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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1622**

In re the Marriage of:
Heidi Renae Karn-Kirwin, n/k/a Heidi Renae Karn, petitioner,
Respondent,

vs.

Shawn Patrick Kirwin, co-petitioner,
Appellant.

**Filed November 18, 2019
Affirmed
Kirk, Judge***

Stevens County District Court
File No. 75-FA-16-133

Kathryn A. Graves, Jaime Driggs, Henson & Efron, P.A., Minneapolis, Minnesota (for respondent)

Charlotte L. Culbertson, Fluegel, Anderson, McLaughlin & Brutlag, Chartered, Morris, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Jesson, Judge; and Kirk, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

KIRK, Judge

Appellant-husband argues that the district court abused its discretion in awarding spousal maintenance and allocating marital debt. We affirm.

FACTS

In 2016, appellant-husband Shawn Patrick Kirwin and respondent-wife Heidi Renae Karn-Kirwin, n/k/a Heidi Renae Karn, jointly petitioned for dissolution of their 15-year marriage. They stipulated to joint legal and physical custody of their three minor children and equal parenting time, and husband agreed to pay monthly child support of \$1,154. After a trial on the contested issues of property division and spousal maintenance, the district court accepted the parties' stipulated valuation of their assets (including various parcels of real property and three businesses) and debts and divided them between the parties, with husband receiving the substantial majority of both—\$1.8 million in debt and more than \$3 million in assets. The court then ordered husband to make a cash payment to wife in the amount of \$308,676 to “achieve an even split of assets.” The court also awarded wife temporary monthly spousal maintenance of \$800 per month until the youngest child's emancipation. Upon husband's posttrial motion, the district court reduced the property equalizer payment to \$293,881. Husband appeals.

DECISION

I. The district court did not abuse its discretion in awarding wife spousal maintenance.

A district court may award maintenance if, in light of the marital standard of living, the spouse seeking maintenance “lacks sufficient property . . . to provide for [her] reasonable needs,” or is otherwise “unable to provide adequate self-support.” Minn. Stat. § 518.552, subd. 1 (2018). A district court has broad discretion in deciding whether to award maintenance, and its decision will not be disturbed on appeal absent an abuse of that discretion. *Curtis v. Curtis*, 887 N.W.2d 249, 252 (Minn. 2016). A district court abuses its discretion by making factual findings that are unsupported by the evidence, misapplying the law, or “rendering a decision that is against logic and the facts on record.” *Knapp v. Knapp*, 883 N.W.2d 833, 835 (Minn. App. 2016) (quotation omitted), *review denied* (Minn. Sept. 27, 2016). We will not disturb findings of fact unless they are clearly erroneous. *Id.*

Husband challenges the district court’s maintenance award solely with respect to the threshold issue of need. He argues that the district court abused its discretion in awarding maintenance because (1) it did not make the required finding that wife lacks sufficient property or earning potential to support herself; and (2) the record does not support such a finding. We disagree.

First, the district court’s findings demonstrate its reasoned assessment of both factors relevant to a determination of need—the marital standard of living and wife’s ability to meet that standard independently. The district court found that the parties enjoyed a “comfortable” marital standard of living, typified by numerous leisure assets and no

struggle to meet obligations. And it found that wife “is not able to cover her[]” reasonable monthly expenses from her own income, while husband enjoys a substantial monthly surplus and the majority of the parties’ income-producing properties. In synthesizing those facts, the district court found that wife “deserves additional income to help cover her reasonable expenses,” and to address the disparity between the parties “in income potential from assets awarded herein.” These findings reflect a determination that wife’s property and employment are insufficient to afford her a lifestyle that comports with the marital standard of living.

Second, the record amply supports that finding of need. It is undisputed that wife’s income from employment, the rental property she was awarded, and child support falls short of her reasonable needs. And we reject husband’s contention that wife should be expected to bridge the gap with interest income from the property settlement equalizer and rental income from the lake cabin she was awarded. Regarding the equalizer, the district court did not err by not imputing interest income to wife from that principal because husband did not ask it to do so, identify any basis for calculating such income, or afford wife an opportunity to address the issue. *See Butt v. Schmidt*, 747 N.W.2d 566, 578 (Minn. 2008) (stating that a reviewing court considers only issues presented to and considered by the district court); *Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that “a party cannot complain about a district court’s failure to rule in [his] 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”), *review denied* (Minn. Nov. 25, 2003). Regarding the lake house, the record supports the

district court's determination not to attribute to wife rental income from a property that the parties had never rented, and which husband's own arguments indicated neither intended to rent.

On this record, the district court did not abuse its discretion by awarding wife temporary spousal maintenance.

II. The district court did not abuse its discretion in allocating the parties' debt.

A district court must "make a just and equitable division of the marital property." Minn. Stat. § 518.58, subd. 1 (2018). The district court "has broad discretion" in dividing property, and we will not overturn its decision absent an abuse of discretion. *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). We will affirm the property division if it has "an acceptable basis in fact and principle," even if we might have done it differently. *Id.*

Husband argues that the district court's equal allocation of net assets is inequitable because it fails to consider his risk of loss from receiving more debt. We disagree. The district court reasoned that the allocation essentially expects husband to continue working and succeeding much as he had during the marriage, and that the "risk" husband faces from receiving the businesses and encumbered real property is both a risk of loss and a risk of gain. The district court could have allocated additional assets to husband to protect against the risk of loss associated with taking a larger percentage of the total debt. *See Olness v. Olness*, 364 N.W.2d 912, 914 (Minn. App. 1985) (affirming such an allocation). But it was not obligated to do so, and the viability of an alternative award does not justify reversal on appeal. *See Antone*, 645 N.W.2d at 100. Because the district court's decision reflects a reasoned consideration of the nature and value of the parties' assets and debts, it did not

abuse its discretion by allocating to husband a larger share of the debt as part of an equal property division.

Affirmed.