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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0246**

County of Anoka, petitioner,
Respondent,

Abang Simon Adam, petitioner,
Respondent,

vs.

Menasa Cham Adom,
Appellant.

**Filed December 4, 2017
Affirmed
Kirk, Judge**

Anoka County District Court
File No. 02-FA-16-2160

Anthony C. Palumbo, Anoka County Attorney, Francine P. Mocchi, Assistant County Attorney, Anoka, Minnesota (for respondent county)

Abang Simon Adam, Spring Lake Park, Minnesota (pro se respondent)

Menasa Cham Adom, Fridley, Minnesota (pro se appellant)

Considered and decided by Halbrooks, Presiding Judge; Schellhas, Judge; and Kirk,
Judge.

UNPUBLISHED OPINION

KIRK, Judge

Appellant-father challenges the child support magistrate's order that he pay \$729 per month as ongoing basic child support for three minor children, arguing that the magistrate overstated father's gross monthly income in calculating his child-support obligation under the Minnesota Child Support Guidelines. We affirm.

FACTS

Appellant-father Menasa Cham Adom and respondent-mother Abang Simon Adam married in Sudan in 1993 and separated on or about August 12, 2014. The parties have three joint children.

On November 22, 2016, Anoka County served father with an action seeking child support and requested a hearing. On January 5, 2017, a hearing was held before a child support magistrate (CSM) at which father and mother appeared pro se. At the time of the hearing, father was a self-employed taxicab driver, and mother was employed as a cashier. Father testified as to his income but did not provide his tax return, earnings statements, or other income evidence. Mother testified as to her income and provided earning statements and her tax return.

Father testified that he thought he earned \$3,000 in gross income in 2015 and did not recall his gross income in 2016. He estimated that his current monthly income was "from 800 to 1,200, or 1,100." Father also thought that he made \$900 in October 2016 and \$400 in December 2016, but could not recall his income in November 2016. Father initially

testified that his daily gross income was \$120 to \$130 per day before a \$75 daily cab leasing fee was deducted. Father then stated that he could earn more or less depending on the day, and added that, “I’m just saying 130 or 150.” Father then testified that on some days he could make \$120 to \$130 *after* paying the \$75 daily fee. When the CSM asked father about the apparent contradiction in his testimony, father agreed that he could make \$120 to \$130 per day before or after paying the \$75 fee.

Father also testified that he suffered a heart attack in January 2016, for which he received treatment, and that he was in a car accident in November 2016, for which he saw a chiropractor. Father suggested that these medical conditions affected his ability to work, but he admitted that neither his treating physician nor his chiropractor placed any work restrictions on him. Father did not bring any medical documentation to the hearing. Father also testified that before the accident he worked five days per week in September 2016.

For the purposes of calculating father’s child support, the CSM found that “[father] has the ability to work and earn gross monthly income in the amount of \$2,600.00 (\$120.00 daily, five days per week)[,]” and that \$2,600 was his gross monthly income pursuant to Minn. Stat. § 518A.29 (2016). With this finding of gross income, and based on all other relevant factors of the Minnesota Child Support Guidelines, the CSM calculated father’s ongoing basic child-support obligation per month as \$729. Father appeals.

DECISION

Father argues that the CSM erred by finding that his gross monthly income is \$2,600 for the purposes of calculating his child-support obligation.¹ Father does not challenge the CSM's findings regarding the other factors used to calculate his monthly child-support obligation under the child-support guidelines. A district court has broad discretion to determine a parent's child-support obligation. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). On appeal from a CSM's order, this court applies the same standard of review that would apply if the order had been issued by a district court. *Hesse v. Hesse*, 778 N.W.2d 98, 102 (Minn. App. 2009). Thus, we review a CSM's order under an abuse-of-discretion standard. *Putz v. Putz*, 645 N.W.2d 343, 347-48 (Minn. 2002).

We will not reverse a CSM's child-support order unless the CSM abused his "broad discretion" by resolving the matter in a manner "that is against logic and the facts on record." *Id.* at 347. "A finding is clearly erroneous if the reviewing court is left with the definite and firm conviction that a mistake has been made." *Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000) (quotations omitted). We review the record "in the light most favorable to the . . . court's findings." *Id.* We defer to the district court's credibility determinations. Minn. R. Civ. P. 52.01. The party challenging a finding on

¹ Father also requests reconsideration of his child-support obligation on the basis of new income and medical documentation, and suggests that parenting-time arrangements have changed. This information was not submitted to the CSM. An appellate court may not consider facts not produced and received in the record by the court below. *See Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988); *see also* Minn. R. Civ. App. P. 110.01 (noting that "[t]he documents filed in the [district] court, the exhibits, and the transcript of the proceedings . . . shall constitute the record on appeal in all cases.").

appeal has the burden to show that the finding is clearly erroneous. *Vangness*, 607 N.W.2d at 474.

The calculation of child support under the Minnesota Child Support Guidelines is based, to a significant extent, on each party's gross income. See Minn. Stat. §§ 518A.34, .35 (2016). “[G]ross income includes any form of periodic payment to an individual, including, but not limited to, salaries, wages, commissions, self-employment income . . . and potential income” Minn. Stat. § 518A.29(a) (2016). A court must calculate child support based on a parent's potential income where “a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income.” Minn. Stat. § 518A.32, subd. 1 (2016). There is a rebuttable presumption that a parent can be gainfully employed on a full-time basis. *Id.*

A court's determination of a parent's gross income must be based on facts in the record. *Newstrand v. Arend*, 869 N.W.2d 681, 685 (Minn. App. 2015). From the facts in the record, a district court may make a “reasonable estimate” of a parent's gross income per month. *Knott v. Knott*, 358 N.W.2d 493, 496 (Minn. App. 1984). A reviewing court need not conclude that a finding is clearly erroneous solely because some evidence in the record may support a finding other than the one made by the CSM, and we do not reconcile conflicting evidence. *Vangness*, 607 N.W.2d at 474.

Here, the CSM's finding that father had the ability to earn \$120 per day and work five days per week is supported by father's own testimony and the potential income he could earn, which the CSM was allowed to consider. Father testified that he could earn

\$120 to \$130 per day after paying the \$75 fee, and that he had worked five days per week since his heart attack and had no medical restrictions in place. Father testified that his heart attack and car accident affected his potential income, but he submitted no evidence to rebut the CSM's findings. The CSM found father's testimony "evasive, incomplete, and contradictory." We defer to the CSM's credibility determination.

Moreover, father admitted that he did not bring his tax returns or any evidence of his income to the child-support hearing despite receiving the county's request that he do so. "[A] party cannot complain about a district court's failure to rule in [the party's] favor when one of the reasons it did not do so is because that party failed to provide the district court with the evidence that would allow the district court to fully address the question." *Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003), *review denied* (Minn. Nov. 25, 2003). We conclude that the CSM did not clearly err or otherwise abuse his discretion in determining that father's gross monthly income, for the purposes of calculating his child-support obligation, is \$2,600.

Affirmed.