

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0525**

State of Minnesota,
Respondent,

vs.

Jeffrey Alan Crist,
Appellant.

**Filed December 6, 2021
Affirmed
Bjorkman, Judge**

Crow Wing County District Court
File No. 18-CR-20-2177

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Donald F. Ryan, Crow Wing County Attorney, Janine LePage, Assistant County Attorney,
Brainerd, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Segal, Chief Judge;
and Bjorkman, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges the denial of his request at sentencing to receive custody credit for time spent in an inpatient treatment facility. Because the restrictions imposed by the facility are not the functional equivalent of restrictions imposed by a jail, we affirm.

FACTS

Appellant Jeffrey Alan Crist was charged with several offenses in connection with a June 2020 incident of domestic assault. He was taken into custody on June 24. In September, the district court granted his request for an extended furlough to attend inpatient treatment at Douglas Place, a chemical-dependency treatment facility in East Grand Forks. The furlough order provided that if Crist left Douglas Place without permission, he would be subject to arrest and face escape-from-custody charges. Crist remained in treatment at Douglas Place from September 18 to November 3.

Crist subsequently pleaded guilty to two counts of felony domestic assault. At sentencing, Crist argued that he was entitled to custody credit against his concurrent 24- and 27-month sentences for the 47 days he spent at Douglas Place.¹ He submitted his own supporting affidavit and a sworn letter from the facility's treatment director.

Crist averred that he considered himself to be in custody while at Douglas Place. He stated that he was not allowed freedoms other patients enjoyed, including the ability to "leave the facility to go shopping and do other normal activities." He described being confined in a locked room that was subject to random searches and K-9 drug sweeps when he was not participating in treatment activities, and that he was not allowed out of the building except for "10-15" minute increments "a few feet away from the entrance" accompanied by a staff member. And he noted that the entrances were secured by alarms and monitored by cameras "24/7."

¹ The district court continued the sentencing hearing for the parties to provide written submissions on the issue of custody credit.

The treatment director described Douglas Place as a “24-hour facility staffed with nursing and recovery specialists who[] surveil” patients who are there for residential chemical-dependency treatment. She explained that “[p]atients are not permitted to leave the facility at any time unless there is an emergency” or they need medical or dental care. When a patient is in the facility as part of “conditions of release, furlough, commitment, supervised release or intensive supervised release,” the patient must obtain permission from a probation or parole office before leaving the facility. If such permission is granted, a staff member accompanies the patient while they are off campus.

The district court denied Crist’s request for custody credit. It found that Douglas Place is licensed by the Minnesota Department of Human Services (DHS) for the purpose of providing treatment for chemical dependency. The district court noted Crist’s description of the conditions at Douglas Place and his subjective impression that he was in custody while he was there, but observed that the treatment director did not corroborate his recollections as to the level of security and confinement. Ultimately, the district court concluded that Crist failed to meet his burden to establish that Douglas Place is the functional equivalent of a jail. Crist appeals.

DECISION

A defendant is entitled to custody credit against their sentence for time spent in custody prior to sentencing. Minn. R. Crim. P. 27.03, subd. 4(B). The defendant bears the burden of establishing entitlement to such credit. *State v. Roy*, 928 N.W.2d 341, 344 (Minn. 2019). Awarding custody credit is not a matter within the district court’s discretion. *Id.* Rather, the court makes findings regarding the circumstances of the custody for which

credit is requested and applies the law to those circumstances. *Id.* We review a district court’s factual determinations for clear error and its legal conclusions de novo. *Id.* “Findings of fact are clearly erroneous if, on the entire evidence, we are left with the definite and firm conviction that a mistake occurred.” *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010); *see also In re Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (stating that, on review for clear error, the “appellate court is not to weigh, reweigh, or inherently reweigh the evidence,” but must consider the evidence “only as is necessary to determine beyond question that it reasonably tends to support the findings of the factfinder” (quotation omitted)).

In addition to receiving custody credit for time spent in jail or prison, our supreme court held that “fairness and equity demand that [custody] credit be awarded” to defendants placed in residential treatment facilities when “the level of confinement and limitations imposed” at the facility “are the functional equivalent of those imposed at a jail, workhouse, or regional correctional facility.” *Asfaha v. State*, 665 N.W.2d 523, 528 (Minn. 2003). In determining whether this standard is met, “district courts must look closely at the facts to determine the level of confinement and limitations imposed on a defendant.” *State v. Razmyslowski*, 668 N.W.2d 681, 684 (Minn. App. 2003).

Crist contends that Douglas Place imposed a level of confinement and restrictions upon him that are the functional equivalent of a jail. He argues that the district court committed legal error in concluding otherwise. And he implicitly challenges the district court’s factual determinations. We turn first to that implicit challenge.

The district court found that Douglas Place is a DHS-licensed facility that provides treatment “to people with chemical dependency and co-occurring mental health concerns.” The court also found that (1) the facility is staffed with “nursing and recovery specialists” who provide 24-hour supervision, (2) patients may not leave unless there is an emergency or for medical reasons, (3) patients who are at the facility on furlough or as a condition of release must obtain permission “from probation or parole” before leaving the facility, and (4) a staff member accompanies patients who are allowed to attend medical appointments for the entirety of the time the patient is away from the facility.

