minn. June 20, 2006).

a. Undue influence

"The trial court's findings on undue influence are not to be set aside unless clearly erroneous." *In re Est. of Larson*, 394 N.W.2d 617, 620 (Minn. App. 1986), *rev. denied* (Minn. Dec. 12, 1986).

"Like the question of mental capacity, the question of undue influence is usually one of fact, of which the Supreme Court has only the limited review of inquiring as

to the sufficiency of the evidence to sustain the conclusion reached." *Borstad v. Ulstad*, 45 N.W.2d 828, 832 (Minn. 1951).

b. Lack of testamentary capacity

"The fact-finding function in cases of testamentary capacity is in the trial court. In a case such as this, where the weight of the evidence depends in a large measure upon the appearance and interest of the witnesses, the trial court is peculiarly qualified to discharge the factfinding function. Under well-settled rules, the trial court's finding upon this fact issue is binding upon us if such finding is not clearly and manifestly against the evidence." *In re Est. of Rasmussen*, 69 N.W.2d 630, 634 (Minn. 1955) (citation omitted).

"[W]here the evidence as to testamentary capacity is conflicting the findings of the trial court with respect to that question are final on appeal." *Borstad v. Ulstad*, 45 N.W.2d 828, 832 (Minn. 1951).

c. Execution

"Whether a will is executed in a manner prescribed by statute is a question of fact." *In re Est. of Sullivan*, 868 N.W.2d 750, 752 (Minn. App. 2015).

3. Appointment/Removal of Personal Representative

"The district court has discretion to determine suitability of a personal representative, and that determination will not be reversed absent an abuse of discretion. This court will not reverse the district court's determination regarding removal of a personal representative unless the district court clearly abused its discretion by disregarding the facts." *In re Est. of Martignacco*, 689 N.W.2d 262, 269 (Minn. App. 2004) (citation omitted), *rev. denied* (Minn. Jan. 26, 2005).

4. Claims Against Estate

"A court may allow a claim to be filed against an estate after the expiration of the statutory filing time if the creditor can show good cause. The trial court has broad discretion to determine whether good cause exists, and its finding will not be disturbed unless clearly erroneous." *In re Est. of Thompson*, 484 N.W.2d 258, 261 (Minn. App. 1992) (citation omitted).

"The issue of which statute [addressing settlement of claims against an estate] controls is a question of law which we review de novo." *In re Est. of Johnson*, 878 N.W.2d 510, 513 (Minn. App. 2016).

"We review a district court's approval of a compromise [of a claim against an estate] effected by a personal representative for an abuse of discretion." *In re Est. of Johnson*, 878 N.W.2d 510, 514 (Minn. App. 2016).

5. Expenses/Attorney Fees

"The standard of review for an appellate court examining an award of attorney fees and costs is whether the district court abused its discretion." *In re Est. of Martignacco*, 689 N.W.2d 262, 271 (Minn. App. 2004) (quotation omitted), *rev. denied* (Minn. Jan. 26, 2005).

"This court reviews a district court's award or denial of attorney fees on an abuse-of-discretion standard." *In re Estate & Trust of Anderson*, 654 N.W.2d 682, 688 (Minn. App. 2002), *rev. denied* (Minn. Feb. 26, 2003).

6. Other

Unless inconsistent with chapter 524 or chapter 525, pleadings, practice, procedure, and forms in probate cases are governed, as far practicable, by the rules of civil procedure. Under the civil rules, appellate courts review factual disputes regarding the adequacy of notice for clear error but review de novo the legal adequacy of any notice that may have been given. *In re Est. of King*, 992 N.W.2d 410, 416 (Minn. App. 2023).

"When reviewing mixed questions of law and fact, we correct erroneous applications of law, but accord the district court discretion in its ultimate conclusions and review such conclusions under an abuse of discretion standard." *In re Est. of Sullivan*, 868 N.W.2d 750, 754 (Minn. App. 2015) (quotation omitted).

Regarding review of a district court's decision to grant a temporary injunction in a dispute over the administration of a will, this court stated:

> Generally, the district court has discretion to grant or deny an injunction, and its action will not be disturbed on appeal unless, based on the record as a whole, it appears there has been an abuse of such discretion. A district court abuses its discretion when its decision is contrary to the record or is based on an erroneous view of the law.

In re Est. of Nelson, 936 N.W.2d 897, 910 (Minn. App. 2019) (citations omitted).

When, in a dispute about the administration of a will, a party asked the panel hearing the merits of an appeal to re-address a matter previously addressed in an order issued by a special term panel, the panel hearing the merits of the appeal declined, stating:

> Minn. R. Civ. App. P. 140.01 states that "[n]o petition for rehearing shall be allowed in the Court of Appeals." And this court has applied rule 140.01 to foreclose reconsideration of issues previously decided at special term when later considering the merits of the appeal. *See State ex rel. Leino v. Roy*, 910 N.W.2d 477, 481–82 (Minn. App. 2018) (declining to "reconsider this court's prior order regarding the commissioner's mootness challenge"); *see also Sangren*, 504

> N.W.2d at 788 n.1 (declining to consider issue previously addressed by this court at special term).

In re Est. of Nelson, 936 N.W.2d 897, 910 (Minn. App. 2019).

C. TRUSTS

1. Interpretation/Construction

Appellate courts "review de novo a district court's interpretation of a written document, which in this case is the Trust Agreement." *In re Stisser Grantor Trust*, 818 N.W.2d 495, 502 (Minn. 2012); *see In re Eva Marie Hanson Living Tr.*, 986 N.W.2d 1, 4 (Minn. App. 2023) (stating that "[w]here the trial court has interpreted an unambiguous written document, the standard of review [of that interpretation] is de novo. A district court's findings of fact are given great deference and shall not be set aside unless clearly erroneous. Issues of law are reviewed *de novo*." (quotations omitted)).

"This court applies a *de novo* standard of review to a district court's interpretation of a trust agreement." *In re G.B. Van Dusen Marital Trust*, 834 N.W.2d 514, 520 (Minn. App. Apr. 8, 2013) (citing *In re Stisser Grantor Trust*, 818 N.W.2d 495, 502 (Minn. 2012)), *rev. denied* (Minn. June 26, 2013).

"[Appellate courts] review the interpretation and application of statutes and the rules of appellate procedure de novo." *In re Est. of Figliuzzi*, 979 N.W.2d 225, 231 (Minn. 2022).

2. Expenses/Attorney Fees

"An award of fiduciary compensation or attorney fees rests largely within the district court's discretion. The reasonable value of compensation or reimbursement is a question of fact. We review a district court's findings of fact under the clearly erroneous standard." *In re Stisser Grantor Trust*, 818 N.W.2d 495, 507 (Minn. 2012) (citations omitted).
"We will not reverse a district court's denial of attorney fees absent an abuse of discretion." *In re Margolis Revocable Trust*, 765 N.W.2d 919, 928 (Minn. App. 2009).

"Determination of whether attorney fees will be chargeable to a trust is within the sound discretion of the trial court and will not be reversed absent an abuse of discretion." *In re Trust Created by Hill*, 499 N.W.2d 475, 493-94 (Minn. App. 1993) (citing *In re Great N. Iron Ore Props. Trust*, 311 N.W.2d 488, 492 (Minn. 1981)), *rev. denied* (Minn. July 15, 1993).

"The allowance of reasonable compensation to a trustee for his services lies within the discretion of the trial court." *In re Trust Created by Voss*, 474 N.W.2d 199, 201 (Minn. App. 1991) (quotation omitted).

3. Other

The distinction between jurisdiction in personam and jurisdiction in rem, as well as review of which type of jurisdiction a district court exercised in a particular trust case, is addressed in *Swanson v. Wolf*, 986 N.W.2d 217 (Minn. App. 2023).

D. GUARDIANSHIPS AND CONSERVATORSHIPS

1. Generally

"Guardianship law exists as a function of the State's parens patriae power to protect infants and other persons lacking the physical and mental capacity to protect themselves. The State possesses this protective power as an attribute of sovereignty and exercises it in the manner provided by statute. Courts play a vital role in supervising guardians as they exercise the power of the State to watch over Minnesota's most vulnerable citizens." *In re Guardianship of Tschumy*, 853 N.W.2d 728, 740 (Minn. 2104) (quotation, citations, and footnote omitted).

"[T]he existence of a justiciable controversy is essential to our exercise of jurisdiction, so we can raise the issue on our own." *In re Guardianship of Tschumy*, 853 N.W.2d 728, 733-34 (Minn. 2014).

"[T]he question of our jurisdiction is a legal one that we review de novo." *In re Guardianship of Tschumy*, 853 N.W.2d 728, 734 (Minn. 2014).

Questions of statutory interpretation in the guardianship context are reviewed de novo. *In re Guardianship of Tschumy*, 853 N.W.2d 728, 742 (Minn. 2014).

"Whether a statute is unconstitutional is a question of law that we review de novo. Statutes are presumed to be constitutional and our power to declare a statute unconstitutional should be exercised with extreme caution and only when absolutely necessary." *In re Guardianship, Conservatorship of Durand*, 859 N.W.2d 780, 784 (Minn. 2015) (citation and quotation omitted).

"We review the district court's denial of a motion for amended or additional findings [of fact] for an abuse of discretion. The district court abuses its discretion by improperly applying the law." *In re Guardianship of Guaman*, 879 N.W.2d 668, 672 (Minn. App. 2016) (citation and quotation omitted).

2. Appointment of Guardian/Conservator

"The appointment of a conservator is a matter within the district court's discretion and will not be disturbed absent a clear abuse of that discretion." *In re Guardianship of Pates*, 823 N.W.2d 881, 885 (Minn. App. 2012) (quotation omitted).

"The appointment of a guardian is a matter within the discretion of the district court and will not be disturbed absent a clear abuse of that discretion." *In re Guardianship of Autio*, 747 N.W.2d 600, 603 (Minn. App. 2008).

"The appointment of a guardian is uniquely within the discretion of the appointing court, and we will not interfere with the exercise of that discretion except in the case of a clear abuse of discretion. A reviewing court is limited to determining whether the district court's findings are clearly erroneous, giving due regard to the district court's determinations regarding witness credibility." *In re Guardianship of Wells*, 733 N.W.2d 506, 510 (Minn. App. 2007) (quotation omitted), *rev. denied* (Minn. Sept. 18, 2007).

"The appointment of a conservator is a matter within the district court's discretion and will not be disturbed absent a clear abuse of that discretion." *In re Conservatorship of Geldert*, 621 N.W.2d 285, 287 (Minn. App. 2001), *rev. denied* (Minn. Mar. 27, 2001).

3. Removal of Guardian/Conservator

"We review the decision to remove a guardian for an abuse of discretion and will not set aside the decision absent a clear abuse of that discretion. The district court abuses its discretion by improperly applying the law." *In re Guardianship of DeYoung*, 801 N.W.2d 211, 216 (Minn. App. 2011) (citation omitted).

"The removal of a guardian or conservator is also a matter within the district court's discretion." *In re Conservatorship of Geldert*, 621 N.W.2d 285, 287 (Minn. App. 2001), *rev. denied* (Minn. Mar. 27, 2001).

4. Terms of Guardianship

"We review a district court's determination of the terms of a guardianship for an abuse of discretion." *In re Guardianship of O'Brien*, 847 N.W.2d 710, 714 (Minn. App. 2014).

5. Attorney Fees

"The question of whether the attorney's fees were for necessary services is a fact question. A probate court's determination of factual questions will not be set aside unless clearly erroneous." *In re Conservatorship of W.R.L.*, 396 N.W.2d 705, 707 (Minn. App. 1986).

IV. CIVIL – INSURANCE

A. POLICY INTERPRETATION

"Interpretation of an insurance policy, and whether a policy provides coverage in a particular situation, are questions of law that we review de novo." *Depositors Ins. Co. v. Dollansky*, 919 N.W.2d 684 (Minn. 2018) (quoting *Eng'g & Constr. Innovations, Inc. v. L.H. Bolduc Co.*, 825 N.W.2d 695, 704 (Minn. 2013)); *see also Stand Up Multipositional Advantage MRI, P.A. v. Am. Family Ins. Co.*, 889 N.W.2d 543, 547 (Minn. 2017) (citing *Star Windshield Repair, Inc. v. W. Nat'l Ins. Co.*, 768 N.W.2d 346, 348 (Minn. 2009)).

"It is well-established that general contract principles govern the construction of insurance policies, and that insurance policies are to be interpreted to give effect to the intent of the parties." *Thommes v. Milwaukee Ins. Co.*, 641 N.W.2d 877, 879 (Minn. 2002); *see also Midwest Family Mut. Ins. Co. v. Wolters*, 831 N.W.2d 628, 636 (Minn. 2013).

"Interpretation of insurance policy provisions required by statute involves questions of law, to be reviewed de novo." *Britamco Underwriters, Inc. v. A & A Liquors of St. Cloud*, 649 N.W.2d 867, 871 (Minn. App. 2002) (citing *Nathe Brothers, Inc. v. Am. Nat'l Fire Ins. Co.*, 615 N.W.2d 341, 344 (Minn. 2000)).

"The interpretation of an insurance policy and the application of the policy to the undisputed facts of a case are questions of law that this court reviews de novo." *Commerce Bank v. W. Bend Mut. Ins. Co.*, 870 N.W.2d 770, 773 (Minn. 2015).

"The question of whether an insurer has a duty to defend or indemnify is also a legal question subject to de novo review." *Thommes v. Milwaukee Ins. Co.*, 641 N.W.2d 877, 879 (Minn. 2002).

"The interpretation of an insurance policy, 'including whether provisions in a policy are ambiguous, is a legal question subject to de novo review.'" *King's Cove Marina, LLC v. Lambert Com. Constr. LLC*, 958 N.W.2d 310, 316 (Minn. 2021) (*quoting Latterell v. Progressive N. Ins. Co.*, 801 N.W.2d 917, 920 (Minn. 2011)).

B. STATUTORY INTERPRETATION

"We . . . interpret statutes, such as the No–Fault Act, de novo." *Pepper v. State Farm Mut. Auto. Ins. Co.*, 813 N.W.2d 921, 925 (Minn. 2012); *see also Stand Up Multipositional Advantage MRI, P.A. v. Am. Family Ins. Co.*, 889 N.W.2d 543, 547 (Minn. 2017); *State Farm Mut. Auto. Ins. Co. v. Lennartson*, 872 N.W.2d 524, 529 (Minn. 2015); *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000); *Hanbury v. Am. Family Mut. Ins. Co.*, 865 N.W.2d 83, 87 (Minn. App. 2015), *rev. denied* (Minn. Aug. 25, 2015).

C. EQUITABLE PRINCIPLES AND SUMMARY JUDGMENT

"While subrogation is an equitable remedy, a standard of review more deferential than de novo, which may be applicable on appeal from summary judgment where, after balancing the equities, the district court determines not to award equitable relief, is not applicable here where the district

court determined as a matter of law that RAM could not maintain a subrogation action." *RAM Mut. Ins. Co. v. Rohde*, 820 N.W.2d 1, 6 n.3 (Minn. 2012) (quotation omitted); *see also Melrose Gates, LLC v. Moua*, 875 N.W.2d 814, 822 (Minn. 2016) (applying de novo standard of review to district court's determination "that as a matter of law the requirements for subrogation were not met.") (quotation omitted)).

***See also* Section I(E)(2), at 18.**

D. NO-FAULT ARBITRATION

> Generally, arbitration law states that arbitrators are the final judges of both law and fact." *Johnson v. Am. Family Mut. Ins. Co.*, 426 N.W.2d 419, 421 (Minn. 1988). "Absent a clear showing that the arbitrators were unfaithful to their obligations, the courts assume that the arbitrators did not exceed their authority." *Hilltop Constr., Inc. v. Lou Park Apartments*, 324 N.W.2d 236, 239 (Minn. 1982). "Indeed, a court will not even set aside an arbitration award because it thinks the arbitrators erred as to the law or facts, as long as the reasoning and judgment are consistent." *Johnson*, 426 N.W.2d at 421.
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> But "no-fault arbitrators are limited to deciding questions of fact, leaving the interpretation of law to the courts." *Weaver v. State Farm Ins. Cos.*, 609 N.W.2d 878, 882 (Minn. 2000). "Arbitration regarding automobile reparations therefore departs from the generally accepted principle that 'arbitrators are the final judges of both law and fact.'" *Id.* (quoting *Johnson*, 426 N.W.2d at 421). "The limitation on the final authority of arbitrators is based on the perceived need for consistency in interpretation of the No–Fault Act." *Id.* We have recognized, however, that "[t]o grant relief, arbitrators must apply the law to the facts they have found." *Id.* Therefore, to achieve consistent interpretation of the No–Fault Act, we review the arbitrator's legal determinations de novo. *Id.* An arbitrator's factual findings are final. *Id.* at 884–85.

Fernow v. Gould, 835 N.W.2d 8, 11 (Minn. 2013).

"Arbitrators are not required to give reasons for their decisions. To facilitate judicial review, we urge arbitrators to state whether their decisions in no-fault arbitrations are based on factual determinations or legal conclusions. When arbitrators fail to give reasons for their decisions, they run the risk that they will be compelled to clarify their awards. *See* Minn. Stat. § 572.16 (2010)." *W. Nat'l Ins. Co. v. Thompson*, 797 N.W.2d 201, 208 n.3 (Minn. 2011) (other citation omitted).

"[W]hether a request for an examination under oath and the refusal of such a request are reasonable are questions of fact for the arbitrator. The court, however, reviews de novo any legal conclusions made by the arbitrators based on these factual determinations. . . . [T]he arbitrators made an

implicit factual determination that the refusal was reasonable, and that determination is final." *W. Nat'l Ins. Co. v. Thompson*, 797 N.W.2d 201, 208 (Minn. 2011) (footnote omitted).

"The threshold issue is whether the arbitrators exceeded the scope of their authority by deciding an issue of law not properly subject to arbitration. To answer this question we must examine the relevant provisions of the No–Fault Act and applicable case law, and then apply the law to the case before us." *W. Nat'l Ins. Co. v. Thompson*, 797 N.W.2d 201, 205 (Minn. 2011).

V. CIVIL COMMITMENT

A. REVIEW OF DISTRICT COURT'S FINDINGS OF FACT

1. Generally

"This court reviews a judicial appeal panel's decision for clear error, examining the record to determine whether the evidence as a whole sustains the panel's findings. In this review, we do not reweigh the evidence as if trying the matter de novo. If the evidence as a whole sustains the panel's findings, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary. However, this court reviews de novo questions of statutory construction and the application of statutory criteria to the facts found." *In re Civ. Commitment of Kropp*, 895 N.W.2d 647, 650 (Minn. App. 2017) (citations omitted), *rev. denied* (Minn. June 20, 2017); *see In re Commitment of Fugelseth*, 907 N.W.2d 248, 253 (Minn. App. 2018) (same), *rev. denied* (Minn. Apr. 17, 2018).

"On appeal, this court applies a clear-error standard of review to the district court's findings of fact and reviews the record in the light most favorable to the findings of fact." *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 807 (Minn. App. 2014).

"On appeal, we do not consider whether the record could support a finding that the provisional discharge plan does not provide a reasonable degree of protection to the public. Instead, we consider whether the judicial appeal panel clearly erred by finding that the plan provides a reasonable degree of protection to the public." *In re Commitment of Duvall*, 916 N.W.2d 887, 897 (Minn. App. 2018), *rev. denied* (Minn. Sept. 18, 2018).

"[T]he sheer volume of information contained in [a] district court's order is not determinative. Even a long order may be insufficient if it does not permit meaningful appellate review. An order does not permit meaningful appellate review if it does not identify the facts that the district court has determined to be true and the facts on which the district court's decision is based." *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 811 (Minn. App. 2014).

2. Particular Findings

a. Person who poses a risk of harm due to mental illness (previously Mentally ill person)[1]

An appellate court will not reverse a district court's "findings unless they are clearly erroneous." *In re McGaughey*, 536 N.W.2d 621, 623 (Minn. 1995); *see In re Commitment of Janckila*, 657 N.W.2d 899, 902 (Minn. App. 2003) (same).

"An appellate court will not reverse a district court's findings of fact unless they are clearly erroneous." *In re Commitment of Janckila*, 657 N.W.2d 899, 902 (Minn. App. 2003).

b. Person who has a mental illness and is dangerous to the public (previously Person who is mentally ill and dangerous to the public)[2]

"Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the [district] court to judge the credibility of the witness." *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995).

In upholding a district court decision that a person committed as mentally ill was no longer dangerous, the supreme court stated: "We believe that the evidence was such that, although the [district] court arguably was free to continue the commitment, the [district] court was not compelled to do so." *In re Colbert*, 454 N.W.2d 614, 615 (Minn. 1990) (reversing decision by court of appeals that held that the district court was clearly erroneous).

c. Developmentally disabled person (previously mentally retarded person)

"The [district] court's findings in support of its order for commitment will not be disturbed unless clearly erroneous." *In re Chey*, 374 N.W.2d 778, 780 (Minn. App. 1985).

d. Chemically dependent person

"The [district] court's findings as to this determination will not be set aside unless clearly erroneous." *In re May*, 477 N.W.2d 913, 915 (Minn. App. 1991); *see*

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[1] In 2020, the legislature substituted the term "Person who poses a risk of harm due to mental illness" for the existing term "Person who is mentally ill" but defined "Person who poses a risk of harm due to mental illness" using the bulk of the former definition of "Person who is mentally ill." 2020 Minn. Laws 1st Spec. Sess. ch. 2, art. 6, § 7.

[2] In 2020, the legislature substituted the term "Person who has a mental illness and is dangerous to the public" for the existing term "Person who is mentally ill and dangerous" but defined "Person who has a mental illness and is dangerous to the public" using the bulk of the definition of "Person who is mentally ill and dangerous." 2020 Minn. Laws 1st Spec. Sess. ch. 2, art. 6, § 9.

