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STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1465

In the Matter of the Welfare of the Child of: C.P., Parent.

Filed January 23, 2012
Affirmed
Schellhas, Judge

Koochiching County District Court
File No. 36-JV-10-676

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Considered and decided by Schellhas, Presiding Judge; Johnson, Chief Judge; and Ross, Judge.

U N P U B L I S H E D O P I N I O N

SCHELLHAS, Judge

On appeal from the district court's adjudication of his child as a child in need of protection or services (CHIPS), appellant-father argues that (1) the district court erroneously admitted evidence of his prior alleged domestic abuse, (2) the record does

not support several findings, and (3) the CHIPS adjudication of his child is not legally supported. We affirm.

FACTS

In 1995, S.H. gave birth to a son, B.H. S.H. did not marry B.H.'s alleged father, J.L., whose paternity was not adjudicated. In 2000, S.H. and appellant-father C.P. married and, in 2001, they dissolved their marriage. Pursuant to S.H.'s stipulation, the dissolution court granted C.P. legal and physical custody of B.H.

On August 26, 2010, B.H. reported that during the preceding year or two, C.P. had physically and verbally abused him by hitting, choking, kicking, punching, and slapping him; throwing objects at him; and swearing at him. B.H. also reported that he believed C.P. used marijuana and that he was afraid of C.P. On August 30, respondent Koochiching County Community Services (the county) took B.H. into emergency protective care.

On September 2, the county filed a petition, alleging that B.H. was CHIPS under Minn. Stat. § 260C.007, subd. 6(2), (9) (2010), because he was a victim of physical abuse, resided with a victim or a perpetrator of physical abuse, was a victim of emotional maltreatment, and lived in an injurious environment. C.P. denied the CHIPS petition. At the emergency-protective-care hearing, the district court continued B.H.'s removal from C.P.'s home and placed him in the care of his maternal uncle and aunt. Later, the court conducted a trial on the CHIPS petition; issued findings of fact, conclusions of law, and an order on March 17, 2011; and issued amended findings of fact, conclusions of law, and an order on April 26.

The district court adjudicated B.H. CHIPS because he was a victim of physical abuse under Minn. Stat. § 260C.007, subd. 6(2)(i); had resided with a perpetrator of physical abuse under Minn. Stat. § 260C.007, subd. 6(2)(iii); was a victim of emotional maltreatment under Minn. Stat. § 260C.007, subd. 6(2)(iv); and lived in a dangerous or injurious environment under Minn. Stat. § 260C.007, subd. 6(9). The court transferred legal custody of B.H. to the county; continued his out-of-home placement; ordered him to take his prescribed medications; ordered the county to provide B.H. and C.P. with reunification services, including but not limited to a psychological assessment of C.P., a domestic-violence inventory of C.P., and a chemical-dependency evaluation of C.P.; and denied C.P.'s motion for further amended findings or for a new trial.

This appeal follows.

D E C I S I O N

Evidentiary Objections

C.P. argues that the district court abused its discretion by admitting evidence of prior domestic abuse committed by C.P. against S.H. and his daughters, Ca.P. and A.P.

Absent an erroneous interpretation of the law, an appellate court affords the district court broad discretion in determining whether to admit or exclude evidence. *In re Child of Simon*, 662 N.W.2d 155, 160 (Minn. App. 2003). An evidentiary error requires reversal only if the objecting party can show that the error prejudiced that party and that the court's ruling was an abuse of discretion. *In re Welfare of Children of J.B.*, 698 N.W.2d 160, 172 (Minn. App. 2005). In juvenile-protection matters, except as otherwise provided by statute or the juvenile-protection rules, "the court shall only admit evidence

that would be admissible in a civil trial pursuant to the Minnesota Rules of Evidence." Minn. R. Juv. Prot. P. 3.02, subd. 1.

Evidence of C.P.'s Prior Domestic Abuse of S.H.

Relationship Evidence under Minn. Stat. § 634.20

In reliance on Minn. Stat. § 634.20 (2010), the district court admitted relationship evidence through S.H.'s testimony that C.P. abused her during their marriage. C.P. argues that the court erred in its reliance on section 634.20 because the statute is applicable only to the admission of relationship evidence in criminal cases. We agree.

