

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-574**

County of Washington,
Respondent,
Anna Baker,
Appellant,

vs.

Patrick J. McAdoo,
Respondent.

**Filed November 16, 2010
Affirmed
Stauber, Judge**

Washington County District Court
File No. 82F502050560

Douglas H. Johnson, Washington County Attorney, Stillwater, Minnesota (for respondent Washington County)

Anna Baker, Newport, Minnesota (pro se appellant)

Scott R. Martin, Attorney at Law, P.A., White Bear Lake, Minnesota (for respondent McAdoo)

Considered and decided by Wright, Presiding Judge; Larkin, Judge; and
Stauber, Judge.

UNPUBLISHED OPINION

STAUBER, Judge

In this initial custody determination, appellant-mother argues that the district court abused its discretion by awarding permanent physical and legal custody of the parties' minor child to respondent-father. Because there was no abuse of discretion, we affirm.

FACTS

In June 1998, B.W.B. was born to appellant, Anna Baker. On July 29, 2002, respondent Patrick McAdoo was adjudicated B.W.B.'s father. The July 2002 paternity order also awarded Baker temporary sole physical and legal custody of B.W.B. and referred the parties to respondent Washington County Family Court Services for evaluation and mediation to address the issues of permanent physical and legal custody.

Subsequently, the parties filed several motions regarding custody, parenting time, and support. An evidentiary hearing on the issue of permanent physical custody was eventually scheduled for August 3, 2009. A few days before the scheduled hearing, counsel for Baker filed a notice of withdrawal. Baker subsequently failed to appear at the hearing, prompting counsel for McAdoo to request that McAdoo be allowed to proceed by default. Custody evaluator Susan Phillips then recommended that McAdoo be awarded sole legal and physical custody of B.W.B.

On August 6, 2009, the district court issued an interim order granting McAdoo temporary sole physical and legal custody of B.W.B. Baker then appealed to this court claiming that she had arrived on time for the August 3, 2009 hearing, but failed to check in with the court deputy. According to Baker, she was unable to enter the courtroom

because the courtroom door was locked. Baker requested that this court issue an order directing the district court to reopen the matter for an evidentiary hearing.

Baker withdrew her appeal after McAdoo agreed to reopen the matter for a contested evidentiary hearing on the initial custody determination of the parties' minor child. Following a hearing on the matter, the district court granted McAdoo "sole physical and legal custody of the parties' minor child, subject to [Baker's] right to liberal and reasonable parenting time." This appeal followed.

D E C I S I O N

A district court has broad discretion to provide for the custody of children. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). "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). Findings of fact are reviewed for clear error. *Id.*

An award of child custody must be determined based upon the best interests of the child. Minn. Stat. § 518.17, subd. 1 (2008). When making a custody determination, a district court must consider 13 statutory factors. Minn. Stat. § 518.17, subd. 1(a); *Zandar v. Zandar*, 720 N.W.2d 360, 366 (Minn. App. 2006), *review denied* (Minn. Nov. 14, 2006). The district court must make detailed findings with respect to each factor, "may not use one factor to the exclusion of all others," may not use the primary-caretaker factor "as a presumption in determining the best interests of the child," and must explain its reasoning. *Id.*

Baker argues that the district court abused its discretion by awarding custody of B.W.B. to McAdoo. We disagree. The district court's decision is well reasoned and supported by the record. In making its decision, the court made detailed findings addressing Baker's inability to "properly care for [B.W.B.]." Relying heavily on Phillip's report and testimony, the district court found that McAdoo seems to "connect[]" with B.W.B. and that McAdoo is able to provide the child with a stable environment. Conversely, the court found that Baker lacks proper parenting skills, and has "struggled with providing adequate supervision for [B.W.B.] and relied heavily on her parents to assist in this area." Although the court recognized that there is a close bond between B.W.B. and Baker's parents, the court also noted that, in light of Baker's father's illness, it was no longer feasible for Baker's parents to maintain the role of B.W.B.'s primary caretaker. The court further noted that B.W.B. "does not care for" Baker's fiancé and that because B.W.B. does not want to live with Baker and her fiancé, it "would not be in [B.W.B.'s] interest to force him to live with [them]."

Baker appears to argue that the district court's custody determination was an abuse of discretion because there was no basis for Phillip's assessments, and that the court failed to consider her statements to the court. But these arguments are essentially challenges to the district court's credibility determinations. It is well settled that this court defers to the district court's credibility determinations and does not reassess those determinations on appeal. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Moreover, there is no indication that the district court did not read Baker's statements to the court; rather, the court found the statements to be incredible. Although the record

indicates that both parties are with fault, the district court thoroughly addressed the custody issue and made detailed findings on each statutory factor. Those findings are supported by the record. *See Wilson v. Moline*, 234 Minn. 174, 182, 47 N.W.2d 865, 870 (1951) (stating that the function of an appellate court “does not require us 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 we consider all the evidence, as we have done here, and determine that it reasonably supports the findings”). “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)

Baker further complains about her inability to retain an attorney for the October 21, 2009 evidentiary hearing after her attorney withdrew, and offers an extensive explanation as to why she failed to appear for the August 3, 2009 evidentiary hearing. But her explanation of her failure to appear for the August 3, 2009 evidentiary hearing is irrelevant to the issue before this court. The matter was reopened, a full evidentiary hearing was held, and the district court made its decision based on the evidence and testimony presented at the October 21, 2009 hearing. Moreover, this being a family law case, Baker had no constitutional right to be represented by appointed counsel. *See Reed v. Albaaj*, 723 N.W.2d 50, 56 (Minn. App. 2006) (stating that there is no statutory or constitutional right to counsel in a dissolution proceeding). Although it is unfortunate that Baker’s attorney withdrew shortly before the scheduled August 3, 2009 hearing, Baker had ample opportunity to retain another attorney before the October 21, 2009

hearing, and there is nothing in the record to indicate that she moved for a continuance. The district court did not abuse its discretion by awarding custody of the parties' minor child to McAdoo.

Affirmed.