In re Heurung, 446 N.W.2d 694, 696 (Minn. App. 1989) (same).

e. Sexually dangerous person

"We review the district court's decision that [a person committed as an SDP] waived his rights for clear error." *In re Civ. Commitment of Giem*, 742 N.W.2d 422, 432 (Minn. 2007) (vacating order for commitment because Giem did not waive right to demand immediate hearing without prejudice, and allowing county to renew petition for commitment).

"We review the district court's factual findings under a clear-error standard." *In re Civ. Commitment of Stone*, 711 N.W.2d 831, 836 (Minn. App. 2006) (reversing denial of commitment as an SDP), *rev. denied* (Minn. June 20, 2006).

"We review the district court's factual findings under a clear error standard to determine whether they are supported by the record as a whole." *In re Commitment of Ince*, 847 N.W.2d 13, 22 (Minn. 2014) (reaffirming the "highly likely" standard enunciated in *Linehan III*, but rejecting a numeric value for determining "highly likely).

"Regarding the factual issues, we review the district court's findings of fact for clear error. We give due deference to the district court as the best judge of the credibility of witnesses. And where, as here, the findings of fact rest almost entirely on expert testimony, the district court's evaluation of credibility is particularly significant. But we review legal issues de novo, including whether the record contains clear and convincing evidence to support the district court's conclusion that Crosby meets the standard for civil commitment." *In re Civ. Commitment of Crosby*, 824 N.W.2d 351, 356 (Minn. App. 2013) (quotation and citations omitted) (affirming commitment as SPP and SDP), *rev. denied* (Minn. Mar. 27, 2013).

"As the trier of fact, the district court will be in the best position to determine the weight to be attributed to each factor, as well as to evaluate the credibility of witnesses--a critical function in these cases that rely so heavily on the opinions of experts." *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 23-24 (Minn. 2014) (noting agreement that actuarial assessment evidence is relevant to likelihood of future harmful sexual conduct, but cautioning district courts to be wary of factor repetition where *Linehan* factors and actuarial assessments may consider same or similar factors).

"A district court cannot satisfy its obligation to find facts with particularity by simply adopting *in toto* the opinions of a particular expert." *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 810 (Minn. App. 2014) (making this statement in the context of a case involving conflicting expert opinions).

"[F]indings beginning with phrases such as 'petitioner claims,' 'according to petitioner's application,' and 'respondent asserts,' are not true findings. This is so

because a district court's recitation of what others have observed is not a finding of fact that those observations are true. Accordingly, it is insufficient for a district court to merely recite or summarize excerpted portions of testimony of the witnesses without commenting independently either upon their opinions or the foundation for their opinions or the relative credibility of the various witnesses. *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 810 (Minn. App. 2014) (citations and quotations omitted).

"[A] district court may not 'simply review[] the *Linehan* factors after largely accepting [one expert's opinions] without indicating the significance of any of those factors within the context of a multi-factor analysis.'" *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 809 (Minn. App. 2014) (quoting *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 24 (Minn. 2014)).

Noting that certain opinions from other contexts were helpful in interpreting the requirements for findings necessary to support commitment as SDP and SPP, the court of appeals stated:

> For example, in *Rosenfeld v. Rosenfeld*, 311 Minn. 76, 249 N.W.2d 168 (1976), a case concerning child custody, the supreme court held that a district court "must make written findings which properly reflect its consideration" of the relevant statutory factors. *Id.* at 82, 249 N.W.2d at 171. The supreme court noted that custody determinations are given deferential treatment by appellate courts and that, therefore, it is "especially important that the basis for the court's decision be set forth with a high degree of particularity if appellate review is to be meaningful." *Id.* (quotation omitted). The supreme court reasoned that requiring more particular findings would "(1) assure consideration of the statutory factors by the family court; (2) facilitate appellate review of the family court's custody decision; and (3) satisfy the parties that this important decision was carefully and fairly considered by the family court." *Id*….The supreme court also has stated, in cases involving a termination of parental rights, that a district court's findings of fact must "provide insight into which facts or opinions were most persuasive of the ultimate decision." *See, e.g.*, *In re Welfare of M.M.*, 452 N.W.2d 236, 239 (Minn. 1990).

In re Civ. Commitment of Spicer, 853 N.W.2d 803, 809 (Minn. App. 2014).

f. Appeal from commitment appeal panel*

* The commitment statutes have evolved over time. What is currently known as the "commitment appeal panel," or "CAP," has, at different times, been previously known as the "supreme court appeal panel," or "SCAP," or as the "judicial appeal panel." *See In re Civ. Commitment of Edwards*, 933 N.W.2d 796, 797 n.1 (Minn. App. 2019) (noting evolution of the statute), *rev. denied* (Minn. Oct. 15, 2019).

"Generally, this court reviews decisions by a judicial appeal panel for clear error, examin[ing] the record to determine whether the evidence as a whole sustains the appeal panels' findings and not weigh[ing] the evidence as if trying the matter de novo." *Larson v. Jesson*, 847 N.W.2d 531 (Minn. App. 2014) (quotation omitted).

"It is well established, however, that a trier of fact is free to accept part and reject part of a witness's testimony." *Coker v. Jesson*, 831 N.W.2d 483, 492 (Minn. 2013).

"Findings of fact will not be reversed if the record as a whole sustains those findings." *Rydberg v. Goodno*, 689 N.W.2d 310, 313 (Minn. App. 2004) (addressing issue of pass-eligible status in psychopathic-personality commitment).

"The appeal panel's reliance upon the testimony of [certain witnesses] was clearly erroneous. The vast weight of the evidence, which was provided by personnel at the security hospital who interacted with and treated respondent, was apparently ignored by the appeal panel, and requires denial of the transfer" of respondent, who was committed as mentally ill and dangerous, from the security hospital to an open hospital. *Piotter v. Steffen*, 490 N.W.2d 915, 920 (Minn. App. 1992), *rev. denied* (Minn. Nov. 17, 1992).

g. Capacity to make decisions regarding neuroleptic medication

Findings regarding a patient's capacity to make decisions regarding neuroleptic medication are reviewed "in the light most favorable to the district court's decision" and will not be disturbed on appeal "unless [the findings] are clearly erroneous." *In re Civ. Commitment of Froehlich*, 961 N.W.2d 248, 255 (Minn. App. 2021).

3. Findings on Less Restrictive Alternatives

a. For a mentally ill, developmentally disabled, or chemically dependent person

"In reviewing whether the least restrictive treatment program that can meet the patient's needs has been chosen, an appellate court will not reverse a district court's finding unless clearly erroneous." *In re Thulin*, 660 N.W.2d 140, 144 (Minn. App. 2003) (addressing continued commitment as mentally ill).

"A district court's decision as to placement will not be reversed unless clearly erroneous." *In re Kellor*, 520 N.W.2d 9, 12 (Minn. App. 1994) (addressing commitment as mentally ill), *rev. denied* (Minn. Sept. 28, 1994).

"Unless it is clearly erroneous, we must affirm the [district] court's finding that there was no suitable less restrictive treatment alternative." *In re King*, 476 N.W.2d 190, 193 (Minn. App. 1991) (addressing commitment of mentally ill person to the state security hospital).

"We will not reverse [a finding that a particular facility was the least restrictive alternative] unless it is clearly erroneous." *In re Cieminski*, 374 N.W.2d 289, 292 (Minn. App. 1985) (addressing commitment as "mentally retarded," now referred to as "developmentally disabled"), *rev. denied* (Minn. Nov. 18, 1985).

b. For a mentally ill and dangerous person

In ruling on a less restrictive alternative, the district court must make findings of fact to support its conclusion that no less restrictive treatment program existed that could meet the needs of the committed person. *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 26 (Minn. 2014) (reversing and remanding for findings in an appeal from commitment as an SDP under earlier version of statute, Minn. Stat. § 253B.185, subd. 1(d) (2012)). *Ince* addresses for the first time factors for the district court to consider in reaching its decision on less restrictive alternatives. *Id.* at 25-26.

Where the district court has not made findings of fact to support a conclusion that "no less restrictive treatment program" existed, the reviewing court will remand for reconsideration. *In re Commitment of Ince*, 847 N.W.2d 13, 27 (Minn. 2014).

The district court's decision as to the least restrictive alternative will not be reversed unless clearly erroneous. *In re Dirks*, 530 N.W.2d 207, 211-12 (Minn. App. 1995).

"[P]atients have the *opportunity* to prove that a less-restrictive treatment program is available, but they do not have the *right* to be assigned to it." *In re Kindschy*, 634 N.W.2d 723, 731 (Minn. App. 2001) (discussing less restrictive option in SPP/SDP commitment), *rev. denied* (Minn. Dec. 19, 2001); *see In re Robb*, 622 N.W.2d 564, 574 (Minn. App. 2001) (comparing previous version of statute with current version of statute as to least restrictive alternative option for indeterminate commitment), *rev. denied* (Minn. Apr. 17, 2001); *cf. In re Senty-Haugen*, 583 N.W.2d 266, 269 (Minn. 1998) (holding, under previous version of statute, there was no requirement that those committed as SPP/SDP be committed to the least restrictive alternative).

4. Findings Based on Expert Testimony

"As the trier of fact, the district court will be in the best position to determine the weight to be attributed to each factor, as well as to evaluate the credibility of witnesses-a critical function in these cases that rely so heavily on the opinions of experts." *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 23-24 (Minn. 2014) (addressing commitment of person as an SDP).

"We give due deference to the district court as the best judge of the credibility of witnesses. *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995). And where, as here, the findings of fact 'rest almost entirely on expert testimony, the district court's evaluation of credibility is

particularly significant.' *Id.*" *In re Civ. Commitment of Crosby*, 824 N.W.2d 351, 356 (Minn. App. 2013) (reviewing commitment as SPP and SDP).

"Where the findings of fact rest almost entirely on expert testimony, the [district] court's evaluation of credibility is of particular significance." *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995).

"Where the findings of fact rest almost entirely on expert opinion testimony, the probate judge's evaluation of credibility is of particular significance. Here the probate court's findings with respect to the pertinent facts-that Joelson's treatment program is adequate-are supported by the record as a whole and are not clearly erroneous." *In re Joelson*, 385 N.W.2d 810, 811 (Minn. 1986).

"The testimony in this case by the treating professionals, who were very familiar with respondent's condition, should have been given greater weight" than the testimony by the psychologist, "who had an inadequate amount of time to make an adequate evaluation of respondent." *Piotter v. Steffen*, 490 N.W.2d 915, 920 (Minn. App. 1992), *rev. denied* (Minn. Nov. 17, 1992).

B. REVIEW OF CONCLUSIONS OF LAW

1. District Court

Statutory interpretation is a legal question, which is subject to de novo review. *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 20 (Minn. 2014) (reviewing commitment as an SDP).

"Interpretation of a statute is a legal question that we review de novo." *In re Civ. Commitment of Lonergan*, 811 N.W.2d 635, 639 (Minn. 2012) (addressing when indeterminately committed person as an SDP or SPP may bring motion under Minn. R. Civ. P. 60.02).

"Justiciability issues receive de novo review." *In re Civ. Commitment of Nielsen*, 863 N.W.2d 399, 401 (Minn. App. 2015), *rev. denied* (Minn. Apr. 14, 2015).

"Subject matter jurisdiction is a question of law that we review de novo." *In re Civ. Commitment of Giem*, 742 N.W.2d 422, 425-26 (Minn. 2007).

"This court reviews issues of subject-matter and personal jurisdiction de novo as questions of law." *In re Civ. Commitment of Nielsen*, 863 N.W.2d 399, 402 (Minn. App. 2015), *rev. denied* (Minn. Apr. 14, 2015).

"We review de novo whether there is clear and convincing evidence in the record to support the district court's conclusion that appellant meets the standards for commitment." *In re Thulin*, 660 N.W.2d 140, 144 (Minn. App. 2003) (addressing continued commitment as mentally ill). This case is often cited in SPP/SDP decisions.

"In reviewing a commitment, we are limited to an examination of whether the district court complied with the requirements of the commitment act." *See In re Commitment of Janckila*, 657 N.W.2d 899, 902 (Minn. App. 2003) (reviewing district court's mentally ill determination under Minn. Stat. § 253B.02, subd. 13(a)). "We review de novo the question of whether the evidence is sufficient to meet the standard of commitment." *Id.*

"We conclude that the [district] court's findings are insufficient to support the conclusion that [the proposed patient] is a mentally ill person, as defined by the Commitment Act." *In re McGaughey*, 536 N.W.2d 621, 624 (Minn. 1995) (review of mentally ill determination under Minn. Stat. § 253B.02, subd. 13).

"The question before us is whether the record supports, by clear and convincing evidence, the [district] court's conclusion that appellant meets the second and third elements [for commitment as a psychopathic personality.] This is a question of law which we review de novo." *In re Linehan*, 518 N.W.2d 609, 613 (Minn. 1994).

2. Commitment Appeal Panel*

* The commitment statutes have evolved over time. What is currently known as the "commitment appeal panel," or "CAP," has, at different times, been previously known as the "supreme court appeal panel," or "SCAP," or as the "judicial appeal panel." *See In re Civ. Commitment of Edwards*, 933 N.W.2d 796, 797 n.1 (Minn. App. 2019) (noting evolution of the statute), *rev. denied* (Minn. Oct. 15, 2019).

When reviewing a commitment appeal panel's decision under Minn. R. Civ. P. 41.02(b) to dismiss a patient's petition for discharge because that petition failed to state a prima facie case for discharge, an appellate court uses a de novo standard of review. *In re Civ. Commitment of Opiacha*, 943 N.W.2d 220, 225 (Minn. App. 2020); *In re Civ. Commitment of Edwards*, 933 N.W.2d 796, 803(Minn. App. 2019), *rev. denied* (Minn. Oct. 15, 2019); *see Coker v. Jesson*, 831 N.W.2d 483, 489 (Minn. 2013) (noting that "the standards for directing a verdict [under Minn. R. Civ. P. 50.01] apply to motions to dismiss under [Minn. R. Civ. P.] 41.02(b)," and these standards "require the determination of whether, as a matter of law, the evidence is sufficient to present a fact question for the jury's consideration" (quotation omitted)).

"On a rule 41.02(b) motion to dismiss a discharge petition at the close of a petitioner's case-in-chief, the judicial appeal panel may not weigh the evidence or make credibility determinations regarding discharge, and instead must view the evidence ... in a light most favorable to the committed person. We therefore review the judicial appeal panel's dismissal of the petition for discharge de novo." *Foster v. Jesson*, 857 N.W.2d 545, 549 (Minn. App. 2014) (citations and quotations omitted); *see In re Civ. Commitment of Poole*, 921 N.W.2d 62, 66-67 (Minn. App. 2018) (making a similar statement), *rev. denied* (Minn. Jan. 15, 2019).

"[A] harmless-error analysis applies to a panel's receipt and consideration of evidence that should not be considered in assessing whether, at a first phase hearing, the committed

person made a prima facie case for the relief sought." *In re Civ. Commitment of Poole*, 921 N.W.2d 62, 67 (Minn. App. 2018), *rev. denied* (Minn. Jan. 15, 2019).

When a commitment appeal panel decides the merits of a patient's petition for a reduction in custody, appellate courts review that decision

> for clear error, examining the record to determine whether the evidence as a whole sustains the CAP's findings. We do not reweigh the evidence as if trying the matter de novo. If the evidence as a whole sustains the CAP's findings in support of its decision, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary. In sum, we will not reverse a CAP's decision on a petition for a reduction in custody so long as the underlying findings are supported by the evidence as a whole.

In re Civ. Commitment of Edwards, 933 N.W.2d 796, 803 (Minn. App. 2019), *rev. denied* (Minn. Oct. 15, 2019). *But see In re Civ. Commitment of Edwards*, 933 N.W.2d 796, 803 n.6 (Minn. App. 2019) (leaving open "whether the abuse-of-discretion standard should apply to a CAP's evaluation of the factors that must be considered when ruling on a petition for a reduction in custody"), *rev. denied* (Minn. Oct. 15, 2019).

Whether a judicial appeal panel applied the proper evidentiary burden was a legal issue that appellate courts review de novo. *Coker v. Ludeman*, 775 N.W.2d 660, 663 (Minn. App. 2009), *review dismissed* (Minn. Feb. 24, 2010).

"Determining whether an amendment is a clarification or a modification of preexisting law is a question of statutory interpretation, that we review de novo." *Braylock v. Jesson*, 819 N.W.2d 585, 588 (Minn. 2012) (citations omitted).

"Issues of statutory interpretation are reviewed de novo." *Rydberg v. Goodno*, 689 N.W.2d 310, 313 (Minn. App. 2004) (addressing issue of pass-eligible status in psychopathic-personality commitment).

C. REVIEW OF EVIDENTIARY MATTERS

"Relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Unfair prejudice under rule 403 is not merely damaging evidence, even severely damaging evidence; rather, unfair prejudice is evidence that persuades by illegitimate means, giving one party an unfair advantage. The decision of whether to admit or exclude evidence is within the district court's discretion and will be reversed only if the court has clearly abused its discretion." *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 813 (Minn. App. 2014) (quotations and citations omitted); *see In re Commitment of Duvall*, 916 N.W.2d 887, 898 (Minn. App. 2018) (stating that "[t]he decision of whether to admit or exclude evidence is within the district court's discretion and will be reversed only if the court has clearly abused its discretion.") (quoting *In re Civ. Commitment of Ramey*, 648 N.W.2d 260, 270 (Minn. App. 2002)), *rev. denied* (Minn. Sept. 18, 2018).

"The supreme court has stated that 'excluding relevant evidence at a bench trial on the grounds of unfair prejudice is in a sense ridiculous' because 'there is comparatively less risk that [a] district court judge, as compared to a jury of laypersons, would use the evidence for an improper purpose or have his sense of reason overcome by emotion.'" *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 813 (Minn. App. 2014) (quoting *State v. Burrell*, 772 N.W.2d 459, 467 (Minn. 2009)).

"[A] harmless-error analysis applies to a panel's receipt and consideration of evidence that should not be considered in assessing whether, at a first phase hearing, the committed person made a prima facie case for the relief sought." *In re Civ. Commitment of Poole*, 921 N.W.2d 62, 67 (Minn. App. 2018), *rev. denied* (Minn. Jan. 15, 2019).

Whether a judicial appeal panel applied the proper evidentiary burden was a legal issue that appellate courts review de novo. *Coker v. Ludeman*, 775 N.W.2d 660, 663 (Minn. App. 2009), *review dismissed* (Minn. Feb. 24, 2010).

D. OTHER MATTERS

Construction of the commitment and treatment act is reviewed de novo. *In re Civ. Commitment of Breault*, 942 N.W.2d 368, 375 (Minn. App. 2020); *Jackson o/b/o Sorenson v. Options Residential, Inc.*, 896 N.W.2d 549, 552 (Minn. App. 2017).

"We review questions of statutory construction and the application of statutory criteria to the facts found de novo." *In re Commitment of Duvall*, 916 N.W.2d 887, 893 (Minn. App. 2018), *rev. denied* (Minn. Sept. 18, 2018).

"[W]e apply a *de novo* standard of review to issues of statutory interpretation and to a judicial appeal panel's application of the law to the facts of a particular case." *In re Commitment of Fugelseth*, 907 N.W.2d 248, 253 (Minn. App. 2018), *rev. denied* (Minn. Apr. 17, 2018).

"We review a district court's application of the principle of comity for an abuse of discretion." *In re Commitment of Hand*, 878 N.W.2d 503, 506 (Minn. App. 2016), *rev. denied* (Minn. June 21, 2016).

> In general, when courts have concurrent jurisdiction, the first court to acquire jurisdiction has priority in considering the case. The first to file rule is not, in fact, a rule of law but a principle based on comity. Judicial comity is the respect a court of one state or jurisdiction shows to another state or jurisdiction in giving effect to the other's laws and judicial decisions. Generally[,] comity between courts will resolve instances where two actions between the same parties, on the same subject, and to test the same rights, are brought in different courts having concurrent jurisdiction. In determining whether to defer to another court or jurisdiction, a court should seek to determine which of the two actions will serve best the needs of the parties by providing a comprehensive solution of the general conflict.

In re Commitment of Hand, 878 N.W.2d 503, 506 (Minn. App. 2016) (quotations and citations omitted), *rev. denied* (Minn. June 21, 2016).

"We consider de novo whether an appeal is moot." *In re Civ. Commitment of Breault*, 942 N.W.2d 368, 374 (Minn. App. 2020).

"Whether the district court violated a constitutional right to court-appointed counsel is an issue of law reviewed de novo." *In re Civ. Commitment of Johnson*, 931 N.W.2d 649, 654 (Minn. App. 2019), *reviewed denied* (Minn. Sept. 17, 2019).

"An appellate court reviews the district court's decision to dismiss a new-trial motion under rule 59.03 for an abuse of discretion." *In re Civ. Commitment of Johnson*, 931 N.W.2d 649, 655 (Minn. App. 2019), *reviewed denied* (Minn. Sept. 17, 2019).

An appellate court "reviews a district court's denial of a rule 60.02 motion for an abuse of discretion." *In re Civ. Commitment of Johnson*, 931 N.W.2d 649, 655 (Minn. App. 2019), *reviewed denied* (Minn. Sept. 17, 2019).

Regarding review of claims of ineffective assistance of counsel:

> We review a claim of ineffective assistance of counsel de novo. Appellate courts apply a strong presumption that [an attorney's] performance falls within the wide range of reasonable professional assistance. General assertions of error without evidentiary support are inadequate to establish ineffective assistance of counsel. Moreover, a reviewing court generally will not review attacks on counsel's trial strategy. [D]ecisions about objections at trial are matters of trial strategy.

In re Civ. Commitment of Johnson, 931 N.W.2d 649, 657 (Minn. App. 2019) (citations and internal quotations omitted), *reviewed denied* (Minn. Sept. 17, 2019).

VI. CRIMINAL – GENERAL

A. GENERAL STANDARDS OF REVIEW

1. Questions of Law

"We review questions of law de novo." *State v. Dorn*, 887 N.W.2d 826, 830 (Minn. 2016).