Section 634.20 makes admissible "[e]vidence of similar conduct by the accused against the victim of domestic abuse," including, but not limited to, "evidence of domestic abuse." Minn. Stat. § 634.20. "If the meaning of a statute is unambiguous, we interpret the statute's text according to its plain language." *Brua v. Minn. Joint Underwriting Ass'n*, 778 N.W.2d 294, 300 (Minn. 2010). The word "accused" signals that section 634.20 applies to criminal cases involving charges of domestic abuse. *See generally State v. McCurry*, 770 N.W.2d 553, 561 (Minn. App. 2009) ("When the state cannot charge a crime constituting domestic abuse, it may not use § 634.20 to circumvent rules of admissibility for prior bad acts."), *review denied* (Minn. Oct. 28, 2009); *State v. Copeland*, 656 N.W.2d 599, 602 (Minn. App. 2003) ("By its plain language, the statute [section 634.20] applies only in cases where a person is charged with domestic abuse and the state intends to introduce evidence of prior domestic abuse involving the accused and the victim of the currently charged offense."), *review denied* (Minn. Apr. 29, 2003). CHIPS proceedings are civil, not criminal. *See* Minn. R. Juv. Prot. P. 3.02, subd. 1

(requiring courts to "admit evidence that would be admissible in a civil trial pursuant to the Minnesota Rules of Evidence").

We conclude the district court erred by admitting relationship evidence under section 634.20 in this CHIPS proceeding.

Admission of Prior Domestic Abuse under Minn. R. Evid. 404 and 403

C.P. argues that the district court also erred by admitting S.H.'s testimony about prior domestic abuse under Minn. R. Evid. 404 and 403. Rule 404 generally makes character evidence inadmissible to show that the person acted in conformity with a character trait on a particular occasion. Minn. R. Evid. 404(a). Here, the district court noted that the statements about domestic abuse were "offered clearly to establish a particular character trait of [C.P.] which is central to this case—domestic abusive behavior and parenting." We conclude that the court erred by admitting S.H.'s statements to show that C.P. acted in conformity with a character trait. We also conclude that S.H.'s statements were not admissible under rule 403 because they were stale. *See* Minn. R. Evid. 403 (allowing exclusion of relevant evidence in some circumstances). S.H. and C.P. dissolved their marriage in 2001. B.H. reported abuse by C.P. in 2010, alleging that the abuse occurred during the preceding year or two. The time gap between C.P.'s alleged abuse of S.H. and C.P.'s alleged abuse of B.H. is too great to be relevant under rule 403.

Although the district court erred by admitting S.H.'s statements about C.P.'s prior domestic abuse of her, the error was harmless because other substantial evidence in the record supports the court's CHIPS adjudication of B.H. *See* Minn. R. Civ. P. 61

(requiring courts to disregard errors that do "not affect the substantial rights of the parties").

Evidence of C.P.'s Prior Abuse of Daughters Ca.P. and A.P.

C.P. argues that the district court erred by admitting evidence of C.P.'s prior abuse of Ca.P. and A.P. for impeachment purposes. We disagree. C.P.'s counsel asked Ca.P. if she had ever been hit or spanked by C.P. or if she had ever seen C.P. "hit or kick or punch any of the other children." Ca.P. responded, "No." During Ca.P.'s cross-examination, the county attorney asked her about past statements she made to a social worker that C.P. tried to hit her. C.P.'s counsel asked A.P. about a 2003 CHIPS proceeding in which A.P. alleged that C.P. abused her, and A.P. responded that she "made [up] some allegations" to get back at C.P. for disapproving of her boyfriend. During A.P.'s cross-examination, the county attorney asked her whether she recalled statements she made to a law-enforcement officer and a social worker about the alleged abuse of her by C.P. The district court admitted this evidence for impeachment purposes, noting in its written order that the county used "instances of past allegations of domestic abuse directed against [Ca.P. and A.P.] . . . to impeach [Ca.P.'s and A.P.'s] testimony" and that the testimony about past abuse was admissible because Ca.P. and A.P. made prior inconsistent statements.

We conclude that the district court did not abuse its discretion by admitting for impeachment purposes Ca.P.'s and A.P.'s statements about C.P.'s abuse. Impeachment of any witness is allowed under Minn. R. Evid. 607. "A witness's prior inconsistent

statement is admissible for impeachment purposes, but it is generally not admissible as substantive evidence." *In re Welfare of D.D.R.*, 713 N.W.2d 891, 901 (Minn. App. 2006).

