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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1243**

In re the Marriage of: Jose Flores Moran, petitioner,
Appellant,

vs.

Yolanda Jimenez,
Respondent.

**Filed March 6, 2017
Affirmed
Stauber, Judge**

Dodge County District Court
File No. 20-FA-12-80

Ismail O. Hussein, Law Office of Ismail Hussein, Columbia Heights, Minnesota (for appellant)

Daryl D. Bail, Patton, Hoversten & Berg, P.A., Owatonna, Minnesota (for respondent)

Considered and decided by Bratvold, Presiding Judge; Worke, Judge; and Stauber, Judge.

UNPUBLISHED OPINION

STAUBER, Judge

On appeal from the denial of his motion to modify his spousal-maintenance obligation, appellant-husband argues that the district court abused its discretion by denying his motion because respondent-wife's move to Mexico, where the cost of living

is considerably lower, supports his claim of a substantial change in circumstances rendering the existing maintenance order unreasonable and unfair. We affirm.

FACTS

In December 2012, the marriage between appellant Jose Moran and respondent Yolanda Jimenez was dissolved. Pursuant to the judgment and decree, appellant was ordered to pay respondent \$1,585 per month in spousal maintenance. The parties later negotiated a modification, which reduced appellant's maintenance obligation to \$1,400 per month.

On August 17, 2015, appellant moved to terminate or modify his current spousal-maintenance obligation "based on the substantially changed circumstances of . . . respondent moving out of the State of Minnesota to live in Mexico." Appellant claimed that respondent's move to Mexico rendered the existing maintenance obligation unreasonable and unfair because it resulted in a "substantial decrease in the need and the living expenses of [respondent] given that she is living in a house for which she does not pay any rent or mortgage," and "the cost of living in Mexico is lower than that in Minnesota." The district court denied appellant's motion, concluding that appellant "failed to make a showing that respondent's need substantially decreased." This appeal followed.

D E C I S I O N

This court reviews the district court's decision on spousal-maintenance modification for an abuse of discretion. *Hecker v. Hecker*, 568 N.W.2d 705, 709-10 (Minn. 1997). The district court abuses its discretion if it makes findings unsupported by the evidence or errs in applying the law. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 & n.3

(Minn. 1997). We will uphold a district court’s findings of fact unless they are clearly erroneous. *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). “Findings of fact are clearly erroneous where an appellate court is left with the definite and firm conviction that a mistake has been made.” *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (quotation omitted).

Before the district court may modify a spousal-maintenance award, the moving party must provide clear proof that, after the spousal-maintenance obligation was established or last modified, a substantial change of circumstances occurred that renders the award unreasonable and unfair. Minn. Stat. § 518A.39, subd. 2 (Supp. 2015); *Beck v. Kaplan*, 566 N.W.2d 723, 726 (Minn. 1997). Factors supporting maintenance modification include “substantially increased or decreased gross income of an obligor or obligee” and “substantially increased or decreased need of an obligor or obligee.” Minn. Stat. § 518A.39, subd. 2.

Appellant claims that after the parties negotiated a reduction of appellant’s spousal-maintenance obligation, respondent relocated to Mexico. He argues that because the “cost of living in Mexico is lower than . . . in Minnesota,” there has been a substantial change in circumstances that renders his existing maintenance obligation unreasonable and unfair. Thus, appellant argues that the district court abused its discretion by denying his motion to modify his maintenance obligation.

We disagree. The district court found that “[a]lthough respondent’s housing costs decreased, as a blind 62-year old woman, [respondent’s] medical needs continue to be substantial,” and “[i]n that regard, her needs have not changed.” This finding is

supported by the record. Although respondent appears to concede that she moved to Mexico in order to “obtain free housing from a relative,” appellant presented no evidence that respondent’s need has decreased. In fact, the record indicates that appellant failed to conduct any discovery to substantiate his claim, including evidence regarding the differences in the cost of living in Mexico. Instead, the record reflects that respondent’s needs due to her blindness prompted her to move to Mexico in order to obtain affordable assistance with her “day-to-day affairs.” Moreover, the record reflects that respondent continues to incur substantial expenses related to her additional medical problems. And, as the district court found, appellant presented no evidence of a reduction in his income. Therefore, the district court did not abuse its discretion by denying appellant’s motion to modify his spousal-maintenance obligation.

Affirmed.