2. Questions of Fact

"We give great deference to a district court's findings of fact and will not set them aside unless clearly erroneous." *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010).

"Findings of fact are clearly erroneous if, on the entire evidence, we are left with the definite and firm conviction that a mistake occurred." *Id.*

If we find reasonable evidence to support the district court's findings of fact, we will not disturb those findings." *State v. Evans*, 756 N.W.2d 854, 870 (Minn. 2008) (quotation omitted).

3. Mixed Questions of Law and Fact

When an issue presents a mixed question of law and fact, an appellate court will "review the district court's finding of fact under a clearly erroneous standard, and its application of the law to those facts de novo." *State v. Barthman*, 938 N.W.2d 257, 265 (Minn. 2020); *see also State v. Bakken*, 883 N.W.2d 264, 270 (Minn. 2016); *State v. Horst*, 880 N.W.2d 24, 31 (Minn. 2016).

4. Harmless-Error Review

a. Implication of Constitutional Rights

"When an error implicates a constitutional right, we will award a new trial unless the error is harmless beyond a reasonable doubt. An error is harmless beyond a reasonable doubt if the jury's verdict was surely unattributable to the error." *State v. Davis*, 820 N.W.2d 525, 533 (Minn. 2012) (citation and quotation omitted); *see also State v. McInnis*, 962 N.W.2d 874, 886-90 (Minn. 2021) (applying harmless-beyond-a-reasonable-doubt standard to erroneously admitted confession in a stipulated-evidence trial).

"When constitutional errors are involved, the state has the burden to show that the errors are harmless beyond a reasonable doubt by showing that the error did not contribute to the verdict." *State v. Conklin*, 444 N.W.2d 268, 275 (Minn. 1989).

b. No Implication of Constitutional Right

"If no constitutional right was implicated, we will reverse only if the district court's error substantially influence[d] the jury's decision." *State v. Vang*, 774 N.W.2d 566, 576 (Minn. 2009) (quotation omitted).

An error is harmless "[w]hen there is no reasonable possibility that it substantially influenced the jury's decision." *State v. Harvey*, 932 N.W.2d 792, 810 (Minn. 2019); *see also State v. Taylor*, 869 N.W.2d 1, 14 (Minn. 2015).

"The burden rests on [the defendant] to establish a reasonable possibility that the jury would have reached a different verdict had the wrongfully admitted testimony not come in." *State v. Jaros*, 932 N.W.2d 466, 472 (Minn. 2019).

5. Structural-error Review

Some errors are not subject to harmless-error review and require automatic reversal. *See State v. Kuhlmann*, 806 N.W.2d 844, 850 (Minn. 2011). Here are some examples:

- *State v. Dorsey*, 701 N.W.2d 238, 253 (Minn. 2005) (biased judge or jury and denial of counsel);
- *Brown v. State*, 682 N.W.2d 162, 166-68 (Minn. 2004) (judge communicating with jury outside defendant's presence);
- *State v. Reiners*, 664 N.W.2d 826, 835 (Minn. 2003) (erroneous denial of peremptory challenge);
- *State v. Richards*, 456 N.W.2d 260, 263, 266 (Minn. 1990) (denial of right to self-representation);
- *State v. McRae*, 494 N.W.2d 252, 260 (Minn. 1992) (improper closure of the courtroom violating right to public trial);
- *State v. Rosillo*, 281 N.W.2d 877, 879 (Minn. 1979) (denial of right to testify).

6. Plain-error Review

"This court generally will not decide issues which were not raised before the district court, including constitutional questions of criminal procedure." *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996).

This court will review an unobjected-to error under the "plain error test." *State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016). "In order to meet the plain error standard, a criminal defendant must show that (1) there was an error, (2) the error was plain, and (3) the error affected the defendant's substantial rights." *Id.* (citing *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998)).

Plain-error review applies to forfeited issues, such as where a defendant fails to object to the state's admission of evidence, *State v. Vasquez*, 912 N.W.2d 642, 649 (Minn. 2018), and in cases of invited error, such as where a defendant's counsel requests a particular jury

instruction that is later challenged on appeal, *State v. Carridine*, 812 N.W.2d 130, 142 (Minn. 2012).

Plain-error review also applies to some unobjected-to structural errors, such as a defendant's failure to object to a courtroom closure. *Pulczinski v. State*, 972 N.W.2d 347, 358 (Minn. 2022).

a. Plainness

"An error is plain if it is clear or obvious, which is typically established if the error contravenes case law, a rule, or a standard of conduct." *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017) (quotation omitted).

"[F]or purposes of applying the plain-error doctrine the court examines the law in existence at the time of appellate review, not the law in existence at the time of the district court's error, to determine whether an error is plain." *State v. Kelley*, 855 N.W.2d 269, 277 (Minn. 2014).

b. Substantial Rights

"With respect to the substantial-rights requirement, [the defendant] bears the burden of establishing that there is a reasonable likelihood that the absence of the error would have had a significant effect on the jury's verdict." *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016) (quotation omitted).

"The court's analysis under the third prong of the plain error test is the equivalent of a harmless error analysis." *State v. Matthews*, 800 N.W.2d 629, 634 (Minn. 2011).

"In evaluating the reasonable likelihood that the erroneously admitted evidence significantly affected the verdict, this court must consider the persuasiveness of that evidence . . . [and] the manner in which the evidence was presented." *State v. Jackson*, 764 N.W.2d 612, 620 (Minn. App. 2009), *rev. denied* (Minn. July 22, 2009).

c. Fairness and Integrity

> Although the fairness, integrity, and public reputation of judicial proceedings is sometimes served by ordering a new trial when a defendant's substantial rights were affected by a plain error, that is not always the case.
>
> In [*State v. Griller*, 583 N.W.2d 736, 742 (Minn. 1998)], we described the defendant's version of events as 'far-fetched,' and concluded that '[g]ranting Griller a new trial under these circumstances would be an exercise in futility and a waste of judicial resources,' which would

> thwart the integrity of judicial proceedings. The United States Supreme Court has similarly concluded that granting new trials in the face of uncontroverted or overwhelming evidence 'encourages litigants to abuse the judicial process and bestirs the public to ridicule it.'
>
> . . . .
>
> . . . Put differently, the fourth prong is satisfied only "in those circumstances in which a miscarriage of justice would otherwise result."

State v. Huber, 877 N.W.2d 519, 527-28 (Minn. 2016) (citations omitted).

Even when an appellant satisfies the other prongs of the plain-error standard, the appellate court will not exercise its limited discretion to grant relief to correct the error unless the "failure to do so will cause the public to seriously question the fairness and integrity of our judicial system." *Pulczinski v. State*, 972 N.W.2d 347, 359-60 (Minn. 2022) (holding that, although defendant asserts personal prejudice by the courtroom closure, "he makes no argument that the failure to correct those errors will seriously affect the fairness, integrity, or public reputation of judicial proceedings generally").

7. Abuse-of-discretion Review

"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." *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted).

B. INTERPRETATION AND CONSTRUCTION

"We review questions of statutory interpretation de novo." *State v. Defatte*, 928 N.W.2d 338, 340 (Minn. 2019).

The constitutionality of a statute presents a question of law that this court reviews de novo. *State v. Fitch*, 884 N.W.2d 367, 373 (Minn. 2016). The party challenging the constitutionality of a statute must demonstrate beyond a reasonable doubt that the statute is unconstitutional. *Id*.

"The constitutionality of an ordinance presents a question of law that we review de novo." *State v. Eide*, 898 N.W.2d 290, 297 (Minn. App. 2017).

"The interpretation of the Minnesota Rules of Criminal Procedure is a question we review de novo." *Reynolds v. State*, 888 N.W.2d 125, 129 (Minn. 2016).

"We review the interpretation and application of the rules of evidence de novo." *State v. Sanchez-Sanchez*, 879 N.W.2d 324, 329 (Minn. 2016).

"Interpretation of the Minnesota Sentencing Guidelines is also a question of law subject to de novo review." *State v. Washington*, 908 N.W.2d 601, 606 (Minn. 2018).

C. PRETRIAL MATTERS

1. State Pretrial Appeals

In a pretrial appeal by the state, an appellate court will only reverse if the state can "clearly and unequivocally show both that the trial court's order will have a critical impact on the state's ability to prosecute the defendant successfully and that the order constituted error." *State v. Zanter*, 535 N.W.2d 624, 630 (Minn. 1995) (quotations omitted).

"We view critical impact as a threshold issue and will not review a pretrial order absent such a showing." *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017) (quotations omitted).

"Critical impact has been shown not only in those cases where the lack of the suppressed evidence completely destroys the state's case, but also in those cases where the lack of the suppressed evidence significantly reduces the likelihood of a successful prosecution." *State v. Joon Kyu Kim*, 398 N.W.2d 544, 551 (Minn. 1987).

2. Suppressing Evidence

a. In General

"When reviewing a district court's pretrial order on a motion to suppress evidence, 'we review the district court's factual findings under a clearly erroneous standard and the district court's legal determinations de novo.'" *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quoting *State v. Jordan*, 742 N.W.2d 149, 152 (Minn. 2007)).

"When facts are not in dispute, as here, we review a pretrial order on a motion to suppress de novo and 'determine whether the police articulated an adequate basis for the search or seizure at issue.'" *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quoting *State v. Flowers,* 734 N.W.2d 239, 247-48 (Minn. 2007)).

b. Suppression of Confessions and Admissions

"The issue of whether a suspect is in custody and therefore entitled to a *Miranda* warning presents a mixed question of law and fact qualifying for independent review. An appellate court reviews a [district] court's findings of historical fact relating to the circumstances of the interrogation pursuant to the clearly erroneous test but makes an independent review of the [district] court's determination regarding custody and the need for a *Miranda* warning. We grant considerable, but not unlimited, deference to a [district] court's fact-specific resolution of such an issue when the proper legal standard is applied." *State v. Sterling*, 834 N.W.2d 162, 167-68 (Minn. 2013) (quotations and citations omitted); s*ee also State v. Horst*, 880 N.W.2d 24, 31 (Minn. 2016) (holding same).

"The validity of a suspect's invocation of his constitutional right to remain silent presents a mixed question of fact and law." *State v. McInnis*, 962 N.W.2d 874, 882 (Minn. 2021) (citation omitted). "We review the factual issue of whether a suspect unequivocally and unambiguously invoked his right to silence for clear error. But we review the application of the reasonable officer standard to the facts of the case de novo." *Id.* (citation omitted).

Application of the rule that police must "stop and clarify" an equivocal request for counsel, like the standard in the right-to-silence context, is reviewed de novo, but the clearly erroneous standard applies to the factual findings involved. *State v. Ortega*, 798 N.W.2d 59, 70 (Minn. 2011).

In independently determining whether a confession or statement was involuntary or coerced, a reviewing court considers all relevant factors including age, maturity, intelligence, education, experience, ability to comprehend, lack of or adequacy of warnings, length and legality of detention, nature of interrogation, physical deprivations, and limits on access to family and friends. *State v. Clark*, 738 N.W.2d 316, 332 (Minn. 2007); *State v. Blom*, 682 N.W.2d 578, 614 (Minn. 2004); *State v. Camacho*, 561 N.W.2d 160, 168, 169-70 (Minn. 1997).

A district court's determination that a waiver of *Miranda* rights was knowing, voluntary, and intelligent is reviewed on appeal for clear error. *State v. Camacho*, 561 N.W.2d 160, 168 (Minn. 1997). "When an appellant contends that credible evidence supports a contrary finding, however, an appellate court will make a subjective factual inquiry to determine whether under the totality of the circumstances the waiver was valid." *Id.* at 169.

The question of whether a "substantial violation" of the *Scales* recording requirement has occurred is reviewed de novo, but the district court's factual findings are subject to clearly erroneous standard of review. *State v. Critt*, 554 N.W.2d 93, 95 (Minn. App. 1996), *rev. denied* (Minn. Nov. 20, 1996).

c. Video or Audio Evidence

When a district court's factual findings in a ruling on a pretrial suppression issue involve a dispute between officer testimony and video or audio evidence, we accept the district court's factual findings unless the findings are clearly erroneous. *See State v. Chavarria-Cruz*, 784 N.W.2d 355, 363 (Minn. 2010).

d. Voluntariness of Consent to Search

Whether consent to search was voluntary and not the product of duress or coercion is a question of fact which we review for clear error. *State v. Diede*, 795 N.W.2d 836, 846 (Minn. 2011).

> "Whether consent is voluntary is determined by examining the totality of the circumstances. Consent to search may be implied by action, rather than words. And consent can be voluntary even if the circumstances of the encounter are uncomfortable for the person being questioned. An individual does not consent, however, simply by acquiescing to a claim of lawful authority." *State v. Brooks*, 838 N.W.2d 563, 568-69 (Minn. 2013) (quotation and citations omitted). Voluntariness is a question of fact that depends on the totality of the circumstances, including the nature of the encounter, the kind of person the defendant is, and what was said and how it was said. *State v. Dezso*, 512 N.W.2d 877, 880 (Minn. 1994).

3. Probable Cause—Criminal Charges

The state can only appeal a probable cause dismissal if it is based on a legal determination. *State v. Ciurleo*, 471 N.W.2d 119, 121 (Minn. App. 1991). Whether the dismissal is a legal or factual determination is a threshold jurisdictional question. *State v. Barker*, 888 N.W.2d 348, 353 (Minn. App. 2016). As with other legal determinations, it is reviewed de novo. *State v. Linville*, 598 N.W.2d 1, 2 (Minn. App. 1999).

A defendant's probable cause challenge is irrelevant on appeal from final judgment of conviction because the standard of review for sufficiency of the evidence to support the conviction is much higher than probable cause. *State v. Holmberg*, 527 N.W.2d 100, 103 (Minn. App. 1995), *rev. denied* (Minn. Mar. 21, 1995).

4. Probable Cause—Search Warrants

"A [search] warrant is supported by probable cause if, on the totality of the circumstances, there is a fair probability that contraband or evidence of a crime will be found in a particular place. On review, we must determine whether there was a substantial basis to conclude that probable cause existed. We consider the type of crime, the nature of the items sought, the extent of the suspect's opportunity for concealment, and the normal inferences as to where the suspect would keep the items. Our inquiry is limited to the information presented in the affidavit supporting the warrant. When reviewing a pretrial order on a motion to suppress, we review the district court's determination of probable cause de novo." *State v. Holland*, 865 N.W.2d 666, 673 (Minn. 2015) (citation and quotations omitted).

Although a district court's determination of whether probable cause existed to support a warrant is reviewed de novo, we give "great deference" to the issuing magistrate's determination of probable cause at the time of the warrant's issue. *State v. Rochefort*, 631 N.W.2d 802, 804 (Minn. 2001).

A substantial basis in this context means a "fair probability," given the totality of the circumstances, "that contraband or evidence of a crime will be found in a particular place." *State v. Zanter*, 535 N.W.2d 624, 633 (Minn. 1995) (quotation omitted).

The standard for determining that an unannounced entry is necessary is reasonable suspicion, and where the material facts are not in dispute, the reviewing court independently determines whether evidence obtained during execution of a no-knock

warrant should be suppressed. *State v. Goodwin*, 686 N.W.2d 40, 43 (Minn. App. 2004), *rev. denied* (Minn. Dec. 14, 2004).

The reviewing court gives great deference to the issuing judge's determination of whether a nighttime search warrant should be authorized under Minn. Stat. § 626.14. *State v. Bourke*, 718 N.W.2d 922, 928 (Minn. 2006).

In reviewing an alleged *Franks* search-warrant-application deficiency, the court reviews for clear error the district court's findings on whether there was a statement or omission that was false or in reckless disregard of the truth. *State v. Andersen*, 784 N.W.2d 320, 327 (Minn. 2010). The court reviews de novo whether the alleged misrepresentation or omission was material to the probable cause determination. *Id.*

5. Warrantless Searches and Seizures

"When reviewing the legality of a seizure or search, an appellate court will not reverse the [district] court's findings unless clearly erroneous or contrary to law. This court will review de novo a [district] court's determination of reasonable suspicion as it relates to *Terry* stops and probable cause as it relates to warrantless searches." *In re Welfare of G.M.*, 560 N.W.2d 687, 690 (Minn. 1997) (citation omitted).

"We undertake a de novo review to determine whether a search or seizure is justified by reasonable suspicion or by probable cause." *State v. Burbach*, 706 N.W.2d 484, 487 (Minn. 2005).

"We evaluate whether a reasonable, articulable suspicion exists [to conduct a pat search] from the perspective of a trained police officer, who may make 'inferences and deductions that might well elude an untrained person.'" *State v. Lemert*, 843 N.W.2d 227, 230 (Minn. 2014) (quoting *United States v. Cortez*, 449 U.S. 411, 418 (1981)).

"The test of probable cause to arrest is whether the objective facts are such that under the circumstances a person of ordinary care and prudence would entertain an honest and strong suspicion that a crime has been committed." *State v. Johnson*, 314 N.W.2d 229, 230 (Minn. 1982) (quotation omitted). "[W]e review the district court's findings of historical fact relating to the probable cause determination for clear error under the clearly erroneous standard but we independently review de novo the issue of probable cause." *State v. Lee*, 585 N.W.2d 378, 383 (Minn. 1998).

In reviewing whether there existed a valid exception to the warrant requirement so as to justify a warrantless search or seizure, appellate courts review the district court's factual findings for clear error and its legal conclusions de novo. *State v. Stavish*, 868 N.W.2d 670, 677 (Minn. 2015).

6. Guilty Pleas

a. Withdrawal

"A defendant has no absolute right to withdraw a guilty plea after entering it." *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). The validity of a guilty plea is a question of law that this court reviews de novo. *Id.* at 94.

A defendant may seek plea withdrawal for the first time in a direct appeal. *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989).

A defendant may seek plea withdrawal under the presentence fair-and-just standard. Minn. R. Crim. P. 15.05, subd. 2. "The fair and just standard requires district courts to give due consideration to two factors: (1) the reasons a defendant advances to support withdrawal and (2) prejudice granting the motion would cause the State given reliance on the plea. A defendant bears the burden of advancing reasons to support withdrawal. The State bears the burden of showing prejudice caused by withdrawal. We review a district court's decision to deny a withdrawal motion for abuse of discretion, reversing only in the rare case." *Raleigh*, 778 N.W.2d at 97 (quotations and citations omitted).

"At any time the court must allow a defendant to withdraw a guilty plea upon a timely motion and proof to the satisfaction of the court that withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. A motion seeking plea withdrawal under the manifest-injustice standard filed after sentencing must be brought in a petition for postconviction relief. *James v. State*, 699 N.W.2d 723, 727 (Minn. 2005).

"A manifest injustice exists if a guilty plea is not valid. To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent. A defendant bears the burden of showing his plea was invalid. Assessing the validity of a plea presents a question of law that we review de novo." *Raleigh*, 778 N.W.2d at 94 (citations omitted).

b. Plea Agreements

Determining what the parties agreed to in a plea bargain is a factual inquiry, but the interpretation and enforcement of plea agreements present issues of law subject to de novo review. *State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004); *see also State v. Jumping Eagle*, 620 N.W.2d 42, 43 (Minn. 2000) (same).

When a defendant's motion to correct a sentence involves the plea agreement, it is properly reviewed as a petition for postconviction relief. *State v. Coles*, 862 N.W.2d 477, 482 (Minn. 2015).

7. Adverse Psychological Examinations of Complainants

Because of concerns about harassing the victim, the decision to order an adverse examination is within the district court's discretion. *State v. Moore*, 433 N.W.2d 895, 899-900 (Minn. App. 1988).

The district court has discretion to order adverse psychological examinations in criminal cases, "but the discretion should be used judiciously and in a balanced way." *State v. Elvin*, 481 N.W.2d 571, 574 (Minn. App. 1992) (affirming district court decision to deny defense request for adverse psychological examination of a victim), *rev. denied* (Minn. Apr. 29, 1992). *Id.*

8. Competency of Defendant

"[T]he standards for competency to stand trial and for competency to waive counsel are the same." *State v. Camacho*, 561 N.W.2d 160, 172 (Minn. 1997).

"The state must show the defendant's competence by a fair preponderance of the evidence. We independently review the record to determine if the district court gave proper weight to the evidence produced and if its finding of competency is adequately supported by the record." *State v. Ganpat*, 732 N.W.2d 232, 238 (Minn. 2007) (quotations omitted); *see also State v. Curtis*, 921 N.W.2d 342, 346-48 (Minn. 2018) (reaffirming *Ganpat*).

The district court's factual findings regarding competence are reviewed for clear error. *State v. O'Neill*, 945 N.W.2d 71, 82 (Minn. App. May 26, 2020), *rev. denied* (Minn. Aug. 11, 2020).

9. Double Jeopardy

An appellate court reviews double-jeopardy issues de novo. *State v. Leroy*, 604 N.W.2d 75, 77 (Minn. 1999). But this court reviews the district court's decision to declare a mistrial sua sponte without the defendant's consent for an abuse of discretion. *State v. Gouleed*, 720 N.W.2d 794, 800 (Minn. 2006).

An appellate court reviews the district court's findings that the prosecutor did not provoke a mistrial under the clearly erroneous standard. *See State v. Fuller*, 374 N.W.2d 722, 726 (Minn. 1985) (concluding that the district court's finding that the prosecutor did not willfully or intentionally elicit inadmissible evidence was not clearly erroneous.)

10. Continuances

A ruling on a request for a continuance is within the district court's discretion and a conviction will not be reversed for denial of a continuance unless the denial was a clear abuse of discretion. *State v. Rainer*, 411 N.W.2d 490, 495 (Minn. 1987).

"The reviewing court must examine the circumstances before the [district] court at the time the motion [for a continuance] was made to determine whether the [district] court's decision prejudiced [the] defendant by materially affecting the outcome of the trial." *State v. Turnipseed*, 297 N.W.2d 308, 311 (Minn. 1980).