Findings of Fact

This court does not reverse findings in a CHIPS proceeding unless they are clearly erroneous or unsupported by substantial evidence and the record as a whole leaves this court with a firm and definite conviction that a mistake has been made. *In re Welfare of B.A.B.*, 572 N.W.2d 776, 778 (Minn. App. 1998). "A finding is clearly erroneous if it is either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Welfare of the Children of T.R.*, 750 N.W.2d 656, 660–61 (Minn. 2008) (quotation omitted). We are bound by a "very deferential" standard of review of factual findings in a CHIPS determination. *In re Welfare of Child of S.S.W.*, 767 N.W.2d 723, 734 (Minn. App. 2009). C.P. argues that 18 findings of fact are clearly erroneous.

Finding No. 8

C.P. challenges the district court's finding that "authorities were informed of numerous allegations of abuse" and that C.P. "refused to immediately answer questions of Koochiching County authorities." Based on our careful review of the record, this finding is not clearly erroneous. The report of abuse made to authorities contained numerous allegations of abuse, and when questioned by the county, C.P. requested that the county interviewers write down their questions so that he could have an attorney review them before he answered.

Finding No. 9

C.P. challenges the district court's finding that the county placed B.H. "with [J.V.] and [F.V.], his maternal uncle and aunt, where he'd been living for the summer." We agree with C.P. that this finding is not supported by record evidence. The record reveals that F.V. testified that B.H. came to her home in August to visit for two weeks, and that the district court ordered B.H. to continue to live in the home in September. But we conclude that the court's error is harmless because this finding has no bearing on the court's determination that B.H. is a child in need of protection or services. *See* Minn. R. Civ. P. 61 (requiring courts to disregard errors that do "not affect the substantial rights of the parties").

Finding No. 14

C.P. challenges the district court's finding that C.P. threw objects at, "kicked, punched and choked," and threatened to harm B.H. C.P. argues that the district court "merely relied upon the testimony of B.H. alone" and that "[t]estimony from the child alone is not 'clear and convincing evidence' of physical abuse." Record evidence amply supports this finding, and C.P. provides no legal authority for his argument that the court cannot rely on B.H.'s testimony to find clear and convincing evidence of physical abuse.

C.P. also challenges the district court's finding that B.H.'s testimony was substantiated by his sister, K.H., arguing that the court "ignored . . . facts when finding that [K.H.] was a credible witness." As to K.H.'s credibility, the district court is in the best position to measure a witness's demeanor during testimony, and this court generally defers to the district court's credibility determinations. *See In re Welfare of L.A.F.*, 554

N.W.2d 393, 396 (Minn. 1996) ("Considerable deference is due to the district court's decision because a district court is in a superior position to assess the credibility of witnesses."). We conclude that the district court's finding is not clearly erroneous.

Finding No. 15

C.P. challenges the district court's finding that B.H. "suffered emotionally and mentally" while living with C.P., which was "manifested in the extensive behavioral problems that were attested to by school officials." C.P. asserts that "[n]o school officials testified at trial" and no testimony established that B.H.'s "behavioral problems at school stemmed from being abused at home." C.P. is correct that no school officials testified at trial. But B.H. did testify that he had behavioral problems at school when he was living with C.P., B.H.'s social worker testified that B.H. had gotten into fights at school when he lived with C.P., and the guardian ad litem (GAL) submitted a report to the court prior to the hearing in which the GAL referenced comments from school officials that B.H. was "the worst behaved student in school" and exhibited "negative behavior." We conclude that the district court's finding is not clearly erroneous.

Finding No. 16

C.P. challenges the district court's finding that B.H. "witnessed the discovery of illegal drugs in the constructive possession of" C.P. He argues that the evidence is insufficient to prove that he had constructive possession or knowledge of the marijuana, noting that the district court "relied only upon the testimony of B.H. . . . who himself admitted to using marijuana." B.H. testified about finding marijuana in C.P.'s pants pocket. The court found B.H.'s testimony to be credible, and C.P. provides no legal

authority to support his argument that the district court cannot rely on B.H.'s testimony. The district court's finding is not clearly erroneous.

