

MONTANA SUPREME COURT STANDARDS OF REVIEW, GENERALLY

1. DE NOVO/CORRECTNESS

“We are not bound by the trial court’s conclusions and remain free to reach our own.” *Baertsch v. Cnty. of Lewis & Clark*, 256 Mont. 114, 119, 845 P.2d 106, 109 (1992).

2. ABUSE OF DISCRETION

a. Defined.

- i. The test for an abuse of discretion is “whether the trial court acted arbitrarily without employment of conscientious judgment or exceeded the bounds of reason resulting in substantial injustice.” *C. Haydon Ltd. v. MT Min. Properties, Inc.*, 286 Mont. 138, 146, 951 P.2d 46, 51 (1997). “The test for abuse of discretion is whether the trial court acted arbitrarily without employment of conscientious judgment or exceeded the bounds of reason resulting in substantial injustice.” *Jarvenpaa v. Glacier Elec. Coop., Inc.*, 1998 MT 306, ¶¶ 13, 292 Mont. 118, ¶¶ 13, 970 P.2d 84, ¶¶ 13 (citation omitted).
- ii. “A decision is arbitrary if it appears to be ‘random, unreasonable, or seemingly unmotivated, based on the existing record.’” *In re Petition to Transfer Territory from Poplar Elementary Sch. Dist. No. 9*, 2015 MT 278, ¶ 10, ___ Mont. ___, ___ P.3d ___ (citing *In re Petition to Transfer From Dutton*, 2011 MT 152, ¶ 7, 361 Mont. 103, 259 P.3d 751; *Silva v. City of Columbia Falls*, 258 Mont. 329, 335, 852 P.2d 671, 675 (1993)).
- iii. “A manifest abuse of discretion is one that is obvious, evident or unmistakable,” *McDermott v. Carie*, 2005 MT 293, ¶ 11, 329 Mont. 295, 124 P.3d 168 (citation omitted), and “so significant as to materially affect the substantial rights of the complaining party.” *O’Connor v. George*, 2015 MT 274, ¶ 17, ___ Mont. ___, ___ P.3d ___; *Willing v. Quebedeaux*, 2009 MT 102, ¶ 19, 350 Mont. 119, 204 P.3d 1248.

- iv. A district court may abuse its discretion if it does not apply the correct law. *State v. Gallagher*, 2001 MT 39, ¶ 15, 304 Mont. 215, 19 P.3d 817.

2. CLEAR ERROR/CLEARLY ERRONEOUS

“To determine whether the court’s findings are clearly erroneous, we will first review the record to see if the findings are supported by substantial evidence. Second, if the findings are supported by substantial evidence we will determine if the trial court has misapprehended the effect of the evidence. Third, if substantial evidence exists and the effect of the evidence has not been misapprehended, this Court may still find that a finding is clearly erroneous when, although there is evidence to support it, a review of the record leaves us with the definite and firm conviction that a mistake has been committed. *Czajkowski v. Meyers*, 2007 MT 292, ¶ 14, 339 Mont. 503, 507-08, 172 P.3d 94; First, the Court will review the record to see if the findings are supported by substantial evidence. Second, if the findings are supported by substantial evidence we will determine if the trial court has misapprehended the effect of evidence. [Citations omitted.] Third, if substantial evidence exists and the effect of the evidence has not been misapprehended, the Court may still find that “[A] finding is ‘clearly erroneous’ when, although there is evidence to support it, a review of the record leaves the court with the definite and firm conviction that a mistake has been committed.” [Citation omitted.] *Matter of Clark Fork River Drainage Area*, 254 Mont. 11, 14-15, 833 P.2d 1120, 1122 (1992)

“A finding is clearly erroneous if it is not supported by substantial evidence, if the trial court misapprehended the effect of the evidence, or if this Court is left with a definite and firm conviction that the District Court made a mistake.” *In the Matter of J.M.W.E.H.*, 1998 MT 18, ¶ 27, 287 Mont. 239, 954 P.2d 26.

“Evidence is substantial if a reasonable mind might accept it as adequate to support a conclusion.” *State v. Barrick*, 2015 MT 94, ¶ 11, 378 Mont. 441, 347 P.3d 241; *State v. Coluccio*, 2009 MT 273, ¶ 40, 352 Mont. 122, 214 P.3d 1282., 243.

Substantial evidence is “evidence that a reasonable mind might accept as adequate to support a conclusion; it consists of more than a mere scintilla of evidence, but may be somewhat less than a preponderance.” *State v. Simpson*, 2014 MT 175, ¶ 8, 375 Mont. 393, 328 P.3d 1144.

In determining whether the trial court's findings are supported by substantial credible evidence, we must view the evidence in the light most favorable to the prevailing party. *Fitterer Sales Montana, Inc. v. Mullin*, 2015 MT 272, ¶ 15, ___ Mont. ___, ___ P.3d ___.