"In evaluating a request for a continuance, the test is whether the denial of a continuance prejudices the outcome of the trial." *State v. Stroud*, 459 N.W.2d 332, 335 (Minn. App. 1990).

11. Issues Concerning Counsel

a. Waiver of Counsel

"We will only overturn a 'finding of a valid waiver of a defendant's right to counsel if that finding is clearly erroneous.'" *State v. Jones*, 772 N.W.2d 496, 504 (Minn. 2009) (quoting *State v. Worthy*, 583 N.W.2d 270, 276 (Minn. 1998)).

This court reviews a district court's denial of a request for self-representation under the clearly erroneous standard. *State v. Blom*, 682 N.W.2d 578, 613 (Minn. 2004).

b. Substitution of Counsel

The decision whether to grant a request for substitute counsel is within the district court's discretion. *State v. Clark*, 722 N.W.2d 460, 464 (Minn. 2006). And a district court will grant an indigent defendant's request for different counsel only if exceptional circumstances exist and the demand is timely and reasonable. *Id.* But a request to have advisory counsel take over representation under Minn. R. Crim. P. 5.04, subd. 2(2), is not discretionary. *State v. Chavez-Nelson*, 882 N.W.2d 579, 587 (Minn. 2016) (concluding Chavez-Nelson had a rule-based right to request that advisory counsel take over representation, and district court's denial of that request was error subject to harmless-error review).

c. Forfeiture of Counsel

"We review a district court's decision that a defendant has forfeited his right to counsel under a clearly erroneous standard of review." *State v. Krause*, 817 N.W.2d 136, 144 (Minn. 2012) (quotation omitted).

12. Speedy Trial

"Whether a defendant has been denied a speedy trial is a constitutional question subject to de novo review." *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017).

The question of whether the state violated a defendant's right to speedy disposition under the Uniform Mandatory Disposition of Detainers Act (UMDDA) is a question of law that is reviewed de novo on appeal. *State v. Mikell*, 960 N.W.2d 230, 238, 242 (Minn. 2021) (holding *Barker* factors do not apply when determining whether a violation of UMDDA requires dismissal of charges).

13. Joinder and Severance

a. Of Defendants

In reviewing the district court's decision regarding the joinder of defendants, the appellate court makes "an independent inquiry into any substantial prejudice to defendants that may have resulted from their being joined for trial." *State v. Powers*, 654 N.W.2d 667, 674 (Minn. 2003) (quotation omitted); *see* Minn. R. Crim. P. 17.03, subd. 2 (giving district courts discretion regarding joinder of defendants, and providing factors that the court must consider when determining whether to join defendants).

b. Of Offenses

The determination of whether offenses arose from a single behavioral incident so as to permit joinder depends on the facts and circumstances of the case. *State v. Jackson*, 615 N.W.2d 391, 394 (Minn. App. 2000), *rev. denied* (Minn. Oct. 17, 2000).

The ultimate question when offenses are improperly joined is one of prejudice. *State v. Profit*, 591 N.W.2d 451, 460 (Minn. 1999). If the admission of evidence of improperly joined offenses would have been admissible as *Spreigl* evidence had the offenses had been properly severed for trial, the improper joinder of the offenses is not prejudicial. *State v. Ross*, 732 N.W.2d 274, 283 (Minn. 2007) (rejecting less restrictive joinder standards and adhering to traditional joinder analysis in caselaw).

14. Jurisdiction

"The question of whether subject matter jurisdiction exists is a question of law that we review de novo." *State v. Vang*, 847 N.W.2d 248, 257-58 (Minn. 2014) (considering question of whether district court had subject matter jurisdiction to consider indictment filed against 23-year-old appellant who committed crime at 14 years of age).

15. Change of Venue

"The standard of review on a venue transfer challenge is whether the district court abused its discretion." *State v. Fairbanks*, 842 N.W.2d 297, 302 (Minn. 2014).

"Before [a reviewing] court will reverse a conviction based on a denial of a change of venue motion, we must find not only that the [district] court abused [its] wide discretion, but also that the denial resulted in prejudice to the defendant." *State v. Chambers*, 589 N.W.2d 466, 473 (Minn. 1999).

16. Entrapment Defense (Omnibus Hearing)

"We hold that this court will consider the district court's omnibus-hearing decision rejecting an entrapment defense by reviewing its factual findings for clear error and its legal conclusions de novo." *State v. Garcia*, 927 N.W.2d 338, 343 (Minn. App. 2019).

D. TRIAL MATTERS

1. Jury Selection

a. Challenges for Cause

"We review the district court's denial of a challenge for cause for an abuse of discretion. Our review of the district court's determination of juror impartiality is especially deferential. That determination depends largely on the prospective juror's demeanor, and demeanor plays a fundamental role not only in determining juror credibility, but also in simply understanding what a potential juror is saying." *State v. Munt*, 831 N.W.2d 569, 576 (Minn. 2013) (citations and quotation omitted).

Harmless-error does not apply to a district court's erroneous decision to deny a challenge for cause where the defendant has used all of his or her peremptory challenges and the biased juror served on the jury. *State v. Logan*, 535 N.W.2d 320, 324 (Minn. 1995).

b. Peremptory Challenges

The district court has discretion to allow or deny the use of a peremptory challenge after the right to make the challenge has expired and before the entire jury has been impaneled. *State v. Kitto*, 373 N.W.2d 307, 310-11 (Minn. 1985).

The district court's erroneous denial of a peremptory challenge automatically entitles a defendant to a new trial without a showing of prejudice. *State v. Reiners*, 664 N.W.2d 826, 835 (Minn. 2003).

"Trial court decisions relating to the conduct of voir dire will not be overturned absent an abuse of discretion." *State v. Greer*, 635 N.W.2d 82, 87 (Minn. 2001). "[I]t is an abuse of discretion for the trial court to frustrate the purposes of voir dire by preventing discovery of bases for challenge or inhibiting a defendant's ability to make an informed exercise of peremptory challenges." *Id.*

c. "Fair Cross Section" Challenges

"Minnesota cases concerning Sixth Amendment challenges to the fair-cross-section requirement appear to apply a de novo standard of review." *State v. Griffin*, 846 N.W.2d 93, 99 (Minn. App. 2014), *rev. denied* (Minn. Aug. 5, 2014); *see, e.g., Hennepin County. v. Perry*, 561 N.W.2d 889, 895-97 (Minn. 1997); *State v. Willis*, 559 N.W.2d 693, 700 (Minn. 1997); *State v. Williams*, 525 N.W.2d 538, 541–44 (Minn. 1994).

d. Batson *Challenges*

(1) General

The district court's determination on a *Batson* challenge will not be reversed unless clearly erroneous. *State v. Harvey*, 932 N.W.2d 792, 811(Minn. 2019); *State v. Pendleton*, 725 N.W.2d 717, 724 (Minn. 2007).

"We are mindful of the unique position of a district court to determine, based on all relevant factors, whether the circumstances of the case raise an inference that the challenge was based upon race. We have consistently given deference to the district court's rulings on *Batson* issues, realizing that the record may not accurately reflect all relevant circumstances that may properly be considered." *State v. White*, 684 N.W.2d 500, 506 (Minn. 2004) (citation omitted).

The supreme court has emphasized "the importance of clarity at each step of the analysis," but when the district court fails to follow this "prescribed procedure" the appellate courts will "examine the record without deferring to the district court's analysis." *State v. Seaver*, 820 N.W.2d 627, 633 (Minn. App. 2012) (quotations omitted).

"But when the district court makes its determination using the wrong legal standard, we will examine the record without deferring to the district court's analysis." *State v. Harvey*, 932 N.W.2d 792, 811 (Minn. 2019) (quotation omitted).

When the district court fails to make sequential rulings on each prong but does "not conflate the three prongs so as to obscure its discrete analysis of each prong," the reviewing court applies its usual deferential standard. *State v. Onyelobi*, 879 N.W.2d 334, 347 n.11 (Minn. 2016).

(2) Step one—prima facie case of discrimination

"[U]pon review of a district court's determination under step one of the *Batson* process that a prima facie showing of discrimination has not been established, we will reverse only in the face of clear error." *State v. White*, 684 N.W.2d 500, 507 (Minn. 2004).

When the district court proceeds to steps two and three of the analysis, "the question as to step one is moot on appeal." *State v. Lufkins*, 963 N.W.2d 205, 210 (Minn. 2021).

(3) Step two—race-neutral explanation

The striking party's explanation "will be deemed race-neutral unless a discriminatory intent is inherent in the [party's] explanation." *State v.*

Pendleton, 725 N.W.2d 717, 726 (Minn. 2007) (quotation and alteration omitted).

(4) Step three—purposeful discrimination

Whether racial discrimination in the exercise of a peremptory challenge has been shown "is an essentially factual determination, which typically will turn largely on an evaluation by the [district] court of credibility." *State v. James*, 520 N.W.2d 399, 403-04 (Minn. 1994) (quotation omitted). "A [district] court's determination of the genuineness of the prosecutor's response is entitled to great deference on review." *Id.* at 404 (quotations omitted). The clearly erroneous standard of review applies to this factual determination. *Id.*

Appellate courts give "considerable deference" to district court findings on whether a peremptory challenge was motivated by prohibited discriminatory intent because the issue typically requires an evaluation of the prosecutor's credibility. *State v. Johnson*, 616 N.W.2d 720, 725 (Minn. 2000). Appellate courts must focus on whether the district court "abused its considerable discretion" in determining that a "prosecutor did not engage in purposeful discrimination." *Id.*

Harmless error analysis does not apply when a peremptory challenge is based on a discriminatory intent or motive. *State v. Greenleaf*, 591 N.W.2d 488, 500-01 (Minn. 1999) ("If a prosecutor had a prohibited discriminatory intent or motive for striking a juror, a defendant is automatically entitled to a new trial because harmless error impact analysis is inappropriate in the case of a defendant convicted by a petit jury if there was racial discrimination in the selection of the jury.").

2. Trial Management

a. Removal of Judge

"A judicial officer's authority to conduct a trial is a legal question that we review de novo." *State v. Irby*, 848 N.W.2d 515, 517-18 (Minn. 2014) (applying de novo review on appeal despite failure to object to judge presiding at trial because the issue involves a "fundamental question of judicial authority").

A decision on a motion to remove a judge for cause is within the district court's discretion and will only be reversed on appeal if the district court abused its discretion. *Hooper v. State*, 838 N.W.2d 775, 790 (Minn. 2013).

b. Discovery Violations

"Under *Brady*, the suppression by the State, whether intentional or not, of material evidence favorable to the defendant violates the constitutional guarantee of due

process. . . . Because a *Brady* materiality analysis involves a mixed issue of fact and law, we review a district court's materiality determination de novo." *Walen v. State*, 777 N.W.2d 213, 216 (Minn. 2010)

"Whether a discovery violation occurred is an issue of law which this court reviews de novo." *State v. Palubicki*, 700 N.W.2d 476, 489 (Minn. 2005). But we review a district court's decision to impose discovery sanctions for an abuse of discretion. *Id.*

The reviewing court should not order a new trial to remedy a discovery violation unless there is a reasonable probability that the evidence would have affected the outcome of the trial. *State v. Clobes*, 422 N.W.2d 252, 255 (Minn. 1988).

c. Sequestration/Courtroom Closure

The question of whether the closing of the courtroom violated the right to a public trial is a constitutional issue the appellate courts review de novo. *State v. Brown*, 815 N.W.2d 609, 616 (Minn. 2012).

Sequestration of defendant's family and friends during voir dire is a question of constitutional law that is reviewed de novo because it involves the defendant's Sixth Amendment right to a public trial. *State v. Zornes*, 831 N.W.2d 609, 618 (Minn. 2013). But because the district court has "substantial discretion in conducting voir dire," which includes the power to sequester witnesses, the question of whether the court's conduct during voir dire fell within the contours of that right is reviewed for an abuse of discretion. *Id.* (quotation omitted).

d. Trial in Absentia

The decision to proceed with trial in absentia is reviewed under an abuse-of-discretion standard. *State v. Cassidy*, 567 N.W.2d 707, 709 (Minn. 1997). The district court's factual findings will not be disturbed unless clearly erroneous. *Id.* at 709-10. The district court, however, has "only a narrow discretion" in deciding whether to proceed with trial in the defendant's absence because the right to be present at trial must be safeguarded. *Id.* at 710; *see also State v. Gillam*, 629 N.W.2d 440, 451-52 (Minn. 2001).

"[T]he question of whether a defendant is voluntarily absent from trial . . . is a factual determination." *State v. Finnegan*, 784 N.W.2d 243, 249 (Minn. 2010) (adhering to "fact-driven approach" and declining to adopt rule that a defendant who attempts suicide during criminal trial is "involuntarily and justifiably absent").

e. Restraints on Defendant

The decision to require a criminal defendant to wear restraints during trial is within the discretion of the district court and will not be overturned absent an abuse of discretion. *State v. Chambers*, 589 N.W.2d 466, 475 (Minn. 1999).

f. Unruly Defendant

The district court has broad discretion in dealing with "disruptive, contumacious, stubbornly defiant defendants." *State v. Richards*, 495 N.W.2d 187, 197 (Minn. 1992) (quotation omitted).

g. Mistrial

"The denial of a motion for a mistrial is reviewed for an abuse of discretion. A mistrial should be granted only if there is a reasonable probability, in light of the entirety of the trial including the mitigating effects of a curative instruction, that the outcome of the trial would have been different had the incident resulting in the motion not occurred. The trial judge is in the best position to determine whether an error is sufficiently prejudicial to require a mistrial or whether another remedy is appropriate. When a court instructs a jury to disregard an improper question, we presume the jurors followed the instruction." *State v. Griffin*, 887 N.W.2d 257, 262 (Minn. 2016) (citations omitted).

h. Reopening Case-in-Chief

"[W]e review the disposition of a party's request to reopen its case after the party has rested under an abuse-of-discretion standard." *State v. Thomas*, 891 N.W.2d 612, 618 (Minn. 2017) (quotation omitted).

3. Evidentiary Rulings

a. In General

"Evidentiary rulings rest within the sound discretion of the district court, and we will not reverse an evidentiary ruling absent a clear abuse of discretion." *State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014).

"[A]n appellant who alleges an error in the admission of evidence that does not implicate a constitutional right must prove that there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict." *State v. Peltier*, 874 N.W.2d 792, 802 (Minn. 2016) (discussing factors court considers when determining whether wrongfully admitted evidence significantly affected the verdict) (quotation omitted).

In deciding what effect erroneously admitted evidence had on the verdict, the reviewing court considers "the manner in which the evidence was presented, whether it was highly persuasive, whether it was used in closing argument, and whether the defense effectively countered it." *Townsend v. State*, 646 N.W.2d 218, 223 (Minn. 2002).

b. Privilege

"The applicability of an evidentiary privilege is a question of law that we review de novo." *State v. Expose*, 872 N.W.2d 252, 257 (Minn. 2015) (therapist-client privilege); *see also Energy Pol'y Advocs. v. Ellison*, 980 N.W.2d 146, 155 (Minn. 2022) (applying de novo review to "issue concern[ing] the scope of the attorney-client privilege").

c. Expert-Witness Testimony

Appellate courts review the admissibility of expert testimony under Minn. R. Evid. 702 for an abuse of discretion. *State v. Thao*, 875 N.W.2d 834, 840 (Minn. 2016).

d. Scientific Evidence

"[A] two-pronged standard has emerged in Minnesota that must be satisfied before scientific evidence may be admitted. First, a novel scientific technique that produces evidence to be admitted at trial must be shown to be generally accepted within the relevant scientific community, and second, the particular evidence derived from the technique and used in an individual case must have a foundation that is scientifically reliable. *State v. Roman Nose*, 649 N.W.2d 815, 818 (Minn. 2002).

"Whether a particular principle or technique satisfies the first prong, general acceptance in the relevant scientific field, is a question of law that we review de novo. District court determinations under the second prong, foundational reliability, are reviewed under an abuse of discretion standard, as are determinations of expert witness qualifications and helpfulness." *Goeb v. Tharaldson*, 615 N.W.2d 800, 815 (Minn. 2000) (citation omitted).

e. Identification Evidence

"A district court's ruling on the admissibility of identification evidence is subject to an abuse-of-discretion standard of review." *State v. Booker*, 770 N.W.2d 161, 168 (Minn. App. 2009) (citing *State v. Goar*, 295 N.W.2d 633, 634 (Minn. 1980)), *rev. denied* (Minn. Oct. 20, 2009).

Whether an identification procedure is so suggestive as to violate due process is reviewed de novo. *State v. Hooks*, 752 N.W.2d 79, 83 (Minn. App. 2008).

The reviewing court independently reviews the facts in the record regarding the "totality of the circumstances" and determines whether the identification created "a very substantial likelihood of irreparable misidentification." *State v. Taylor*, 594 N.W.2d 158, 161 (Minn. 1999); *see also State v. Ostrem*, 535 N.W.2d 916, 921 (Minn. 1995) (listing factors to evaluate in considering totality of the circumstances).

Error in admission of tainted pretrial identification does not require a new trial if the state can show beyond a reasonable doubt that the error was harmless. *State v. Jones*, 556 N.W.2d 903, 913 (Minn. 1996) ("Looking to the whole of the evidence on which the jury based its verdict, we [conclude] that the verdict was surely unattributable to [the witness's] pre-trial identification.").

f. Other-Acts Evidence

"A district court's decision to admit *Spreigl* evidence [under Minn. R. Evid. 404(b)] is reviewed for an abuse of discretion. A defendant who claims the trial court erred in admitting evidence bears the burden of showing an error occurred and any resulting prejudice. If an appellate court determines that the district court erroneously admitted *Spreigl* evidence, the court must then determine whether there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict." *State v. Griffin*, 887 N.W.2d 257, 261-62 (Minn. 2016) (citations omitted).

g. Relationship Evidence

The district court's decision to admit similar-conduct or relationship evidence under Minn. Stat. § 634.20 in a domestic-abuse prosecution is reviewed for an abuse of discretion. *State v. McCoy*, 682 N.W.2d 153, 161 (Minn. 2004); see also *State v. Fraga*, 864 N.W.2d 615, 626-27 (Minn. 2015) (recognizing that *McCoy* adopted section 634.20 as rule of evidence that includes evidence of domestic conduct by the accused against family or household members other than the victim).

h. Impeachment by Prior Conviction

"We have held that we will not reverse a district court's ruling on the impeachment of a defendant with his prior conviction [under Minn. R. Evid. 609] absent an abuse of discretion." *State v. Zornes*, 831 N.W.2d 609, 626 (Minn. 2013).

The supreme court has "laid out five factors relevant to determining if a prior conviction is more probative than prejudicial" under Minn. R. Evid. 609(b): "(1) the impeachment value of the prior crime; (2) the date of conviction and the defendant's subsequent history; (3) the similarity of the past crime with the charged crime; (4) the importance of the defendant's testimony; and (5) the centrality of the credibility issue." *State v. Zornes*, 831 N.W.2d 609, 627 (Minn. 2013) (citing *State v. Jones*, 271 N.W.2d 534, 537-38 (Minn. 1978)).

"[I]t is error for a district court to fail to make a record of its consideration of the *Jones* factors, though the error is harmless if it is nonetheless clear that it was not an abuse of discretion to admit evidence of the convictions." *State v. Davis*, 735 N.W.2d 674, 680 (Minn. 2007).

i. Hearsay

"A determination that a statement meets the foundational requirements of a hearsay exception is reviewed for an abuse of discretion." *Holt v. State*, 772 N.W.2d 470, 483 (Minn. 2009); *see also State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (stating same standard of review).

"A defendant claiming error in the district court's reception of evidence has the burden of showing both the error and the prejudice resulting from the error." *Holt v. State*, 772 N.W.2d 470, 483 (Minn. 2009) (quotation omitted).

Any error in the admission of a hearsay statement is harmless if the statement would have been substantively admissible at trial on other grounds. *See State v. Robinson*, 718 N.W.2d 400, 407-410 (Minn. 2006) (finding that the district court's erroneous admission of a statement under the medical exception to the hearsay rule was harmless because it would have been admissible under the residual exception.).

The supreme court has noted that it is "particularly important" for counsel to object to potential hearsay evidence because of the "complexity and subtlety of the operation of the hearsay rule and its exceptions" so "that a full discussion of admissibility can be conducted at trial." *State v. Manthey*, 711 N.W.2d 498, 504 (Minn. 2006).

j. Confrontation Clause Violations

While evidentiary rulings are within the district court's discretion, whether the admission of evidence violates a defendant's rights under the Confrontation Clause is a question of law that is reviewed de novo. *State v. Caulfield*, 722 N.W.2d 304, 308 (Minn. 2006).

A violation of the Confrontation Clause is subject to the constitutional harmless-error analysis and does not require reversal if the reviewing court determines that the error was harmless beyond a reasonable doubt. *Id.* at 314.

When the defendant does not specifically object under the Confrontation Clause at trial but only argues that testimony is inadmissible under the rules of evidence, the reviewing court will review the constitutional question for plain error. *State v. Rossberg*, 851 N.W.2d 609, 618 (Minn. 2014).

k. Physical Evidence

A district court's admission of physical evidence will be affirmed unless it constitutes an abuse of discretion. *State v. Daniels*, 361 N.W.2d 819, 827 (Minn. 1985) (admissibility of weapon); *see also State v. Zornes*, 831 N.W.2d 609, 624 (Minn. 2013) (same).

l. Photographs

"Rulings on the admissibility of photographs as evidence are in the broad discretion of the district court and will not be reversed on appeal absent a showing of a clear abuse of discretion." *State v. Dame*, 670 N.W.2d 261, 264 (Minn. 2003) (admissibility of autopsy photos).