Finding No. 17

C.P. challenges the district court's finding that C.P.'s home appeared to the court to be "chaotic and dysfunctional" and that the court found credible the testimony of K.H., who also testified about C.P.'s abuse of the children and the "loud and chaotic atmosphere of the house while she lived there." C.P. asserts that the record includes no testimony that his home was chaotic or dysfunctional. But B.H. testified that he was physically abused in the home and that his home was "loud" and that there was "[a] lot" of arguing. C.P. also challenges K.H.'s credibility, but credibility determinations are left to the district court. *See id.* C.P. also argues that K.H. did not reside with C.P. during the relevant time period. C.P. is correct, but any error the court made is harmless because B.H.'s testimony supports the court's finding. *See* Minn. R. Civ. P. 61 (requiring courts to disregard errors that do "not affect the substantial rights of the parties"). The district court's finding is not clearly erroneous.

Findings Nos. 18 and 19

C.P. challenges the district court's findings that the testimony offered by Ca.P. and A.P. was not credible because they were impeached by prior inconsistent statements and they appeared "defensive." C.P. argues that the court's reliance on a 2003 CHIPS file was erroneous "not only because it violated [Minn. R. Juv. Prot. P.] 3.02, but because documentary proof was not admitted into evidence, the evidence was immaterial, and also constituted improper character evidence." C.P.'s arguments are unpersuasive. The

district court did not admit evidence that was improper because the prior allegations of abuse were admitted only for the purpose of impeaching A.P. and Ca.P. with their prior inconsistent statements. *See* Minn. R. Juv. Prot. P. 3.02, subd. 1 (stating that, except as otherwise provided by statute or the juvenile-protection rules, "the court shall only admit evidence that would be admissible in a civil trial pursuant to the Minnesota Rules of Evidence"); Minn. R. Evid. 607 (allowing impeachment of any witness); *In re Welfare of D.D.R.*, 713 N.W.2d at 901 ("A witness's prior inconsistent statement is admissible for impeachment purposes, but it is generally not admissible as substantive evidence."). And Minn. R. Juv. Prot. P. 3.02, subdivision 3, is not applicable here because the record does not show that the district court took judicial notice of the 2003 CHIPS file.

C.P. also argues that Ca.P. and A.P. were not "overtly defensive" at trial and were acting reasonably. We leave credibility determinations to the district court. *See In re Welfare of L.A.F.*, 554 N.W.2d at 396. The district court's findings are not clearly erroneous.

Finding No. 20

C.P. challenges the district court's finding that B.H.'s testimony "was consistent with reports he made since the beginning of this case" and was not "coerced," "coached," or "manipulated." C.P. argues that there were "large holes and inconsistencies in B.H.'s trial testimony," and that the county failed to produce evidence to substantiate B.H.'s claims that he told friends and teachers about the abuse and called 911. The record reveals that the district court is correct that B.H.'s testimony about the abuse was consistent with reports B.H. made since the beginning of the case. The court could

choose to believe B.H., and we leave credibility determinations to the district court. *See id.* The district court's finding is not clearly erroneous.

Finding No. 24

C.P. challenges the district court's finding that B.H. did not tell family members or friends about the abuse "because he felt strongly that they would tell [C.P.], who then would punish [B.H.] . . . This punitive character trait was also corroborated by [C.P.] himself who said he'd never speak to [K.H.] again after she testified in this case." C.P. complains that the only evidence of C.P.'s threats of punishment came from B.H., who testified that C.P. yelled at him when he previously told school officials about the abuse and that those officials confronted C.P. But C.P. offers no legal support for his argument that the district court cannot rely on the testimony of B.H., whom the court found credible. As to his statement about never speaking again to K.H., C.P. merely asserts that his statement did not establish that he had a punitive character. We disagree. C.P. testified at trial that he had not spoken to K.H. since he found out what her testimony would be at trial, and he doubted he would ever speak to her again. The record amply supports the court's finding.

Finding No. 27

C.P. challenges the district court's finding that B.H.

> "promised" to harm himself by absconding from [C.P.'s] care if forced to reside there again. This comment particularly underscores the Child's earnest belief that he is a victim of serious physical and emotional maltreatment, which is a condition unto itself. This condition and behavior of the Child alone without any other findings under such circumstances clearly and without any doubt lends this Court to find that the

> Child is a child desperately in need of protection and services
> . . . .

C.P. argues that since "the CHIPS petition was not based upon B.H.'s threat that he would run away if returned to [C.P.]'s home," the threat to run away "could not stand as a ground for the Trial Court to find that the child is in need of protection and services."