Crist does not argue that any of these findings are clearly erroneous, and the record supports them. But Crist implicitly argues that the district court should have made additional findings consistent with the circumstances he alleged in his affidavit. We are not persuaded. The district court noted Crist’s allegations regarding conditions at Douglas Place and the level of confinement Crist experienced there, stating that they “were not corroborated” by the treatment director. We defer to a district court’s credibility determinations. *Kruse v. Comm’r of Pub. Safety*, 906 N.W.2d 554, 557 (Minn. App. 2018). That the record might support different findings does not make a district court’s findings clearly erroneous. *See Kenney*, 963 N.W.2d at 223 (stating “it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary” (quotation omitted)). In sum, we discern no clear error in the district court’s findings regarding the conditions at Douglas Place and its treatment focus.

Having concluded that the district court’s findings of fact are not clearly erroneous, we consider whether the confinement and restrictions Douglas Place imposed on Crist are

the functional equivalent of those at a correctional facility. *Asfaha* guides our analysis. In *Asfaha*, the supreme court answered that question in the context of a secured residential treatment program for juveniles with severe conduct disorder. 665 N.W.2d at 524. In concluding that the facility was the functional equivalent of a correctional facility, the supreme court noted that the program was designed with security as “the most crucial concern.” *Id.* at 527. And the supreme court identified additional relevant circumstances—which the parties did not dispute—including that a “central control booth” controlled access to all doors within the facility as well as entry to and exit from the facility, the windows were barred, the exercise area behind the building was secured by fencing, staff continually monitored surveillance cameras that captured activity throughout the building (except for the individual cells), and if residents were transported from the facility, they were placed in “mechanical restraints.” *Id.* The supreme court concluded that *Asfaha* was entitled to custody credit because the facility “imposes essentially the same limitations on a person’s freedom as a jail, workhouse, or regional correctional facility.” *Id.*

In *Razmyslowski*, we reached the same conclusion as to an inpatient treatment program for sexual disorders at the Minnesota Security Hospital. 668 N.W.2d at 684. The program was staffed by “a minimum of three to four security staff and one registered nurse.” *Id.* The facility was surrounded by a security fence, a “closed circuit television system” monitored the perimeter and parts of the building interior, and there were bars on the windows of the patient rooms. *Id.* Program staff “made regular counts and rounds” and conducted “clothed pat-down searches and room searches.” *Id.* Patients were not able to walk freely through the building or grounds. *Id.* And if they were being transported

from the facility, they “were regularly cuffed, attached to security waist belts, and accompanied by an armed guard.” *Id.* This court concluded that the level of confinement and restrictions imposed were akin to those in *Asfaha*, and that Razmyslowski was entitled to custody credit for the time he spent in the program. *Id.*

As in *Asfaha* and *Razmyslowski*, Douglas Place is a secured residential facility. But several factors persuade us that the confinement and restrictions it imposes are not equivalent to those of a correctional facility. Unlike the secured facility in *Asfaha*, Douglas Place is not primarily concerned with security. It is first and foremost a facility that provides chemical-dependency and mental-health treatment. *See State v. Johnson*, 744 N.W.2d 376, 380 (Minn. 2008) (declining “to conflate treatment and punishment” for purposes of determining custody credit for time spent in a secure treatment facility pursuant to a civil commitment). Crist asked to be placed there in order to obtain treatment. In contrast to *Asfaha* and *Razmyslowski*, Douglas Place is staffed by nurses and other treatment staff, not security guards or officers. Patients are indeed monitored and are not free to leave the facility unless there is an emergency or they need medical care. But in the event a patient is permitted to leave the facility, they are accompanied by a staff member, not an armed security guard. They are not placed in handcuffs or otherwise restrained. And, unlike both *Asfaha* and *Razmyslowski*, Douglas Place did not have bars on its windows.

Lastly, the fact Crist was subject to escape-from-custody charges does not lead us to conclude that the conditions of his confinement at Douglas Place were equivalent to a jail. First, he was subject to the same condition—that “[f]ailure to return, or failure to

return on time could be considered a violation of conditions of release and could be grounds for escape from custody charges”—when he received a one-day furlough to attend psychological testing prior to his placement at Douglas Place. But he did not request custody credit for that day. Second, the escape-from-custody statute applies to situations beyond those associated with a correctional facility—including “absconding from electronic monitoring or removing an electronic monitoring device from the person’s body.” Minn. Stat. § 609.485, subd. 2 (2020). Third, the definition of “escape” includes the failure to return to custody from a temporary leave. *Id.*, subd. 1 (2020). In short, the fact that the order granting Crist’s request for a furlough to obtain treatment at Douglas Place notes he may be subject to escape-from-custody charges does not compel the conclusion that Crist experienced conditions of confinement equivalent to those at a correctional facility while at Douglas Place.

In sum, the district court did not clearly err in its findings regarding the level of confinement and restrictions Douglas Place imposed on Crist. And we conclude that the confinement and restrictions are not the functional equivalent of those imposed by a jail.

Affirmed.