"We review a district court's decision to admit photographic evidence for an abuse of discretion." *State v. Morrow*, 834 N.W.2d 715, 726 (Minn. 2013) (discussing admissibility of photos as spark-of-life evidence).

m. Scope of Cross-Examination

The scope of cross-examination is left largely to the district court's discretion and will not be reversed absent a clear abuse of discretion. *State v. Parker*, 585 N.W.2d 398, 406 (Minn. 1998).

n. Scope of Closing Arguments

"Courts may limit the scope of a defendant's arguments to ensure that the defendant does not confuse the jury with misleading inferences." *State v. Atkinson*, 774 N.W.2d 584, 589 (Minn. 2009).

"We review a district court's restricting the scope of a closing argument for an abuse of discretion." *State v. Caldwell*, 815 N.W.2d 512, 516 (Minn. App. 2012), *rev. denied* (Minn. June 27, 2012).

o. Alternative Perpetrator

"A district court's denial of a motion to introduce alternative-perpetrator evidence is reviewed for an abuse of discretion." *Troxel v. State*, 875 N.W.2d 302, 307 (Minn. 2016). And "[w]e apply the harmless-error test to the erroneous exclusion of alternative-perpetrator evidence. A conviction will stand despite erroneously excluded evidence when the error is harmless beyond a reasonable doubt." *Id.* (citations omitted).

"If defendants wish to introduce evidence of the alternative perpetrator's *other* crimes, wrongs, or bad acts, they must make an additional showing. Under Minnesota Rule of Evidence 404(b), a defendant must show by clear and convincing evidence that the alleged alternative perpetrator participated in the reverse-*Spreigl* incident (the prior crime, wrong, or bad act), that the incident is relevant and material to the defendant's case, and that the probative value of the evidence outweighs its potential prejudicial effect. Clear and convincing evidence means that the truth of the facts asserted is highly probable." *State v. Curtis*, 905 N.W.2d 609, 616 (Minn. 2018) (citations and quotations omitted).

p. Exclusion of Defense Evidence

"We review a district court's evidentiary rulings for abuse of discretion, even when, as here, the defendant claims that the exclusion of evidence deprived him of his constitutional right to a meaningful opportunity to present a complete defense. Even if an objection was made and a district court abused its discretion, we reverse only if the exclusion of evidence was not harmless beyond a reasonable doubt." *State v. Zumberge*, 888 N.W.2d 688, 694 (Minn. 2017) (citations omitted).

"An error in excluding [defense] evidence is harmless only if the reviewing court is 'satisfied beyond a reasonable doubt that if the evidence had been admitted and the damaging potential of the evidence fully realized, a [reasonable] jury would have reached the same verdict.'" *State v. Olsen*, 824 N.W.2d 334, 340 (Minn. App. 2012) (quoting *State v. Post*, 512 N.W.2d 99, 102 (Minn. 1994)).

4. Jury Instructions

a. In General

"We review a district court's jury instructions for an abuse of discretion. A district court abuses its discretion if it fails to properly instruct the jury on all elements of the offense charged." *State v. Stay*, 935 N.W.2d 428, 430 (Minn. 2019) (citation and quotation omitted).

"When we review jury instructions for error, we review the instructions in their entirety to determine whether they fairly and adequately explained the law of the case. An instruction is in error if it materially misstates the law." *State v. Kuhnau*, 622 N.W.2d 552, 555-56 (Minn. 2001) (citation omitted).

"While district courts have broad discretion to formulate appropriate jury instructions, a district court abuses its discretion if the jury instructions 'confuse, mislead, or materially misstate the law.'" *State v. Taylor*, 869 N.W.2d 1, 14-15 (Minn. 2015) (quoting *State v. Kelley*, 855 N.W.2d 269, 274 (Minn. 2014)). "Where there is a conflict between the Minnesota Jury Instructions Guide, Criminal (CRIMJIG) and the statute or our case law, the latter two control." *Id.* at 15.

"We evaluate the erroneous omission of a jury instruction under a harmless error analysis." *State v. Lee*, 683 N.W.2d 309, 316 (Minn. 2004). When faced with an erroneous refusal to give jury instructions, the reviewing court must "examine all relevant factors to determine whether, beyond a reasonable doubt, the error did not have a significant impact on the verdict." *State v. Shoop*, 441 N.W.2d 475, 481 (Minn. 1989). If the error might have prompted the jury to reach a harsher verdict than it might otherwise have reached, the defendant is entitled to a new trial. *Id.*

When there is no objection to jury instructions at trial, the appellate court has discretion to consider a claim of error on appeal "if there was plain error affecting substantial rights or an error of fundamental law in the jury instructions." *State v.*

Crowsbreast, 629 N.W.2d 433, 437 (Minn. 2001) (quotation omitted); *State v. Reek*, 942 N.W.2d 148, 158 (Minn. 2020) (same).

In evaluating whether a plainly-erroneous jury instruction affected substantial rights, the reviewing court "look[s] to all relevant factors including, but not limited to: (1) whether [the defendant] contested the omitted elements at trial and submitted evidence to support a contrary finding; (2) whether the State presented overwhelming evidence to prove those elements; and (3) whether the jury's verdict nonetheless encompassed a finding on those elements notwithstanding their omission from the jury instructions." *State v. Peltier*, 874 N.W.2d 792, 800 (Minn. 2016).

"We have held that the failure to state an element of a crime in unobjected-to jury instructions does not necessarily affect the outcome of the case as a matter of law such that reversal is always required." *State v. Beganovic*, 991 N.W.2d 638, 655 (Minn. 2023) (affirming arson conviction, concluding no reasonable likelihood jury would have reached different conclusion where evidence that Beganovic did not have legal authority to start fire was overwhelming).

b. Lesser-Included Offenses

"It is well established in our jurisprudence that we review the denial of a requested lesser-included offense instruction under an abuse of discretion standard." *State v. Dahlin*, 695 N.W.2d 588, 597 (Minn. 2005). But "the failure to submit lesser-included offenses to the jury is grounds for reversal only if the defendant is prejudiced thereby." *Id.* (quotation omitted). "As a preliminary matter, we emphasize that when a defendant fails to request a lesser-included offense instruction warranted by the evidence, the defendant impliedly waives his or her right to receive the instruction." *Id.* at 597-98. "[A]bsent plain error affecting a defendant's substantial rights, a [district] court does not err when it does not give a warranted lesser-included offense instruction if the defendant has impliedly or expressly waived that instruction." *Id.* at 598.

"The determination of what, if any, lesser offense to submit to the jury lies within the sound discretion of the [district] court, but where the evidence warrants an instruction, the [district] court must give it." *Bellcourt v. State*, 390 N.W.2d 269, 273 (Minn. 1986) (citations omitted).

c. Accomplice-Testimony Corroboration Instruction

"An accomplice instruction 'must be given in any criminal case in which any witness against the defendant might reasonably be considered an accomplice to the crime.'" *State v. Dobbins*, 725 N.W.2d 492, 506 (Minn. 2006) (quoting *State v. Shoop*, 441 N.W.2d 475, 479 (Minn. 1989)). "The duty to instruct on accomplice testimony remains regardless of whether counsel for the defendant requests the instruction" and omission of the jury instruction is error. *Id.* (citing *State v. Strommen*, 648 N.W.2d 681, 689 (Minn. 2002)).

"[W]here a district court fails to give a required accomplice corroboration instruction and the defendant does not object, an appellate court must apply the plain error analysis." *State v. Reed*, 737 N.W.2d 572, 584 n.4 (Minn. 2007). "[I]t is plainly erroneous for a district court to fail to give an accomplice-corroboration instruction when the facts warrant it." *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016).

In evaluating whether the failure to give an accomplice-corroboration instruction affected the defendant's substantial rights, the appellate courts examine "'whether the testimony of the accomplice was corroborated by significant evidence, whether the accomplice testified in exchange for leniency, whether the prosecution emphasized the accomplice's testimony in closing argument, and whether the court gave the jury general witness credibility instructions.'" *Id.* (quoting *State v. Jackson*, 746 N.W.2d 894, 899 (Minn. 2008)).

A district court's decision whether to instruct the jury that a witness is to be considered an accomplice as a matter of law is reviewed for an abuse of discretion. *State v. Pendleton*, 759 N.W.2d 900, 907 (Minn. 2009).

d. Defenses

"It is an abuse of the district court's discretion to refuse to give an instruction on the defendant's theory of the case if there is evidence to support it." *State v. Johnson*, 719 N.W.2d 619, 629 (Minn. 2006) (quotation omitted).

e. Limiting Instructions

"[W]hen a district court admits relationship evidence under Minn. Stat. § 634.30, over a defendant's objection . . ., the court must sua sponte instruct the jurors on the proper use of such evidence, unless the defendant objects to the instruction by the court," and the district court's failure to do so is an error that is plain. *State v. Zinski*, 927 N.W.2d 272, 278-79 (Minn. 2019) (clarifying the law regarding whether a district court's failure to sua sponte give a limiting instruction is plain error).

5. Prosecutorial Misconduct

a. Unobjected-To Misconduct

When the defendant fails to object during trial, prosecutorial misconduct is reviewed under a modified plain-error standard. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006). The defendant bears the burden of establishing error that is plain, but upon doing so the burden shifts to the state to prove that there is no reasonable likelihood that the absence of the misconduct would have had a significant effect on the jury's verdict. *Id.*

> “To evaluate the effect on substantial rights, we consider various factors, including the pervasiveness of improper suggestions and the strength of evidence against the defendant. If the State fails to demonstrate that the alleged error did not affect the defendant’s substantial rights, we consider whether the error should be addressed to ensure fairness and the integrity of judicial proceedings.” *State v. Parker*, 901 N.W.2d 917, 926 (Minn. 2017) (quotation and citation omitted).
>
> ***b. Objected-To Misconduct***
>
> This court will reverse a district court’s determination regarding alleged prosecutorial misconduct “only when the misconduct, considered in the context of the trial as a whole, was so serious and prejudicial that the defendant’s constitutional right to a fair trial was impaired.” *State v. Johnson*, 616 N.W.2d 720, 727-28 (Minn. 2000).
>
> Objected-to prosecutorial misconduct is reviewed for harmless error. *State v. Hunt*, 615 N.W.2d 294, 302 (Minn. 2000). The standard for determining whether an error was harmless, however, varies based upon the severity of the misconduct:
>
> “[I]n cases involving unusually serious prosecutorial misconduct this court has required certainty beyond a reasonable doubt that the misconduct was harmless before affirming. . . . On the other hand, in cases involving less serious prosecutorial misconduct this court has applied the test of whether the misconduct likely played a substantial part in influencing the jury to convict.” *State v. Caron*, 218 N.W.2d 197, 200 (Minn. 1974).
>
> The supreme court has questioned whether this two-tiered approach is still good law, while declining to decide the question. *See State v. McDaniel*, 777 N.W.2d 739, 749 (Minn. 2010); *see also State v. Carridine*, 812 N.W.2d 130, 146 (Minn. 2012).

6. Juror Misconduct

“The standard of review for denial of a *Schwartz* hearing is abuse of discretion.” *State v. Church*, 577 N.W.2d 715, 721 (Minn. 1998). “The granting of a *Schwartz* hearing is generally a matter of discretion for the [district] court.” *State v. Rainer*, 411 N.W.2d 490, 498 (Minn. 1987).

A district court’s findings as to the presence or absence of juror bias is “based upon determinations of demeanor and credibility” and therefore is entitled to deference. *State v. Evans*, 756 N.W.2d 854, 870 (Minn. 2008) (quotation omitted). Actual bias is a question of fact that the district court is in the best position to evaluate. *Id.*

7. Ineffective Assistance of Counsel

“When a claim of ineffective assistance of trial counsel can be determined on the basis of the trial record, the claim must be brought on direct appeal or it is *Knaffla*-barred.”

Andersen v. State, 830 N.W.2d 1, 10 (Minn. 2013). But when the claim requires examination of evidence outside of the record or additional fact-finding, the claim is better brought in a postconviction proceeding. *Id*.

"[A]n ineffective-assistance-of-trial-counsel claim brought in a postconviction proceeding following direct appeal is not *Knaffla*-barred if review of the claim requires consideration of facts outside those in the trial court record." *Zornes v. State*, 880 N.W.2d 363, 369 (Minn. 2016).

When an ineffective assistance of counsel claim is properly raised in a direct appeal, we examine the claim under the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). *State v. Ellis-Strong*, 899 N.W.2d 531, 535 (Minn. App. 2017) (citing *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013).

"We review a district court's application of the *Strickland* test de novo because it involves a mixed question of law and fact. If a claim fails to satisfy one of the *Strickland* requirements, we need not consider the other requirement." *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017) (citation omitted).

"[W]hen we review a postconviction court's denial of relief on a claim of ineffective assistance of counsel, we will consider the court's factual findings that are supported in the record, conduct a de novo review of the legal implication of those facts on the ineffective assistance claim, and either affirm the court's decision or conclude that the court abused its discretion because postconviction relief is warranted." *State v. Nicks*, 831 N.W.2d 493, 503-04 (Minn. 2013).

8. Sufficiency of the Evidence

a. In General

"Because the meaning of a criminal statute is intertwined with the issue of whether the State proved beyond a reasonable doubt that the defendant violated the statute, it is often necessary to interpret a criminal statute when evaluating an insufficiency-of-the-evidence claim. . . . We review issues of statutory interpretation de novo." *State v. Vasko*, 889 N.W.2d 551, 556 (Minn. 2017).

Whether a defendant's conduct meets the definition of a particular offense presents a question of statutory interpretation that is reviewed de novo. *State v. Hayes*, 826 N.W.2d 799, 803 (Minn. 2013).

"When evaluating the sufficiency of the evidence, appellate courts carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the jury to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted. The evidence must be viewed in the light most favorable to the verdict, and it must be assumed that the fact-finder disbelieved any evidence that conflicted with the verdict. The verdict will not be overturned if the fact-finder, upon application of

the presumption of innocence and the State's burden of proving an offense beyond a reasonable doubt, could reasonably have found the defendant guilty of the charged offense." *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation and citations omitted).

"[Appellate courts] use the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence." *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

b. Convictions Based on Direct Evidence

"[D]irect evidence is evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation and alteration omitted).

When an element of an offense is supported by direct evidence, this court's review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (citing *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989)).

The reviewing court must assume "the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989).

c. Convictions Based on Circumstantial Evidence

The supreme court has defined circumstantial evidence as "evidence from which the factfinder can infer whether the facts in dispute exited or did not exist." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). "[C]ircumstantial evidence always requires an inferential step to prove a fact that is not required with direct evidence." *Id.*

"When the direct evidence of guilt on a particular element is not alone sufficient to sustain the verdict," appellate courts apply the circumstantial-evidence standard of review. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017).

In reviewing the sufficiency of circumstantial evidence, an appellate court uses a two-step analysis:

> The first step is to identify the circumstances proved. In identifying the circumstances proved, we defer to the jury's acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State. As with direct evidence, we construe conflicting evidence in the light most favorable to the

> verdict and assume that the jury believed the State's witnesses and disbelieved the defense witnesses. Stated differently, in determining the circumstances proved, we consider only those circumstances that are consistent with the verdict. This is because the jury is in the best position to evaluate the credibility of the evidence even in cases based on circumstantial evidence.
>
> The second step is to determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt. We review the circumstantial evidence not as isolated facts, but as a whole. We examine independently the reasonableness of all inferences that might be drawn from the circumstances proved; including the inferences consistent with a hypothesis other than guilt. Under this second step, we must determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt, not simply whether the inferences that point to guilt are reasonable. We give no deference to the fact finder's choice between reasonable inferences.

State v. Silvernail, 831 N.W.2d 594, 598-99 (Minn. 2013) (quotations and citations omitted).

d. Evidence Corroborating an Accomplice's Testimony

When reviewing the sufficiency of evidence corroborating an accomplice's testimony, we "review the evidence just as we would on a sufficiency challenge—in the light most favorable to the prosecution, and with all conflicts in the evidence resolved in favor of the verdict." *State v. Smith*, 932 N.W.2d 257, 264 (Minn. 2019).

The plain language of Minn. Stat. § 634.03 "requires the State to present evidence independent of a confession that reasonably tends to prove that the specific crime charged in the complaint actually occurred in order to sustain the defendant's conviction." *State v. Holl*, 966 N.W.2d 803, 814 (Minn. 2021).

"Corroborating evidence is sufficient if it restores confidence in the accomplice's testimony, confirming its truth and pointing to the defendant's guilt in some substantial degree." *State v. Ford*, 539 N.W.2d 214, 225 (Minn. 1995) (quotation omitted).

> "The quantum of corroborative evidence needed necessarily depends on the circumstances of each case." *State v. Her*, 668 N.W.2d 924, 927 (Minn. App. 2003) (quotation omitted), *rev. denied* (Minn. Dec. 16, 2003). "Evidence that merely shows the commission of the crime or the circumstances thereof is not sufficient to corroborate accomplice testimony." *State v. Johnson*, 616 N.W.2d 720, 727 (Minn. 2000). Corroborating evidence may be direct or circumstantial; it is viewed in a light most favorable to the verdict and, "while it need not establish a prima facie case of the defendant's guilt, it must point to [the] defendant's guilt in some substantial way." *Id.*; *see* Minn. Stat. § 634.04 (2022) (providing that accomplice testimony must be corroborated).

E. SENTENCING

1. In General

"We 'afford the [district] court great discretion in the imposition of sentences' and reverse sentencing decisions only for an abuse of that discretion." *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quoting *State v. Spain*, 590 N.W.2d 85, 88 (Minn. 1999)).

Whether a sentence conforms to the requirements of a statute or the sentencing guidelines is a question of law reviewed de novo. *State v. Williams*, 771 N.W.2d 514, 520 (Minn. 2009).

2. Multiple Convictions

Under Minnesota law, a criminal defendant "may be convicted of either the crime charged or an included offense, but not both." Minn. Stat. § 609.04, subd. 1 (2022).

"We hold that the proper procedure to be followed by the [district] court when the defendant is convicted on more than one charge for the same act is for the court to adjudicate formally and impose sentence on one count only. The remaining conviction(s) should not be formally adjudicated at this time. If the adjudicated conviction is later vacated for a reason not relevant to the remaining unadjudicated conviction(s), one of the remaining unadjudicated convictions can then be formally adjudicated and sentence imposed, with credit, of course, given for time already served on the vacated sentence." *State v. LaTourelle*, 343 N.W.2d 277, 284 (Minn. 1984).

An appellate court may "look to the official judgment of conviction in the district court file as conclusive evidence of whether an offense has been formally adjudicated." *Spann v. State*, 740 N.W.2d 570, 573 (Minn. 2007) (quotations omitted).

3. Stay of Adjudication/Continuance for Dismissal

"Generally, a prosecutor has broad discretion in the exercise of the charging function and ordinarily, under the separation-of-powers doctrine, a court should not interfere with the prosecutor's exercise of that discretion. In [*State v. Krotzer*, 548 N.W.2d 252 (Minn. 1996)] we held, however, that if 'special circumstances' are present, then a [district] court

may stay an adjudication of guilty over the prosecutor's objection without violating the separation-of-powers doctrine." *State v. Foss*, 556 N.W.2d 540, 540 (Minn. 1996).

"[I]t was our intention that the inherent judicial authority recognized in [*Krotzer*] be relied upon *sparingly* and only for the purpose of avoiding an injustice resulting from the prosecutor's *clear abuse of discretion* in the exercise of the charging function." *Id.* at 541.

"A clear-abuse-of-discretion standard applies to appellate review of stays of adjudication." *State v. Wright*, 699 N.W.2d 782, 786 (Minn. App. 2005).

"[F]or purposes of appellate review, a continuance for dismissal is functionally equivalent to a stay of adjudication. Consequently, we review a continuance for dismissal by applying the caselaw that applies to a stay of adjudication. Accordingly, a district court may order a continuance for dismissal only for the purpose of avoiding an injustice resulting from the prosecutor's *clear abuse of discretion* in the exercise of the charging function." *State v. Martin*, 849 N.W.2d 99, 103 (Minn. App. 2014) (quotations and citations omitted), *rev. denied* (Minn. Sept. 24, 2014).

4. Interpretation of Guidelines

"Interpreting the Minnesota Sentencing Guidelines presents a question of law, which we review de novo. When we interpret the Guidelines, we use the same principles as when interpreting statutes, including the canons of interpretation in Minn. Stat. § 645.08." *State v. Scovel*, 916 N.W.2d 550, 554 (Minn. 2018) (citation omitted).

5. Calculation of Sentence

a. Criminal-history Score

We review a district court's determination of a defendant's criminal-history score for an abuse of discretion. *State v. Edwards*, 900 N.W.2d 722, 727 (Minn. App. 2017), *aff'd mem.*, 909 N.W.2d 594 (Minn. 2018).

"The State bears the burden of proof at sentencing to show that a prior conviction qualifies for inclusion within the criminal-history score." *Williams v. State*, 910 N.W.2d 736, 740 (Minn. 2018).

"[W]hen a defendant files a motion under Minn. R. Crim. P. 27.03, subd. 9, to correct a sentence after the time for direct appeal has passed, the defendant bears the burden of proving that his or her sentence was based on an incorrect criminal-history score." *Id.* at 743.

When a defendant fails to object to the district court's calculation of his or her criminal history score and the state's evidence was insufficient to carry its burden of proof as to the score, the proper remedy is to remand the matter for an opportunity for the state "to further develop the sentencing record so that the district court can appropriately make its determination." *State v. Outlaw*, 748 N.W.2d 349,

356 (Minn. App. 2008), *rev. denied* (Minn. July 15, 2008); s*ee also State v. Strobel*, 921 N.W.2d 563, 577 (Minn. App. 2018), *aff'd*, 932 N.W.2d 303 (Minn. 2019).

b. Jail Credit

"The defendant has the burden of establishing that he is entitled to jail credit for any specific period of time. The decision whether to award credit is a mixed question of fact and law; the court must determine the circumstances of the custody the defendant seeks credit for, and then apply the rules to those circumstances. We review the factual findings underlying jail-credit determinations for clear error, but we review questions of law de novo. The sentencing court does not have discretion in awarding jail credit." *State v. Clarkin*, 817 N.W.2d 678, 687 (Minn. 2012) (quotation and citations omitted); *see also State v. Roy*, 928 N.W.2d 341, 344 (Minn. 2019) (stating same standard of review).

c. Multiple Sentences

The district court's decision whether multiple offenses were committed as part of a single behavioral incident under Minn. Stat. § 609.035 so as to preclude multiple sentencing entails factual determinations that will not be reversed unless clearly erroneous. *State v. O'Meara*, 755 N.W.2d 29, 37 (Minn. App. 2008).