We do not read the district court's findings, conclusions, and order to suggest that the court based its CHIPS adjudication on B.H.'s testimony that if he had to live with C.P., he would run away. But even if the court's findings, conclusions, and order could be read as such, any error is harmless because substantial other evidence supports the district court's finding that B.H. was a victim of physical and emotional maltreatment. *See* Minn. R. Civ. P. 61 (requiring courts to disregard errors that do "not affect the substantial rights of the parties"). This finding is not clearly erroneous.

Finding No. 28

C.P. challenges a footnote to a finding, where the district court noted that it recalled cases where C.P. was charged with substance abuse, but the court stated, "These recollections were not used or relied upon in this case." C.P. argues that the district court's "statement that it remembers cases previously heard involving [C.P.] regarding substance abuse" is in error because no evidence at trial established that C.P. had been charged with a substance-abuse crime. We do not view the court's disclosure about its recollection of cases previously heard as error. And, even if it were error, it would be harmless. *See id.* (requiring an appellate court to disregard errors that do "not affect the

substantial rights of the parties”). In fact, the district court found that C.P. did not currently abuse alcohol or drugs.

Findings Nos. 33 and 34

C.P. argues that insufficient evidence supports the district court’s findings that C.P. verbally abused, swore, punched, and slapped B.H. during a car ride and that B.H.’s testimony about the incident was corroborated by K.H.’s testimony that B.H. told her about the incident a few days after it occurred. Based on our careful review of the evidence, we conclude that the district court’s findings are not clearly erroneous.

Finding No. 36

C.P. argues that the evidence does not support the district court’s finding that J.P., C.P.’s biological son, attempted to “mock the process and the parties to the proceedings” and that J.P.’s “flippant attitude in court was pervasive and consistent in the descriptions of his attitudes at school toward others.” We conclude that J.P.’s testimony supports the court’s finding that J.P. mocked the proceeding. As to J.P.’s attitudes at school toward others, C.P. is correct that no school officials testified about J.P.’s attitude, but J.P. commented about school during his testimony from which the court could have perceived J.P.’s attitude as flippant. We view C.P.’s challenges as challenging the court’s credibility determination as to J.P., but we leave those determinations to the district court. *See In re Welfare of L.A.F.*, 554 N.W.2d at 396. We conclude that the district court’s finding is not clearly erroneous.

Finding No. 37

C.P. challenges the district court's finding that he was not prejudiced by the social worker and the GAL collaborating and travelling together while performing their duties. He argues that the evidence shows that the social worker and the GAL violated the GAL rules by not conducting independent investigations. C.P.'s argument is unpersuasive. The GAL testified that he interviewed J.P. and B.H. without the social worker present. We conclude that the district court's finding is not clearly erroneous.

Findings Nos. 38 and 39

C.P. challenges the district court's findings that "the Agency offered evidence and recommendations for services, which have been available to [C.P.] since nearly the inception of this case," and that the county's goal in this process was reunification. C.P. complains that the social worker did not file the out-of-home placement plan until one week before trial and that he therefore had no real chance of reunification prior to trial. But the social worker testified that she discussed reunification with C.P. on September 3, the day after the county filed the CHIPS petition. She also testified that she did not submit the case plan earlier because C.P. was "adamant that physical abuse and the marijuana use in the home has not happened, did not happen. . . . [H]e wouldn't be wanting to work with me and he's adamant on going to trial to contest the CHIPS petition." We conclude that the district court's findings are not clearly erroneous.

Conclusions of Law

A district court may adjudicate a child CHIPS based on several enumerated statutory grounds. *See* Minn. Stat. § 260C.007, subd. 6 (2010) (listing grounds). In this

case, the court adjudicated B.H. as CHIPS based on multiple statutory grounds: B.H. has been a victim of physical abuse, Minn. Stat. § 260C.007, subd. 6(2)(i); had resided with a perpetrator of physical abuse, *id.*, subd. 6(2)(iii); was a victim of emotional maltreatment, *id.*, subd. 6(2)(iv); and lived in a dangerous or injurious environment, *id.*, subd. 6(9). C.P. argues that the county did not prove by clear and convincing evidence five of the six conclusions of law.

"In juvenile protection proceedings, this court determines whether the record contains substantial evidence to support the district court's decision, taking into account that the burden of proof in the district court is clear and convincing evidence." *In re Welfare of B.A.B.*, 572 N.W.2d at 778 (quotation and citations omitted). "Clear and convincing evidence 'requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt.' This standard is met when the matter sought to be proved is 'highly probable.'" *Nexus v. Swift*, 785 N.W.2d 771, 781 (Minn. App. 2010) (citations omitted). In determining whether the evidence is clear and convincing, this court defers to the district court's ability to assess the credibility of witnesses. *In re Welfare of L.A.F.*, 554 N.W.2d at 396.

