

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2026 ND 24

Aaron Holzworth,	Plaintiff and Appellee
v.	
Damaris Ortega Rivera,	Defendant and Appellant
and	
State of North Dakota,	Statutory Real Party in Interest

No. 20250293

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable James S. Hill, Judge.

AFFIRMED.

Per Curiam.

Christopher Rausch, Bismarck, ND, for plaintiff and appellee.

Damaris Ortega Rivera, self-represented, Mandan, ND, defendant and appellant; submitted on brief.

Holzworth v. Ortega Rivera, et al.
No. 20250293

Per Curiam.

[¶1] Damaris Ortega Rivera appeals a district court judgment awarding her and Aaron Holzworth joint and equal residential responsibility of their child. She argues, among other things, the court erred in awarding equal residential responsibility of the child, erred in its findings on the best-interest factors, and erred by finding no credible evidence of domestic violence and not applying the statutory domestic violence presumption. She contends the court erred in its findings on weight and credibility and erred in limiting her testimony.

[¶2] “A district court’s decision on residential responsibility is a finding of fact subject to the clearly erroneous standard of review.” *Queen v. Martel*, 2022 ND 178, ¶ 3, 980 N.W.2d 914. On appeal, we do not reweigh the evidence or reassess the credibility of witnesses, and we will not retry a custody case or substitute our judgment for a district court’s decision. *Mowan v. Berg*, 2015 ND 95, ¶ 5, 862 N.W.2d 523. “A district court has inherent authority to control the courtroom and limit the length of the proceeding.” *Zittleman v. Bibler*, 2025 ND 87, ¶ 11, 20 N.W.3d 148. On this record, we summarily affirm under N.D.R.App.P. 35.1(a)(2) and (4).

[¶3] Holzworth requests attorney’s fees under N.D.R.App.P. 13 and 38, contending Ortega Rivera’s appeal is frivolous and her briefs do not comply with N.D.R.App.P. 28. While her briefs are deficient in many respects, we conclude Ortega Rivera’s arguments are not “so devoid of factual and legal merit” that she should have been “aware of the impossibility of success,” and therefore, her appeal does not rise to the level of being frivolous. *See Markestad v. Markestad*, 2025 ND 230, ¶ 29. We deny Holzworth’s request for attorney’s fees.

[¶4] Lisa Fair McEvers, C.J.
Daniel J. Crothers
Jerod E. Tufte
Jon J. Jensen
Douglas A. Bahr