"Whether the offenses were part of a single behavioral incident is a mixed question of law and fact, so we review the district court's findings of fact for clear error and its application of the law to those facts de novo." *State v. Bakken*, 883 N.W.2d 264, 270 (Minn. 2016).

The appellate courts review the imposition of multiple and consecutive sentences when multiple victims are involved under the abuse-of-discretion standard, and the multiple sentences will be upheld so long as they do not unfairly exaggerate the criminality of the conduct. *State v. Cruz-Ramirez*, 771 N.W.2d 497, 512 (Minn. 2009).

d. Consecutive Sentences

The district court's decision to impose consecutive sentences is reviewed for an abuse of discretion. *State v. Ali*, 895 N.W.2d 237, 247 (Minn. 2017). The reviewing court will interfere with a district court's sentencing discretion only when "the sentence is disproportionate to the offense or unfairly exaggerates the criminality of the defendant's conduct." *Id.* (quotation omitted). In determining whether the district court abused its discretion, "we look to past sentences received by other offenders." *Id.* (quotation omitted).

6. Imposition of Presumptive Sentence

"All three numbers in any given cell [on the sentencing guidelines grid] constitute an acceptable sentence based solely on the offense at issue and the offender's criminal history score—the lowest is not a downward departure, nor is the highest an upward departure."

State v. Jackson, 749 N.W.2d 353, 359 n.2 (Minn. 2008). "This court will not generally review a district court's exercise of its discretion to sentence a defendant when the sentence imposed is within the presumptive guidelines range." *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010).

7. Departures from the Sentencing Guidelines

"We review a district court's decision to depart from the presumptive guidelines sentence for an abuse of discretion." *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016).

"If the reasons given for an upward departure are legally permissible and factually supported in the record, the departure will be affirmed. But if the district court's reasons for departure are improper or inadequate, the departure will be reversed." *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009) (quotation omitted).

"The supreme court . . . applies a de novo standard when reviewing whether a particular reason for an upward departure is permissible. . . . Once we determine as a matter of law that the district court has identified proper grounds justifying a challenged departure, we review its decision *whether* to depart for an abuse of discretion." *Dillon v. State*, 781 N.W.2d 588, 595 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010).

"When the district court gives improper or inadequate reasons for a *downward* departure, we may independently examine the record to determine whether alternative grounds support the departure." *State v. Rund*, 896 N.W.2d 527, 532-33 (Minn. 2017); *see also State v. Geller*, 665 N.W.2d 514, 516-17 (Minn. 2003); *State v. Williams*, 361 N.W.2d 840, 844 (Minn. 1985).

8. Restitution

"A district court has broad discretion to award restitution, and the district court's order will not be reversed absent an abuse of that discretion. The district court's factual findings will not be disturbed unless they are clearly erroneous. But questions concerning the authority of the district court to order restitution are questions of law subject to de novo review." *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015) (citations omitted).

"We generally review a restitution order for an abuse of the district court's broad discretion. That discretion, however, is constrained by the statutory requirements set forth in Minn. Stat. § 611A.045 (2020)." *State v. Wigham*, 967 N.W.2d 657, 662 (Minn. 2021) (quotation omitted). The question of whether the district court fulfilled its statutory obligation to consider the defendant's ability to pay restitution is, therefore, a question of law that is reviewed de novo. *Id.*

A district court abuses its discretion when its decision regarding restitution is based on an erroneous interpretation or application of the law. *State v. Boettcher*, 931 N.W.2d 376, 380 (Minn. 2019).

"Whether a particular claim for restitution fits within the statutory definition is a question of law, which this court reviews de novo." *In re Welfare of M.R.H.*, 716 N.W.2d 349, 351 (Minn. App. 2006), *rev. denied* (Minn. Aug. 15, 2006).

9. Probation Revocation

"The [district] court has broad discretion in determining if there is sufficient evidence to revoke probation and should be reversed only if there is a clear abuse of that discretion." *State v. Austin*, 295 N.W.2d 246, 249-50 (Minn. 1980).

Whether the district court made the findings required for revocation of probation is a question of law, which this court reviews de novo. *State v. Modtland*, 695 N.W.2d 602, 605 (Minn. 2005).

F. POSTCONVICTION RELIEF

1. In General

"We review the denial of a petition for postconviction relief for an abuse of discretion. A postconviction court abuses its discretion when it has exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings. Legal issues are reviewed de novo, but our review of factual issues is limited to whether there is sufficient evidence in the record to sustain the postconviction court's findings. Put differently, we do not reverse the postconviction court's findings unless they are clearly erroneous." *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017) (quotations, citations, and alterations omitted).

"We review the ultimate decision by the postconviction court to grant or deny an evidentiary hearing for an abuse of discretion." *Caldwell v. State*, 853 N.W.2d 766, 770 (Minn. 2014).

"When a defendant initially files a direct appeal and then moves for a stay to pursue postconviction relief, we review the postconviction court's decisions using the same standard that we apply on direct appeal." *State v. Beecroft*, 813 N.W.2d 814, 836 (Minn. 2012); *State v. Petersen*, 799 N.W.2d 653, 656 (Minn. App. 2011), *rev. denied* (Minn. Sept. 28, 2011) (same). *But see State v. Whitson*, 876 N.W.2d 297, 303 (Minn. 2016) (noting in a direct appeal with stay and remand, that all issues Whitson raises on direct appeal were raised in his postconviction petition and are subject to standard of review applicable to an appeal from denial of a petition for postconviction relief).

2. Summary Denial of Postconviction Relief

"Upon filing a petition for postconviction relief, an evidentiary hearing must be held unless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief. In determining whether an evidentiary hearing is required, a postconviction court considers the facts alleged in the petition as true and construes them in the light most favorable to the petitioner. A petition that is filed outside the statute of limitations may be summarily denied, unless a statutory exception applies. *Andersen v.*

State, 913 N.W.2d 417, 422-23 (Minn. 2018) (quotations, citations, and alterations omitted).

"We review a postconviction court's summary denial of a petition for postconviction relief for an abuse of discretion." *Id.* at 422.

"When it is indisputable that claims are procedurally barred, they are frivolous." *Wayne v. State*, 912 N.W.2d 633, 641 (Minn. 2018) (concluding claims did not satisfy interests-of-justice exception to time bar because the claims have been already addressed and are procedurally barred).

3. Minn. R. Crim. P. 27.03, subd. 9

"We review the district court's denial of a motion to correct a sentence [under Minn. R. Crim. P. 27.03, subd. 9] for an abuse of discretion. Specifically, we review the district court's legal conclusions de novo and its factual findings under the clearly erroneous standard." *Townsend v. State*, 834 N.W.2d 736, 738 (Minn. 2013) (citation omitted).

4. Petitions for Compensation Based on Exoneration

The question of whether a petitioner meets the statutory definition of "exonerated" presents a question of statutory interpretation that is reviewed de novo. *Back v. State*, 902 N.W.2d 23, 27 (Minn. 2017); see also *Kingbird v. State*, 973 N.W.2d 633, 641 (Minn. 2022) (applying de novo review to question of whether conviction was vacated on "grounds consistent with innocence").

G. FUNDING UNDER MINN. STAT. § 611.21

This court generally reviews an order denying funds for services other than counsel under Minn. Stat. § 611.21 (2022) for an abuse of discretion, but where the denial is based on statutory interpretation, de novo review applies. *In re Application of Wilson*, 509 N.W.2d 568, 570 (Minn. App. 1993).

VII. QUASI-CRIMINAL

A. JUVENILE

1. Delinquency Adjudications

"On appeal from a determination that each of the elements of a delinquency petition have been proved beyond a reasonable doubt, an appellate court is limited to ascertaining whether, given the facts and legitimate inferences, a fact-finder could reasonably make that determination. This court must assume that the fact-finder believed the state's witnesses and disbelieved any contrary evidence." *In re Welfare of T.N.Y.*, 632 N.W.2d 765, 768 (Minn. App. 2001) (quotation and citations omitted).

"In reviewing the sufficiency of the evidence the court applies the same standard to bench and jury trials. The sufficiency standard is that the reviewing court views the evidence in the light most favorable to the state and decides whether the fact-finder could have reasonably found the defendant guilty." *In re Welfare of M.E.M.*, 674 N.W.2d 208, 215 (Minn. App. 2004) (citation omitted). "The factual findings of the district court are upheld unless clearly erroneous." *Id.*

2. Certification and Extended Jurisdiction Juvenile (EJJ) Designation

The district court's findings of fact regarding the public-safety factors will not be disturbed unless they are clearly erroneous. *In re Welfare of H.B.*, 986 N.W.2d 158, 166 (Minn. 2022) (certification); *In re Welfare of D.M.D.*, 607 N.W.2d 432, 437 (Minn. 2000) (EJJ).

Questions involving the interpretation of the statutory "public safety" factors are questions of law reviewed de novo. *In re Welfare of N.J.S.*, 753 N.W.2d 704, 708 (Minn. 2008).

"We review the juvenile court's decision to certify a child to adult court for an abuse of discretion. Specifically, we review questions of law de novo, and we review findings of fact under the clearly erroneous standard. We will not disturb a finding about whether public safety would be served by retaining the proceeding in juvenile court unless it is clearly erroneous. In determining whether the juvenile court's findings are clearly erroneous, we view the record in the light most favorable to the juvenile court's findings." *In re Welfare of J.H.*, 844 N.W.2d 28, 34-35 (Minn. 2014) (citations omitted).

3. Review of Pretrial Ruling

A juvenile may seek review of a pretrial issue involving the suppression of evidence by stipulating to the state's case under Minn. R. Crim. P. 26.01, subd. 4, the procedure originally approved in *State v. Lothenbach*, 296 N.W.2d 854 (Minn. 1980); harmless-error review does not apply to a trial on stipulated facts to preserve a dispositive pretrial ruling. *In re Welfare of R.J.E.*, 642 N.W.2d 708, 712-13 (Minn. 2002).

4. Dispositions and Requirement of Findings

"The district court has broad discretion to order dispositions authorized by statute [in juvenile proceedings], and the disposition will not be disturbed absent an abuse of discretion." *In re Welfare of J.S.H.-G.*, 645 N.W.2d 500, 504 (Minn. App. 2002), *rev. denied* (Minn. Aug. 20, 2002).

"The [district] court has broad discretion in choosing the appropriate juvenile delinquency disposition. This court will affirm the disposition as long as it is not arbitrary. Findings of fact in the dispositional order will be accepted unless clearly erroneous. Absent a clear abuse of discretion, a [district] court's disposition will not be disturbed." *In re Welfare of J.A.J.*, 545 N.W.2d 412, 414 (Minn. App. 1996) (citations omitted).

Written dispositional findings "are essential to meaningful appellate review," and failure to make sufficient written findings constitutes reversible error. *In re Welfare of N.T.K.*, 619 N.W.2d 209, 211-12 (Minn. App. 2000); *see also* Minn. Stat. § 260B.198, subd. 1(b)) (2022) (requiring order with written findings of fact to support the disposition, including why the best interests of the child are served and what alternatives were considered); Minn. R. Juv. Delinq. P. 15.05, subd. 2 (setting out requirement of findings).

5. Probation Revocation and EJJ Revocation

Absent a clear abuse of discretion, a reviewing court will affirm a probation revocation order and a disposition in a juvenile delinquency case. *In re Welfare of R.V.*, 702 N.W.2d 294, 298 (Minn. App. 2005). And when revoking the juvenile's probation, the district court need not follow the three-step probation revocation analysis set forth in *State v. Austin*, 295 N.W.2d 246 (Minn. 1980), but must make sufficient written findings consistent with Minn. R. Juv. Delinq. P. 15.05, subd. 2, in support of its disposition order. *Id.* at 302-04 (noting that the juvenile rules afford probationers better protection than *Austin* would afford). The *Austin* factors do apply to EJJ revocations when the district court revokes probation and executes a previously stayed adult sentence. *State v. B.Y.*, 659 N.W.2d 763, 772 (Minn. 2003).

6. Jurisdiction

Appellate courts review questions regarding the district court's subject-matter jurisdiction in juvenile delinquency matters de novo. *In re Welfare of C.S.N.*, 917 N.W.2d 427, 431 (Minn. App. 2018) (concluding that the district court did not have subject-matter jurisdiction to adjudicate child delinquent because the court withheld adjudication for 360 days without conducting a review after 180 days).

B. IMPLIED CONSENT LAW

1. Distinguishing Implied Consent from Criminal DWI Proceedings

"Minnesota law expressly recognizes that determinations in civil implied-consent hearings shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution." *State v. Miller*, 849 N.W.2d 94, 98 (Minn. App. 2014)

(holding that district court erred by applying law-of-the-case doctrine in criminal action based on district court's decision in implied-consent proceeding that stop was unconstitutional) (quotation omitted).

The court of appeals "applies de novo review to questions of collateral estoppel." *State v. Wagner*, 637 N.W.2d 330, 336 (Minn. App. 2001) (quotation omitted) (holding that driver was not collaterally estopped from challenging validity of stop of his vehicle in criminal proceeding, even though he unsuccessfully litigated that issue in earlier implied-consent civil proceeding).

2. Questions of Law

The appellate court reviews questions of law de novo in an implied consent hearing. *Harrison v. Comm'r of Pub. Safety*, 781 N.W.2d 918, 920 (Minn. App. 2010). For example, when the facts are undisputed, the question of whether the driver's Fourth Amendment rights were violated is a question of law. *Id.*

The availability of an affirmative defense under the statute is also a question of law. *Dornbusch v. Comm'r of Pub. Safety*, 860 N.W.2d 381, 383 (Minn. App. 2015), *rev. denied* (Minn. May 27, 2015).

The issue of whether a driver's limited right to counsel was violated is reviewed de novo. *Nelson v. Comm'r of Pub. Safety*, 779 N.W.2d 571, 573 (Minn. App. 2010).

"We review a district court's determination regarding the legality of an investigatory traffic stop and questions of reasonable suspicion de novo." *Wilkes v. Comm'r of Pub. Safety*, 777 N.W.2d 239, 242-43 (Minn. App. 2010).

"This constitutional question [of whether procedural due process rights are violated when drivers received only six days' notice before their revocations became effective] involves the application of law to undisputed facts. Accordingly, our review is de novo. Statutory interpretation is a question of law, which this court also reviews de novo." *Williams v. Comm'r of Pub. Safety*, 830 N.W.2d 442, 444 (Minn. App. 2013) (quotation and citation omitted), *rev. denied* (Minn. July 16, 2013).

"Whether an implied-consent advisory violates a driver's due-process rights is a question of law, which this court reviews de novo." *Magnuson v. Comm'r of Pub. Safety*, 703 N.W.2d 557, 561 (Minn. App. 2005).

3. Findings of Fact

"The clearly erroneous standard controls our review of a district court's factual findings." *In re Source Code Evidentiary Hearings*, 816 N.W.2d 525, 537 (Minn. 2012).

"As for the district court's findings of fact, they will not be set aside unless clearly erroneous. We hold findings of fact as clearly erroneous only when we are left with a definite and firm conviction that a mistake has been committed. When findings of fact rest

almost entirely on expert testimony, the district court's evaluation of credibility is of particular significance." *Jasper v. Comm'r of Pub. Safety*, 642 N.W.2d 435, 440 (Minn. 2002) (quotation and citations omitted); *see Ellingson v. Comm'r of Pub. Safety*, 800 N.W.2d 805, 806 (Minn. App. 2011) (same), *rev. denied* (Minn. Aug. 24, 2011).

"The question whether a driver has refused to submit to chemical testing is a question of fact, to which this court applies a clear-error standard of review." *Stevens v. Comm'r of Pub. Safety*, 850 N.W.2d 717, 722 (Minn. App. 2014) (citing *Lynch v. Comm'r of Pub. Safety*, 498 N.W.2d 37, 38-39 (Minn. App. 1993)).

"A remand may be required if the district court fails to make adequate findings. A remand is unnecessary, however, when we are able to infer the findings from the district court's conclusions." *Welch v. Comm'r of Pub. Safety*, 545 N.W.2d 692, 694 (Minn. App. 1996) (citation omitted); *see also Trombley v. Comm'r of Pub. Safety*, 375 N.W.2d 97, 98-99 (Minn. App. 1985) (remanding for findings of fact when reviewing court was unable to conduct meaningful review or discern basis for district court's order).

4. Abuse of Discretion

"Rulings on evidentiary matters rest within the sound discretion of the district court and will not be reversed on appeal absent a clear abuse of discretion." *In re Source Code Evidentiary Hearings*, 816 N.W.2d 525, 537 (Minn. 2012) (holding that preponderance-of-the-evidence standard of proof applies to preliminary questions regarding admissibility of evidence).

In implied-consent proceedings, "[w]e apply an abuse-of-discretion standard of review to a district court's ruling on the admissibility of expert testimony." *Hayes v. Comm'r of Pub. Safety*, 773 N.W.2d 134, 136-37 (Minn. App. 2009), *rev. denied* (Minn. Dec. 23, 2009).

C. HABEAS CORPUS

1. Review of District Court's Decision

Questions of law pertaining to a habeas corpus proceeding are subject to de novo review, but a reviewing court affords "great weight" to the district court's findings of fact, which will not be reversed absent clear error. *State ex rel. Ford v. Schnell*, 933 N.W.2d 393, 401, 406 (Minn. 2019) (quotation omitted).

2. Extradition

"In an extradition case, a finding by the [district] court that the habeas corpus petitioner has failed to meet his burden of proof should be affirmed unless clearly erroneous." *Perez v. Sheriff of Watonwan Cnty.*, 529 N.W.2d 346, 349 (Minn. App. 1995).

3. Review of Revocation of Supervised Release or Prison Disciplinary Proceedings

"This court reviews a decision to revoke an offender's release for a clear abuse of discretion" and "defers to a fact-finder's credibility determinations." *State ex rel. Guth v. Fabian*, 716 N.W.2d 23, 27 (Minn. App. 2006), *rev. denied* (Minn. Aug. 15, 2006).

D. EXPUNGEMENT

1. General

An appellate court reviews the district court's decision on whether to expunge criminal records under an abuse of discretion standard. But the question of "whether the district court exceeded the scope of its inherent authority to expunge criminal records—is a question of law." *State v. M.D.T.*, 831 N.W.2d 276, 279 (Minn. 2013).

2. Inherent Authority

"A district court's exercise of its inherent authority to expunge records that are located within the judicial branch is a matter of equity, which this court reviews under an abuse-of-discretion standard of review, although findings of fact underlying a district court's decision will be set aside if they are clearly erroneous." *State v. N.G.K.*, 770 N.W.2d 177, 180 (Minn. App. 2009) (citations omitted).

The question of whether the district court exceeded the scope of its inherent authority to expunge criminal records is a question of law, which is reviewed de novo. *State v. M.D.T.*, 831 N.W.2d 276, 279 (Minn. 2013) (holding that the district court did not have inherent authority to expunge executive branch records).

When the district court fails to make findings or determinations on the record, the reviewing court is unable to determine whether the district court abused its discretion, and reversal and remand is necessary. *State v. A.S.E.*, 835 N.W.2d 513, 517 (Minn. App. 2013) (citing *State v. K.M.M.*, 721 N.W.2d 330, 335 (Minn. App. 2006)).

3. Statutory

"This court reviews the district court's decision on whether to expunge criminal records under an abuse-of-discretion standard. We review the district court's interpretation of the expungement statute de novo as a question of law." *State v. C.W.N.*, 906 N.W.2d 549, 551-52 (Minn. App. 2018) (citations omitted).

The proper construction of the statutory expungement statute, Minn. Stat. § 609A.02, is a question of law that is reviewed de novo. *State v. Ambaye*, 616 N.W.2d 256, 258 (Minn. 2000).

VIII. ADMINISTRATIVE – GENERAL

A. GENERAL PRINCIPLES

1. Agency Jurisdiction

Whether an agency has jurisdiction over a matter is a legal question and thus a reviewing court need not defer to "agency expertise" or the district court's decision on the issue. *Frost-Benco Elec. Ass'n v. Minn. Pub. Utils. Comm'n*, 358 N.W.2d 639, 642 (Minn. 1984); *see also In re N. States Power Co.*, 775 N.W.2d 652, 656 (Minn. App. 2009).

"Whether an administrative agency has acted within its statutory authority is a question of law that we review de novo." *In re Hubbard*, 778 N.W.2d 313, 318 (Minn. 2010) (footnote omitted).

a. Constitutional Issues

"[A]n administrative agency lacks subject matter jurisdiction to decide constitutional issues because those questions are within the exclusive province of the judicial branch." *Holmberg v. Holmberg*, 578 N.W.2d 817, 820 (Minn. App. 1998) (citing *Neeland v. Clearwater Mem'l Hosp.*, 257 N.W.2d 366, 368 (Minn. 1977)), *aff'd* 588 N.W.2d 720 (Minn. 1999); *see also In re PERA Salary Determinations Affecting Retired and Active Emps. of City of Duluth*, 820 N.W.2d 563, 575 (Minn. App. 2012).

2. Burden of Proof on Appeal

The party challenging an agency decision "has the burden of proof when appealing an agency decision." *In re Excelsior Energy, Inc.*, 782 N.W.2d 282, 289 (Minn. App. 2010); *see also Minn. Pub. Utils. Comm'n*, 343 N.W.2d 843, 849 (Minn. 1984).

The party challenging an agency decision "bears the burden of establishing that the agency findings are not supported by the evidence in the record." *In re Review of 2005 Annual Automatic Adjustment of Charges*, 768 N.W.2d 112, 118 (Minn. 2009).