Conclusion of Law No. 1

C.P. challenges the district court's adjudication of B.H. as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(i). Under subdivision 6(2)(i), a child in need of protection or services is one who "has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2." Minn. Stat. § 260C.007, subd. 6(2)(i). Section 626.556, subdivision 2(g), defines "physical abuse" as "any physical injury . . . inflicted by a

person responsible for the child's care on a child other than by accidental means" that includes "(1) throwing, kicking, burning, biting, or cutting a child; (2) striking a child with a closed fist; . . . [or] (5) unreasonable interference with a child's breathing." Minn. Stat. § 626.556, subd. 2(g)(1)–(2), (5) (2010). The district court found that C.P. threw a coffee mug at B.H., "which broke, cutting [B.H.]"; "kicked, punched and choked [B.H.] on a number of other occasions"; and "repeatedly punched [B.H.] in the shoulder and arm." We conclude that clear and convincing evidence supports the district court's adjudication of B.H. as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(i).

Conclusion of Law No. 2

C.P. challenges the district court's adjudication of B.H. as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(iii). Under subdivision 6(2)(iii), a child in need of protection or services is one who "resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5 or 13." Minn. Stat. § 260C.007, subd. 6(2)(iii). Subdivision 5 defines "child abuse" as "an act that involves a minor victim . . . that is physical or sexual abuse as defined in section 626.556, subdivision 2." Minn. Stat. § 260C.007, subd. 5 (2010). We conclude that clear and convincing evidence supports the district court's adjudication of B.H. as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(iii).

Conclusion of Law No. 3

C.P. challenges the district court's adjudication of B.H. as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(iv). Under subdivision 6(2)(iv), a child in need of protection or services is one who "is a victim of emotional maltreatment as defined in subdivision

15." Minn. Stat. § 260C.007, subd. 6(2)(iv). Subdivision 15 defines "emotional maltreatment" as "consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development." Minn. Stat. § 260C.007, subd. 15 (2010). The district court found that C.P.'s home was "mentally and emotionally unhealthy" for B.H. and that B.H. "suffered emotionally and mentally while residing with [C.P.]." We conclude that clear and convincing evidence supports the district court's adjudication of B.H. as CHIPS under Minn. Stat. § 260C.007, subd. 6(2)(iv).

Conclusion of Law No. 4

C.P. challenges the district court's adjudication of B.H. as CHIPS under Minn. Stat. § 260C.007, subd. 6(9). Under subdivision 6(9), a child in need of protection or services is one "whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home." Minn. Stat. § 260C.007, subd. 6(9). The district court found that B.H. discovered illegal drugs in C.P.'s constructive possession. The district court also found that C.P.'s "home atmosphere . . . was mentally and emotionally unhealthy for [B.H.]," and that C.P. had "kicked, punched and choked" B.H. We conclude that clear and convincing evidence supports the district court's adjudication of C.P. as CHIPS under Minn. Stat. § 260C.007, subd. 6(9).

Conclusion of Law No. 6

C.P. challenges the district court's conclusion that "[r]easonable efforts have been made to avoid [B.H.'s out-of-home] placement." He argues that the county failed to engage in efforts to prevent B.H.'s out-of-home placement and to reunify the family. C.P.'s argument is unpersuasive. The social worker testified that before filing the case plan on November 19, 2010, she worked with C.P. on it, including the child-protection process, relative placement, concurrent planning, approved contacts with B.H., and the potential for B.H. to return home. The record supports the district court's conclusion that the county made reasonable efforts to avoid the placement and to reunify C.P. with B.H.

C.P. also argues that the district court erroneously denied his motion to stop the administration of Adderall to B.H. for treatment of his attention-deficit disorder (ADD). The district court heard testimony that B.H. was prescribed Adderall for his ADD and that his performance in school improved after he started taking it. C.P. contends that B.H. should not take Adderall because it stunted his growth when he took it a few years ago. C.P. also contends that B.H. does not need Adderall because B.H. chose not to do his homework; he did not have a "focus issue." C.P. points to no record evidence that supports his contentions, and we have found none. We conclude that the district court did not err by denying C.P.'s motion regarding the administration of Adderall to B.H.

Affirmed.