3. Presumption of Correctness/Deference

An administrative agency's decision enjoys a presumption of correctness; the appellate court defers to the agency's expertise and special knowledge in its field. *In re Annandale NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 513 (Minn. 2007).

"We consider an agency's expertise or special knowledge when: (a) the agency is interpreting a regulation that is unclear and susceptible to more than one reasonable interpretation or the agency's interpretation is reasonable, or (b) when the application of the regulation is primarily factual and necessarily requires application of the agency's technical knowledge and expertise to the facts presented." *In re Review of 2005 Annual*

Automatic Adjustment of Charges, 768 N.W.2d 112, 119 (Minn. 2009) (quotation and citations omitted).

"The agency decision-maker is presumed to have the expertise necessary to decide technical matters within the scope of the agency's authority, and judicial deference, rooted in the separation of powers doctrine, is extended to an agency decision-maker in the interpretation of statutes that the agency is charged with administering and enforcing. We defer to an agency's conclusions regarding conflicts in testimony, the weight given to expert testimony and the inferences to be drawn from testimony." *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 278 (Minn. 2001) (footnote omitted) (citations omitted).

"The standard of review is not heightened when the final decision of the agency decision-maker differs from the recommendation of the ALJ." *In re Excelsior Energy, Inc.*, 782 N.W.2d 282, 289 (Minn. App. 2010).

"An appellate court may reverse or modify an administrative decision if substantial rights of the petitioners have been prejudiced by administrative findings, inferences, conclusions or decisions that are unsupported by substantial evidence in view of the entire record, or arbitrary and capricious, but the court must also recognize the need for exercising judicial restraint and for restricting judicial functions to a narrow area of responsibility lest [the court] substitute its judgment for that of the agency." *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 277 (Minn. 2001) (quotation and citations omitted).

"We presume the agency's decision . . . is correct, but the court may reverse an agency decision if the decision was affected by an error of law." *In re Wazwaz*, 943 N.W.2d 212, 217 (Minn. App. 2020) (quoting *N. States Power Co. v. Minn. Pub. Utils. Comm'n*, 344 N.W.2d 374, 377 (Minn. 1984)), *rev. denied* (Minn. June 30, 2020).

"Even if a constitutional issue is involved, the challenged determination of a legislative or administrative body may be due judicial deference if the underlying decision-making process is designed to effectively produce a correct or just result or if the decision is informed by considerable expertise." *Buettner v. City of St. Cloud*, 277 N.W.2d 199, 204 (Minn. 1979).

"[W]e have deferred to an agency's expertise and special knowledge when (1) the agency is interpreting a regulation that is unclear and susceptible to more than one interpretation; and (2) the agency's interpretation is reasonable." *In re Annandale NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 515 (Minn. 2007).

"If an administrative agency engages in reasoned decisionmaking, the court will affirm, even though it may have reached a different conclusion had it been the factfinder. The court will intervene, however, where there is a "combination of danger signals which suggest the agency has not taken a 'hard look' at the salient problems" and the decision lacks "articulated standards and reflective findings." *Cable Commc'ns Bd. v. Nor-West*

Cable Commc'ns P'ship, 356 N.W.2d 658, 669 (Minn. 1984) (quoting *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 825 (Minn. 1977)) (citations omitted).

4. Agency Interpretations of Statutes and Rules

a. In General

"Statutory interpretation is a question of law that we review de novo." *J.D. Donovan, Inc. v. Minn. Dep't of Transp.*, 878 N.W.2d 1, 4 (Minn. 2016); *see also In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 744 (Minn. 2021), *reh'g denied* (June 15, 2021).

"The interpretation of an administrative regulation presents a question of law that we review de novo." *J.D. Donovan, Inc. v. Minn. Dep't of Transp.*, 878 N.W.2d 1, 5 (Minn. 2016).

"[W]hen a decision turns on the meaning of words in an agency's own regulation, it is a question of law that we review de novo." *In re Annandale NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 515 (Minn. 2007).

"We review de novo an agency decision that turns on the meaning of words in a statute or regulation. In considering such questions of law, reviewing courts are not bound by the decision of the agency and need not defer to agency expertise. Thus, we may substitute our own judgment for that of the agency when the language at issue is clear and capable of understanding." *In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 757 (Minn. 2021) (quotation and alteration omitted), *reh'g denied* (June 15, 2021); *see also St. Otto's Home v. Minn. Dep't of Human Servs.*, 437 N.W.2d 35, 39-40 (Minn. 1989) *Jasper v. Comm'r of Pub. Safety*, 642 N.W.2d 435, 440 (Minn. 2002).

"Interpreting a federal regulation is a question of law that we review de novo." *In re Ali*, 938 N.W.2d 835, 838 (Minn. 2020); *see also In re Muse*, 956 N.W.2d 1, 3 (Minn. App. 2021).

b. Deference/Ambiguity

The appellate court reviews de novo the meaning of the words in a regulation as a question of law. If the meaning of the regulation is clear and unambiguous, the reviewing court gives no deference to the agency's interpretation. *In re Rate Appeal of Benedictine Health Ctr.*, 728 N.W.2d 497, 503 (Minn. 2007).

"When the agency's construction of its own regulation is at issue, however, considerable deference is given to the agency interpretation, especially when the relevant language is unclear or susceptible to different interpretations. If a regulation is ambiguous, agency interpretation will generally be upheld if it is reasonable. No deference is given to the agency interpretation if the language of the regulation is clear and capable of [being understood]; therefore, the court may

substitute its own judgment." *St. Otto's Home v. Minn. Dep't of Human Servs.*, 437 N.W.2d 35, 40 (Minn. 1989) (footnote omitted) (citations omitted).

"When an agency's regulation is ambiguous, we will give deference to the agency's interpretation and will generally uphold that interpretation if it is reasonable." *Risdall v. Brown-Wilbert, Inc.*, 753 N.W.2d 723, 733 (Minn. 2008) (quotation omitted).

The appellate court will defer to the agency's expertise and special knowledge "when (1) the agency is interpreting a regulation that is unclear and susceptible to more than one interpretation; and (2) the agency's interpretation is reasonable." *In re Annandale NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 515 (Minn. 2007). The appellate court will also "consider the agency's expertise and special knowledge when reviewing an agency's application of a regulation when application of the regulation is primarily factual and necessarily requires application of the agency's technical knowledge and expertise to the facts presented." *Id.* n.9 (quotation omitted).

"[T]here are several factors courts need to consider when determining whether to give deference to an agency's interpretation [of its own regulation]. These factors include whether the agency is legally required to enforce and administer the regulation under review and whether the meaning of the words in the regulation is clear and unambiguous or is unclear and susceptible to different reasonable interpretations—ambiguous." *In re Annandale NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 516 (Minn. 2007).

"When the language of a regulation is unclear or susceptible to different interpretations, we consider several factors to determine the level of judicial deference afforded to the agency's interpretation. First, we consider the nature of the regulation at issue. . . . Second, we consider the agency's expertise and judgment; specifically, we examine whether the subject matter of the regulation is within the agency's technical training, education, and experience. . . . Third, we will defer to the agency's expertise and special knowledge when the agency's interpretation of an unclear regulation is reasonable." *In re Alexandria Lake Area Sanitary Dist. NPDES/SDS Permit*, 763 N.W.2d 303, 312-13 (Minn. 2009) (quotation and citations omitted).

5. Findings of Fact

"With respect to factual findings made by the agency in its judicial capacity, if the record contains substantial evidence supporting a factual finding, the agency's decision must be affirmed." *In re Excelsior Energy, Inc.*, 782 N.W.2d 282, 290 (Minn. App. 2010) (quotation omitted).

The reviewing court must not substitute its judgment for that of the administrative body when its findings are properly supported by evidence. *In re Denial of Eller Media Co.'s Applications for Outdoor Device Advert. Permits*, 664 N.W.2d 1, 7 (Minn. 2003).

"We defer to an agency's conclusion regarding conflicts in testimony, the weight given to expert testimony and the inferences to be drawn from testimony." *In re Wazwaz*, 943 N.W.2d 212, 217 (Minn. App. 2020) (quoting *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 278 (Minn. 2001)), *rev. denied* (Minn. June 30, 2020).

"[A] substantial judicial deference is to be accorded to the fact-finding processes of the administrative agency." *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 279 (Minn. 2001) (quotation omitted).

Absent manifest injustice, inferences drawn from the evidence by an agency must be accepted by a reviewing court "even though it may appear that contrary inferences would be better supported or that the reviewing court would be inclined to reach a different result were it the trier of fact." *Ellis v. Minneapolis Comm'n on C.R.*, 295 N.W.2d 523, 525 (Minn. 1980).

B. QUASI-JUDICIAL DECISION-MAKING

1. Defined

"An agency performs a quasi-judicial function when it applies a prescribed standard to reach a conclusion that affects the legal interests of the persons before it . . . . [T]he three indicia of quasi-judicial actions can be summarized as follows: (1) investigation into a disputed claim and weighing of evidentiary facts; (2) application of those facts to a prescribed standard; and (3) a binding decision regarding the disputed claim." *Minn. Ctr. for Env't Advocacy v. Metro. Council*, 587 N.W.2d 838, 842 (Minn. 1999) (quotation omitted).

2. Review When Minnesota Administrative Procedure Act (MAPA) Applies

a. Contested Case

"The Minnesota Administrative Procedure Act (MAPA), Minn. Stat. §§ 14.001-.69 (2016) permits judicial review of an agency's final decision in a 'contested case.'" *Eneh v. Minn. Dep't of Health*, 906 N.W.2d 611, 613 (Minn. App. 2019).

A "contested case" is "a proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing." Minn. Stat. § 14.02, subd. 3 (2022).

b. Standard of Review

"In a judicial review [of a contested case] the court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

(a) in violation of constitutional provisions; or
(b) in excess of the statutory authority or jurisdiction of the agency; or
(c) made upon unlawful procedure; or
(d) affected by other error of law; or
(e) unsupported by substantial evidence in view of the entire record as submitted; or
(f) arbitrary or capricious."

Minn. Stat. § 14.69 (2022).

3. Review Under Common-Law Standard

"On certiorari appeal from a quasi-judicial agency decision not subject to the [Minnesota] Administrative Procedure Act, we examine the record to review questions affecting the jurisdiction of the [agency], the regularity of its proceedings, and, as to the merits of the controversy, whether the order or determination in a particular case was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it." *Anderson v. Comm'r of Health*, 811 N.W.2d 162, 165 (Minn. App. 2012) (quotation omitted), *rev. denied* (Minn. Apr. 17, 2012); *see also Eneh v. Minn. Dep't of Health*, 906 N.W.2d 611, 614 (Minn. App. 2019).

"A quasi-judicial decision of an agency that does not have statewide jurisdiction will be reversed if the decision is fraudulent, arbitrary, unreasonable, unsupported by substantial evidence, not within its jurisdiction, or based on an error of law." *Axelson v. Minneapolis Teacher's Retirement Fund Ass'n*, 544 N.W.2d 297, 299 (Minn. 1996) (citing *Dokmo v. Indep. Sch. Dist. No. 11*, 459 N.W.2d 671, 675 (Minn. 1990)).

The MAPA "scope of review is similar to the common law scope of review on certiorari. Thus, the same standard applies regardless of the applicability of [MAPA]." *Staeheli v. City of St. Paul*, 732 N.W.2d 298, 304 n.1 (Minn. App. 2007) (acknowledging that MAPA has sometimes been cited in cases to which it does not apply).

4. Review of District Court Decision

"We independently review agency decisions without deferring to the rulings of lower courts." *In re Gillette Child.'s Specialty Healthcare*, 883 N.W.2d 778, 784-85 (Minn. 2016).

"Where the [district] court reviewing an agency decision makes independent factual determinations and otherwise acts as a court of first impression, this court applies the clearly erroneous standard of review. Where, on the other hand, the [district] court is itself acting as an appellate tribunal with respect to the agency decision, this court will independently review the agency's record." *In re Hutchinson*, 440 N.W.2d 171, 175 (Minn. App. 1989) (citations and quotation omitted), *rev. denied* (Minn. Aug. 9, 1989); *see also In re Expulsion of N.Y.B.*, 750 N.W.2d 318, 323-24 (Minn. App. 2008).

When the district court conducts a trial or hearing de novo, appellate courts review the district court's findings for clear error. *In re Year 2019 Salary of Freeborn County Sheriff*, 955 N.W.2d 917, 923 (Minn. 2021).

"In reviewing decisions of administrative agencies, [an appellate court] is not bound by the district court's decision. [The appellate court] may conduct an independent examination of the administrative agency's record and decision and arrive at its own conclusions as to the propriety of that determination." *Signal Delivery Serv., Inc. v. Brynwood Transfer Co.*, 288 N.W.2d 707, 710 (Minn. 1980); *see also In re Fin. Responsibility for Mental Health Servs. Provided to D.F.*, 656 N.W.2d 576, 578 (Minn. App. 2003).

5. Statutory Authority

"Whether an administrative agency has acted within its statutory authority is a question of law that we review de novo." *In re Otter Tail Power Co.*, 942 N.W.2d 175, 179 (Minn. 2020) (quoting *In re Hubbard*, 778 N.W.2d 313, 318 (Minn. 2010)).

6. Substantial Evidence

"The substantial-evidence standard addresses the reasonableness of what the agency did on the basis of the evidence before it." *In re Expulsion of A.D.*, 883 N.W.2d 251, 259 (Minn. 2016) (quotation omitted).

"Substantial evidence is defined as: (1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than some evidence; (4) more than any evidence; or (5) the evidence considered in its entirety." *Cannon v. Minneapolis Police Dep't*, 783 N.W.2d 182, 189 (Minn. App. 2010) (quotation omitted).

We defer to the agency's determinations "regarding conflicts in testimony, the weight given to expert testimony, and the inferences to be drawn from testimony." *Id.*

"The substantial evidence test requires a reviewing court to evaluate the evidence relied upon by the agency in view of the entire record as submitted. If an administrative agency engages in reasoned decisionmaking, the court will affirm, even though it may have reached a different conclusion had it been the factfinder. The court will intervene, however, where there is a combination of danger signals which suggest the agency has not taken a hard look at the salient problems and the decision lacks articulated standards and reflective findings." *Cable Commc'ns Bd. v. Nor-west Cable Commc'ns P'ship*, 356 N.W.2d 658, 668-69 (Minn. 1984) (quotations and citations omitted).

7. Arbitrary and Capricious

"[A]n agency ruling is arbitrary and capricious if the agency (a) relied on factors not intended by the legislature; (b) entirely failed to consider an important aspect of the problem; (c) offered an explanation that runs counter to the evidence; or (d) the decision is so implausible that it could not be explained as a difference in view or the result of the

agency's expertise." *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006).

An agency's conclusions are not arbitrary and capricious so long as there is a "rational connection between the facts found and the choice made." *In re Review of 2005 Annual Automatic Adjustment of Charges*, 768 N.W.2d 112, 120 (Minn. 2009) (quotation omitted).

"If there is room for two opinions on a matter, the [c]ommission's decision is not arbitrary and capricious, even though the court may believe that an erroneous decision was reached." *In re Review of 2005 Annual Automatic Adjustment of Charges*, 768 N.W.2d 112, 120 (Minn. 2009).

"Rejection of the ALJ's recommendations without explanation[,] however, may suggest that the agency exercised its will rather than its judgment and was therefore arbitrary and capricious." *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 278 (Minn. 2001).

C. QUASI-LEGISLATIVE DECISION-MAKING

1. Defined

"An agency exercises a legislative as opposed to a quasi-judicial function when it balances cost and noncost factors and makes choices among public policy alternatives." *In re Qwest's Wholesale Serv. Quality Standards*, 678 N.W.2d 58, 62 (Minn. App. 2004).

2. Standard of Review

"When an agency exercises a legislative function, its decision is affirmed unless it is shown, by clear and convincing evidence, to be in excess of statutory authority or to have unjust, unreasonable, or discriminatory results." *In re Qwest's Wholesale Serv. Quality Standards*, 678 N.W.2d 58, 62 (Minn. App. 2004).

D. RULEMAKING

1. Defined

A "rule" is defined as "every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure." Minn. Stat. § 14.02, subd. 4 (2022).

2. Standard of Review

"In proceedings under section 14.44, the court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rulemaking procedures." Minn. Stat. § 14.45 (2022).

"A pre-enforcement challenge questions the process by which the rule was made and the rule's general validity before it is enforced against any particular party." *Save Mille Lacs Sportsfishing, Inc. v. Minn. Dep't of Nat. Res.*, 859 N.W.2d 845, 849 (Minn. App. 2015) (quotation omitted). "Our authority to review the validity of a rule at the pre-enforcement stage is limited to three distinct inquiries: (1) whether the rule violates a constitutional provision; (2) whether the rule exceeds the statutory authority of the agency; and (3) whether the rule was adopted without compliance with statutory rulemaking proceedings." *Id.* at 850.

"The standard of review in a pre-enforcement action [questioning the validity of the process by which the rule was made and its general validity] is more limited than it would be in a challenge to enforcement of a rule in a contested-case appeal." *Peterson v. Dep't of Labor & Indus.*, 591 N.W.2d 76, 78-79 (Minn. App. 1999), *rev. denied* (Minn. May 18, 1999). The appellate court reviews an agency's rulemaking proceedings using an arbitrary and capricious standard. *Id.* at 79. The agency must provide the evidence on which it relied and show how that evidence rationally supports the agency's action. *Id.*

E. REVIEW OF DECISION BY SPECIFIC AGENCIES

1. Bureau of Mediation Services (BMS)

"This court's task is to review the BMS decision to determine whether it reflects an error of law, whether the determinations are arbitrary and capricious, or whether the findings are unsupported by the evidence." *In re Clarification of an Appropriate Unit*, 880 N.W.2d 383, 386 (Minn. App. 2016) (quotations omitted).

"This court will affirm the BMS Commissioner's decision unless, upon independent evaluation, the decision is shown to be unsupported by the substantial evidence, based upon errors of law, or arbitrary and capricious." *Minn. Teamsters Pub. & Law Enforcement Emp.'s Union, Local No. 320 v. County of McLeod*, 509 N.W.2d 554, 556 (Minn. App. 1993).

2. Department of Employment and Economic Development (See Section IX at 126.)

3. Departments of Health and Human Services – Disqualification from employment with licensed facilities

"The commissioner's decision whether to grant a request for reconsideration is a quasi-judicial agency decision not subject to the [Minnesota] Administrative Procedure Act, Minnesota Statutes sections 14.63-.69 (2010). On certiorari appeal from a quasi-judicial agency decision not subject to the [Minnesota] Administrative Procedure Act, we examine the record to review questions affecting the jurisdiction of the [agency], the regularity of its proceedings, and, as to the merits of the controversy, whether the order or determination in a particular case was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it." *Anderson v. Comm'r of Health*, 811

N.W.2d 162, 165 (Minn. App. 2012) (citations and quotations omitted), *rev. denied* (Minn. Apr. 17, 2012).

"On a certiorari appeal from an agency's quasi-judicial action, we review the record to determine whether (1) the agency had jurisdiction over the matter; (2) the agency followed the correct procedure; and (3) the agency's determination of the merits of the controversy was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it. This court reviews questions of law, including interpretation of a statute, de novo." *Smith v. Minn. Dep't of Human Servs.*, 764 N.W.2d 388, 391 (Minn. App. 2009) (citations and quotations omitted).

"Unless the Commissioner's decision is arbitrary and capricious and without substantial support in the record, we shall affirm. When reviewing questions of law, however, we are not bound by the agency's decision, and we need not defer to the agency's expertise." *Dozier v. Comm'r of Human Servs.*, 547 N.W.2d 393, 395 (Minn. App. 1996) (citation omitted), *rev. denied* (Minn. July 10, 1996).

4. Retirement Boards

"We have analogized a public retirement fund board to an administrative agency." *Axelson v. Minneapolis Tchrs.' Retirement Fund Ass'n*, 544 N.W.2d 297, 299 (Minn. 1996).

"'For the purposes of appellate review, a public-retirement-fund board, like the PERA board of trustees, is analogous to an administrative agency.'" *In re PERA Salary Determinations Affecting Retired & Active Emps. of City of Duluth*, 820 N.W.2d 563, 569 (Minn. App. 2012) (quoting *In re Disability Earnings Offset of Masson*, 753 N.W.2d 755, 757 (Minn. App. 2008), *rev. denied* (Minn. Oct. 1, 2008)).

5. Environmental Review (Various Responsible Governmental Units (RGUs))

"A person aggrieved by a final decision on the need for an environmental assessment worksheet, the need for an environmental impact statement, or the adequacy of an environmental impact statement is entitled to judicial review of the decision under sections 14.63 to 14.68." Minn. Stat. § 116D.04, subd. 10 (2022).

"In 2011, the legislature amended the Minnesota Statutes to allow persons aggrieved by environmental-review decisions to appeal directly to this court, rather than first appealing to the district court. This court has historically reviewed challenges to environmental-review decisions 'without according deference to the district court's review.' Accordingly, the legislative amendment allowing for direct appeal does not affect this court's standard of review." *In re Env't Assessment Worksheet for 33rd Sale of State Metallic Leases in Aitkin, Lake, Saint Louis Ctys.*, 838 N.W.2d 212, 216 n.2 (Minn. App. 2013) (citation and quotation omitted), *rev. denied* (Minn. Nov. 26, 2013).

"The party challenging an RGU's decision . . . has the burden of proving that its findings are unsupported by the evidence as a whole." *Friends of Twin Lakes v. City of Roseville*,

764 N.W.2d 378, 381 (Minn. App. 2009) (citing *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 833 (Minn. 2006)).

"[W]e evaluate whether the RGU took a 'hard look' at the salient issues, but defer to the RGU's decision unless the decision reflects an error of law, is arbitrary and capricious, or is unsupported by substantial evidence." *Friends of Twin Lakes v. City of Roseville*, 764 N.W.2d 378, 381 (Minn. App. 2009) (citing *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006)).

"Final decisions on whether to complete EAWs are appealable to the Minnesota Court of Appeals by petition for writ of certiorari. We review such decisions to determine whether they are unreasonable, arbitrary, or capricious. *In re Env't Assessment Worksheet for 33rd Sale of State Metallic Leases in Aitkin, Lake, Saint Louis Ctys.*, 838 N.W.2d 212, 216 (Minn. App. 2013) (citations omitted), *rev. denied* (Minn. Nov. 26, 2013).

"A determination whether significant environmental effects result from this project is primarily factual and necessarily requires application of the agency's technical knowledge and expertise to the facts presented. Accordingly, it is appropriate to defer to the agency's interpretation of whether the statutory standard is met . . . . [W]e review the decision not to prepare an EIS for whether it was unsupported by substantial evidence in view of the entire record as submitted or was arbitrary or capricious." *Minn. Ctr. for Env't Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 464 (Minn. 2002) (citing Minn. Stat. § 14.69 (2000)); *see also In re Annandale NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 513 n.8 (Minn. 2007) (stating that MAPA, including Minn. Stat. § 14.69, applies to environmental review in addition to review of contested cases).

"An RGU's decision on the adequacy of an EIS is appealable to [the court of appeals] by petition for a writ of certiorari[,]" and "[t]his court reviews the decision under the Minnesota Administrative Procedure Act." *In re Application of Enbridge Energy, Ltd. P'ship*, 930 N.W.2d 12, 21 (Minn. App. 2019), *rev. denied* (Minn. Sept. 17, 2019).

IX. ADMINISTRATIVE – DEED

A. GENERAL STANDARDS

1. Statutory Standard of Review

"The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

(1) in violation of constitutional provisions;
(2) in excess of the statutory authority or jurisdiction of the department;
(3) made upon unlawful procedure;
(4) affected by other error of law;
(5) unsupported by substantial evidence in view of the hearing record as submitted; or
(6) arbitrary or capricious."

Minn. Stat. § 268.105, subd. 7(d) (2022).

"We review de novo a ULJ's determination that an applicant is ineligible for unemployment benefits. And we review findings of fact in the light most favorable to the ULJ's decision and will rely on findings that are substantially supported by the record." *Fay v. Dep't of Emp. & Econ. Dev.*, 860 N.W.2d 385, 387 (Minn. App. 2015) (quotation omitted).

2. Interpretation of the Minnesota Unemployment Insurance Law

"Statutory interpretation of the Minnesota Unemployment Insurance Law is a question of law that appellate courts review de novo." *Yusuf v. Masterson Pers., Inc.*, 880 N.W.2d 600, 603 (Minn. App. 2016) (citing *Engfer v. Gen. Dynamics Advanced Info. Sys., Inc.*, 869 N.W.2d 295, 300 (Minn. 2015)); *see also Svihel Vegetable Farm, Inc. v. Dep't of Emp. & Econ. Dev.*, 929 N.W.2d 391, 394 (Minn. 2019).

"If the relevant facts are not in dispute, we apply a *de novo* standard of review to the ULJ's interpretation of the unemployment statutes and to the ultimate question whether an applicant is eligible to receive unemployment benefits." *Menyweather v. Fedtech, Inc.*, 872 N.W.2d 543, 545 (Minn. App. 2015).

"The Minnesota Unemployment Insurance Law is 'remedial in nature and must be applied in favor of awarding unemployment benefits.'" *White v. Univ. of Minn. Physicians Corp.*, 875 N.W.2d 351, 354 (Minn. App. 2016) (quoting Minn. Stat. § 268.031, subd. 2 (2014)).

"'[A]ny statutory provision that would preclude an applicant from receiving benefits must be narrowly construed.'" *White v. Univ. of Minn. Physicians Corp.*, 875 N.W.2d 351, 354 (Minn. App. 2016) (quoting Minn. Stat. § 268.031 (2014)).

3. Findings of Fact and Credibility Determinations

"In unemployment benefits cases, we review the ULJ's findings of fact in the light most favorable to the decision and will not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them." *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016) (quotations omitted); *see also* Minn. Stat. § 268.105, subd. 7(d)(5) (2022) (authorizing court of appeals to reverse or remand if decision of ULJ is unsupported by "substantial evidence"); *Gonzalez Diaz v. Three Rivers Cmty. Action, Inc.*, 917 N.W.2d 813, 816 n.4 (Minn. App. 2018) (noting that "substantial evidence" is defined as "such relevant evidence as a *reasonable* mind might accept as adequate to support a conclusion," and thus "discern[ing] no inconsistency between Minn. Stat. § 268.105, subd. 7(d)(5) and the standard articulated by the supreme court in *Wilson*" (quotation omitted)).

"This court reviews a ULJ's findings of fact in a light most favorable to the decision, and will not disturb the findings so long as there is evidence in the record that substantially supports them." *Gonzalez Diaz v. Three Rivers Cmty. Action, Inc.*, 917 N.W.2d 813, 815-16 (Minn. App. 2018).

This court will affirm if "[t]he ULJ's findings are supported by substantial evidence and provide the statutorily required reason for her credibility determination." *Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 533 (Minn. App. 2007) (setting out factors to consider in making credibility determinations).

"This court views the ULJ's factual findings in the light most favorable to the decision. This court also gives deference to the credibility determinations made by the ULJ. As a result, this court will not disturb the ULJ's factual findings when the evidence substantially sustains them." *Peterson v. Nw. Airlines, Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008) (citations omitted), *rev. denied* (Minn. Oct. 1, 2008); *see also Icenhower v. Total Auto., Inc.*, 845 N.W.2d 849, 855 (Minn. App. 2014), *rev. denied* (Minn. July 15, 2014).

4. Eligibility Generally

"If the relevant facts are not in dispute, we apply a *de novo* standard of review to the ULJ's interpretation of the unemployment statutes and to the ultimate question whether an applicant is eligible to receive unemployment benefits." *Menyweather v. Fedtech, Inc.*, 872 N.W.2d 543, 545 (Minn. App. 2015); *see also Gonzalez Diaz v. Three Rivers Cmty. Action, Inc.*, 917 N.W.2d 813, 816 (Minn. App. 2018).

"We review de novo a ULJ's determination that an applicant is ineligible for unemployment benefits." *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 30 (Minn. App. 2012).

"An appellate court will exercise its own independent judgment in analyzing whether an applicant is entitled to unemployment benefits as a matter of law." *Irvine v. St. John's Lutheran Church of Mound*, 779 N.W.2d 101, 103 (Minn. App. 2010).

"Specifically, the determination of whether an employee was properly disqualified from receipt of unemployment compensation benefits is a question of law on which we are free to exercise our independent judgment." *Jenkins v. Am. Express Fin. Corp.*, 721 N.W.2d 286, 289 (Minn. 2006).

B. PARTICULAR ISSUES

1. Dismissal of Untimely Appeal

"A ULJ's decision to dismiss an appeal as untimely raises a jurisdictional question of law, which we review de novo." *In re Murack*, 957 N.W.2d 124, 127 (Minn. App. 2021); *see also Godbout v. Dep't of Emp. & Econ. Dev.*, 827 N.W.2d 799, 802 (Minn. App. 2013).

2. Discharge or Quit

"Whether an employee has been discharged or voluntarily quit is a question of fact subject to our deference." *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 31 (Minn. App. 2012); *see also Ward v. Delta Airlines*, 973 N.W.2d 649, 652 (Minn. App. 2022), *rev. denied* (Minn. June 21, 2022).

"Whether an employee quit or was discharged is a question of fact." *Goodwin v. BPS Guard Servs., Inc.*, 524 N.W.2d 28, 29 (Minn. App. 1994).

3. Misconduct

"The question of whether an employee engaged in conduct that disqualifies him or her from unemployment benefits is a mixed question of fact and law." *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016); *see also White v. Univ. of Minn. Physicians Corp.*, 875 N.W.2d 351, 354 (Minn. App. 2016).

"Whether an employee committed employment misconduct is a mixed question of fact and law. Whether the employee committed a particular act is a question of fact. We view the ULJ's factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ. In doing so, we will not disturb the ULJ's factual findings when the evidence substantially sustains them. Minn. Stat. § 268.105, subd. 7(d). But whether the act committed by the employee constitutes employment misconduct is a question of law, which we review de novo." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (other citations omitted).

"Determining whether a particular act constitutes disqualifying misconduct is a question of law that we review de novo." *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011); *see also Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016).

4. Good Reason for Quit

"Whether an employee had good cause to quit is a question of law, which we review de novo." *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 883 (Minn. App. 2012) (quotation omitted).

"The determination that an employee quit without good reason attributable to the employer is a legal conclusion, but the conclusion must be based on findings that have the requisite evidentiary support." *Nichols v. Reliant Eng'g & Mfg., Inc.*, 720 N.W.2d 590, 594 (Minn. App. 2006).

5. Denial of Additional Evidentiary Hearing

"The court will not reverse a ULJ's decision to deny an additional evidentiary hearing unless the decision constitutes an abuse of discretion." *Kelly v. Ambassador Press, Inc.*, 792 N.W.2d 103, 104 (Minn. App. 2010). "An error of law can constitute an abuse of discretion." *Id.*

"This court will defer to the ULJ's decision not to hold an additional hearing." *Ywswf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 533 (Minn. App. 2007) (referring to request for additional evidentiary hearing based on claims of new evidence).

"A reviewing court accords deference to a ULJ's decision not to hold an additional hearing and will reverse that decision only for an abuse of discretion." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 345 (Minn. App. 2006) (referring to request for an additional evidentiary hearing when relator shows good cause for failing to participate in initial hearing).

X. ADMINISTRATIVE – LOCAL GOVERNMENT DECISIONS

A. MUNICIPAL DECISIONS – GENERALLY

"When the municipal proceedings were fair and the record clear and complete, review is on the record." *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 180 (Minn. 2006).

"In reviewing actions by a governmental body, the focus is on the proceedings before the decision-making body, in this case, the Minneapolis City Council, not the findings of the trial court." *Carl Bolander & Sons Co. v. City of Minneapolis*, 502 N.W.2d 203, 207 (Minn. 1993).

"We do not give any special deference to the conclusions of the lower courts, but rather engage in an independent examination of the record and arrive at our own conclusions as to the propriety of the city's decision." *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 180 (Minn. 2006).

"We review a quasi-judicial decision rendered by a city under a limited and nonintrusive standard of review. Under that standard, we may not substitute our own findings of fact for those of a city, or engage in a de novo review of conflicting evidence. Instead, we must uphold a city's decision if the city has explained how it derived its conclusion and [the city's] conclusion is reasonable on the basis of the record." *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 635 (Minn. 2012) (citations and quotations omitted).

"City council action is quasi-judicial and subject to certiorari review if it is the product or result of discretionary investigation, consideration, and evaluation of evidentiary facts." *Staeheli v. City of St. Paul*, 732 N.W.2d 298, 303 (Minn. App. 2007) (quotation omitted).

"Certiorari review is limited to 'questions affecting the jurisdiction of the board, the regularity of its proceedings, and, as to the merits of the controversy, whether the order or determination in a particular case was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it.'" *Staeheli v. City of St. Paul*, 732 N.W.2d 298, 303 (Minn. App. 2007) (quoting *Dietz v. Dodge County*, 487 N.W.2d 237, 239 (Minn. 1992)).

"As a reviewing court, we will not retry facts or make credibility determinations, and we will uphold the decision if the lower tribunal furnished any legal and substantial basis for the action taken." *Staeheli v. City of St. Paul*, 732 N.W.2d 298, 303 (Minn. App. 2007) (quotation omitted).

An appellate court's "authority to interfere in the management of municipal affairs is, and should be, limited and sparingly invoked." *White Bear Docking & Storage, Inc. v. City of White Bear Lake*, 324 N.W.2d 174, 175 (Minn. 1982); *see Big Lake Ass'n v. St. Louis Cnty. Planning Comm'n*, 761 N.W.2d 487, 491 (Minn. 2009) ("Our limited and deferential review of a quasi-judicial decision is rooted in separation of powers principles.").

B. LAND-USE DECISIONS

1. Zoning Generally

"[I]t should be remembered that the standard of review for legislative zoning decisions is narrow. As a legislative act, a zoning or rezoning classification must be upheld unless opponents prove that the classification is unsupported by any rational basis related to promoting the public health, safety, morals, or general welfare." *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 414-15 (Minn. 1981) (quotation omitted).

"Although caselaw distinguishes between zoning matters that are legislative in nature, such as rezoning, and those that are quasi-judicial, such as variances and special-use permits, the standard of review is the same for all zoning matters, namely, whether the zoning authority's action was reasonable. This standard has been expressed in various ways: Is there a 'reasonable basis' for the decision? Or is the decision 'unreasonable, arbitrary or capricious'? Or is the decision 'reasonably debatable'? [T]he nature of the matter under review has a bearing on what is reasonable. In granting or denying a permit, the inquiry is more judicial because the decision involves applying specific standards to a particular individual use." *Goerke Family P'ship v. Lac qui Parle-Yellow Bank Watershed Dist.*, 857 N.W.2d 50, 55 (Minn. App. 2014) (quotations omitted).

"Interpretations of state statutes and existing local zoning ordinances are questions of law that this court reviews de novo. Zoning decisions of a municipal body that require judgment and discretion are reviewed to determine whether the municipal body acted arbitrarily, capriciously, or unreasonably, and whether the evidence reasonably supports the decision made." *Clear Channel Outdoor Adver., Inc. v. City of St. Paul*, 675 N.W.2d 343, 346 (Minn. App. 2004) (quotation and citation omitted), *rev. denied* (Minn. May 18, 2004).

2. Variances

An appellate court reviews a municipal variance decision "to determine whether the municipality was [] within its jurisdiction, was not mistaken as to the applicable law, and did not act arbitrarily, oppressively, or unreasonably, and to determine whether the evidence could reasonably support or justify the determination." *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721, 727 (Minn. 2010) (quoting *In re Stadsvold*, 754 N.W.2d 323, 332 (Minn. 2008) (internal quotation omitted)).

"[T]he standard of review remains whether on the evidence before it, the [board of adjustment] reached a reasonable decision." *Town of Grant v. Washington County*, 319 N.W.2d 713, 717 (Minn. 1982). "We are required to make an independent review of the Board's decision." *Id.*

3. Conditional Use Permits

"We will reverse a governing body's decision regarding a conditional use permit application if the governing body acted unreasonably, arbitrarily, or capriciously. There

> are two steps in determining whether a city's denial was unreasonable, arbitrary, or capricious. First, we must determine if the reasons given by the city were legally sufficient. Second, if the reasons given are legally sufficient, we must determine if the reasons had a factual basis in the record." *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 75-76 (Minn. 2015) (citations omitted).
>
> "Our standard of review is a deferential one, as counties have wide latitude in making decisions about special use permits." *Schwardt v. County of Watonwan*, 656 N.W.2d 383, 386 (Minn. 2003).

C. ENVIRONMENTAL-REVIEW DECISIONS (SEE SECTION VII(E)(5) AT 124.)

D. SCHOOL BOARD DECISIONS

A reviewing court will reverse a school board's determination "when it is fraudulent, arbitrary, unreasonable, unsupported by substantial evidence, not within its jurisdiction, or based on an error of law." *Dokmo v. Indep. Sch. Dist. No. 11*, 459 N.W.2d 671, 675 (Minn. 1990) (applying standard to teacher termination); *see also In re Expulsion of A.D.*, 883 N.W.2d 251, 258 (Minn. 2016) (applying standard to student-discipline decision).

"This court reviews a school board's decision to terminate a teacher by looking at the entire record. The matter is, however, not heard *de novo* and this court may not substitute its judgment for that of the school board." *Atwood v. Indep. Sch. Dist. No. 51*, 354 N.W.2d 9, 11 (Minn. 1984).

"The school board must make specific findings supporting its decision. If the findings are insufficient, the case can be either remanded for additional findings or reversed for lacking substantial evidence supporting the decision." *Dokmo v. Indep. Sch. Dist. No. 11*, 459 N.W.2d 671, 675 (Minn. 1990); *see also In re Expulsion of A.D.*, 883 N.W.2d 251, 258 (Minn. 2016).

"Remand is appropriate to permit further evidence to be taken or additional findings to be made in accordance with applicable law. School board determinations, however, have also been reversed for failing to show a substantial basis in the record or for misapplying the law." *In re Expulsion of A.D.*, 883 N.W.2d 251, 258-59 (Minn. 2016) (quotations omitted).

XI. ARBITRATION

For No-Fault Arbitration, *see* Section IV(D) at 63.

A. DETERMINATION OF ARBITRABILITY

"This court has de novo review when reviewing arbitration clauses." *Onvoy, Inc. v. SHAL, LLC*, 669 N.W.2d 344, 349 (Minn. 2003).

"A reviewing court is not bound by the trial court's interpretation of the arbitration agreement and independently determines whether the trial court correctly interpreted the clause." *Elsenpeter v. St. Michael Mall, Inc.*, 794 N.W.2d 667, 672 (Minn. App. 2011) (quotation omitted).

"We generally review a district court's decision on a motion to compel arbitration de novo, but whether a party intended to waive a right is a question of fact." *Stern 1011 First St. S., LLC v. Gere*, 937 N.W.2d 173 (Minn. App. 2020), *rev. denied* (Minn. Mar. 25, 2020).

"Determining whether a party has agreed to arbitrate a particular dispute is a matter of contract interpretation that we review de novo." *Glacier Park Iron Ore Props., LLC v. U.S. Steel Corp.*, 961 N.W.2d 766, 771 (Minn. 2021); *see also Johnson v. Piper Jaffray, Inc.*, 530 N.W.2d 790, 795 (Minn. 1995).

"In reviewing an arbitrator's decision, the arbitrator is the final judge of both law and fact, but this court's review of the determination of arbitrability is de novo." *Phillips v. Dolphin*, 776 N.W.2d 755, 758 (Minn. App. 2009) (quotation omitted), *rev. denied* (Minn. Mar. 16, 2010).

B. GENERAL STANDARDS OF REVIEW

"Although we review arbitration awards de novo, judicial review of arbitration decisions is generally extremely limited. *City of Richfield v. Law Enf't Labor Servs., Inc.*, 923 N.W.2d 36, 41 (Minn. 2019) (citing Minn. Stat. § 572B.23(a) (2018)).

"A judicial appeal from an arbitration decision is subject to an extremely narrow standard of review. The courts must "exercise every reasonable presumption in favor of the award's finality and validity. In reviewing an arbitrator's decision, the arbitrator is the final judge of both law and fact, but this court's review of the determination of arbitrability is de novo." *Davies v. Waterstone Cap. Mgmt., L.P.*, 856 N.W.2d 711, 716 (Minn. App. 2014) (quotations and citations omitted), *rev. denied* (Minn. Feb. 25, 2015).

"[A]rbitrators are the final judges of both law and fact; every reasonable presumption is to be exercised in favor of the finality and validity of the arbitration award, thus the scope of judicial review of an arbitration award is extremely narrow." *Peggy Rose Revocable Tr. v. Eppich*, 640 N.W.2d 601, 606 (Minn. 2002).

"A judicial appeal from an arbitration decision is subject to an extremely narrow standard of review." *Hunter, Keith Indus., Inc. v. Piper Cap. Mgmt., Inc.*, 575 N.W.2d 850, 854 (Minn. App. 1998).

"It is well settled that an arbitrator, in the absence of an agreement limiting his authority, is the final judge of both law and fact, including the interpretation of the terms of any contract, and his award will not be reviewed or set aside for mistake of either law or fact in the absence of fraud, mistake in applying his own theory, misconduct, or other disregard of duty." *State v. Minn. Ass'n of Pro. Emps.*, 504 N.W.2d 751, 754 (Minn. 1993) (quotation omitted).

C. STANDARDS FOR PARTICULAR ISSUES

1. Evident Partiality or Misconduct Prejudicing the Rights of a Party

"Whether challenged conduct constitutes evident partiality or prejudicial misconduct is a legal question reviewed de novo." *Aaron v. Ill. Farmers Ins. Grp.*, 590 N.W.2d 667, 669 (Minn. App. 1999) (quotation omitted);

2. Exceeding Powers

"We determine the scope of an arbitrator's authority de novo" *Seagate Tech., LLC v. W. Digit. Corp.*, 854 N.W.2d 750, 760-61 (Minn. 2014) (quotations and citations omitted); *see also Hennepin Healthcare Sys., Inc. v. AFSCME Minn. Council 5, Union*, 990 N.W.2d 454, 459 (Minn. 2023) ("We review the court of appeals' conclusion that the arbitrator exceeded his powers de novo.").

"We exercise de novo review to determine whether an arbitrator exceeded her powers." *Fernow v. Gould*, 816 N.W.2d 647, 649 (Minn. App. 2012), *aff'd on other grounds*, 835 N.W.2d 8 (Minn. 2013).

"The district court shall vacate the award, among other grounds, if the arbitrators exceeded their powers. Absent a clear showing that the arbitrators were unfaithful to their obligations, the courts assume that the arbitrators did not exceed their authority." *QBE Ins. Corp. v. Twin Homes of French Ridge Homeowners Ass'n*, 778 N.W.2d 393, 398 (Minn. App. 2010) (quotations and citations omitted).

"[I]n deciding issues of law, the appellate courts are not bound by the [district] court's conclusions, and may independently determine the issues pursuant to applicable statutory and case law. . . . The [district] court is not bound by the arbitrator's decision that its actions were within its authority." *MedCenters Health Care, Inc. v. Park Nicollet Med. Ctr.*, 430 N.W.2d 668, 672 (Minn. App. 1988), *rev. denied* (Minn. Apr. 26, 1989).

3. Public Policy

"The question of public policy is one for the courts, and an appellate court need not give deference to a trial court's decision on a legal issue." *City of Richfield v. Law Enf't Labor Servs., Inc.*, 923 N.W.2d 36, 41 (Minn. 2019) (quotation omitted).