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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1652**

In re the Marriage of:
Michael James Pudlick, petitioner,
Appellant,

vs.

Tammy Jean Pudlick,
Respondent.

**Filed November 4, 2019
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-FA-14-8322

Patrick C. Burns, Erik F. Hansen, Elizabeth M. Cadem, Burns & Hansen P.A.,
Minneapolis, Minnesota (for appellant)

Tammy Christensen, Excelsior, Minnesota (pro se respondent)

Considered and decided by Hooten, Presiding Judge; Cleary, Chief Judge; and
Worke, Judge.

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges the denial of his child-support-modification motion, arguing
that the district court failed to apply the child-support-modification statute when the parties

entered into a stipulated agreement that deviated from the guidelines support amount. Appellant also argues that the district court erred by failing to address the children's best interests. We affirm.

FACTS

In November 2011, the district court filed a stipulated judgment and decree that incorporated the marital termination agreement between appellant-father Michael James Pudlick and respondent-mother Tammy Jean Pudlick. The parties have two joint children. Based on their agreement, the district court awarded joint legal and joint physical custody of the children, with mother receiving 57% of parenting time and father receiving 43% of parenting time. The parties stipulated that no basic support would be paid by either party and agreed that it was in the children's best interests to deviate from the child-support guidelines and to instead use an expense-sharing model.

At the time of the stipulation, father's parental income for determining child support (PICS) percentage was 35% and mother's was 65%. The expense-sharing model called for the parties to share various childcare costs and expenses. The district court approved the deviation and found that while father would have had to pay mother basic child support had the child-support guidelines been applied, the expense-sharing model was in the children's best interests. Both parties were represented by counsel, advised of their legal rights, and acknowledged that the agreement was fair, just, and equitable.

In August 2014, father moved to modify child support following commencement of the parties' stipulated equal parenting-time schedule. Father requested that the district court modify child support in accordance with the guidelines and that mother pay one-half

of extracurricular activities. He argued that his increase in parenting time, the increase in the disparity between the parties' incomes, and a change in who provided health insurance constituted a substantial change in circumstances.

The district court denied father's 2014 modification motion. The district court found that the application of the child-support-modification statute was not helpful because the parties agreed in the 2011 stipulation to use a different child-support model from the one adopted by the legislature. The district court reasoned that the parties' 2011 stipulation would have been rebuttably presumed to be unreasonable and unfair the day after it was entered. Therefore, the district court considered whether the current order was unreasonable and unfair in light of the parties' current financial circumstances, expenses, and the amount of time the children were in each parties' custody.

The district court noted that when father would have been required to pay child support to mother, and the expense-sharing model benefitted him, he was in favor of that method of support. The district court recognized that father changed his position towards the use of the expense-sharing model once it no longer benefitted him and concluded that the parties should continue to use the expense-sharing model because father presented no facts to support why the existing order was unreasonable or unfair.

Father moved for amended findings or a new trial. The district court held a review hearing in June 2015. The parties agreed to follow a more detailed expense-sharing model, which allocated the children's expenses according to the parties' respective PICS percentages, and agreed to appoint a parenting consultant for two years to address any financial disputes relating to the agreement. Both parties were represented by counsel and

acknowledged that they were advised of their legal rights and expressed their willingness to be bound by the agreement.

In January 2016, the district court entered the stipulation and order. The district court found that the parties agreed that it was in the children's best interests to deviate from the child-support guidelines and it was their intent to allocate their children's expenses based on their PICS percentages. The district court also ordered the parties to review their PICS percentages each year.

In April 2018, father moved to modify child support so that he was awarded guidelines child support. Father argued that there had been a substantial change in circumstances because mother's income had increased, she had job security, his expenses had increased due to a non-joint child, and the expense-sharing model exacerbated their co-parenting conflicts.

The district court denied father's motion and ordered the parties to pay for the children's expenses based on their respective PICS percentages. In denying father's motion, the district court agreed with the 2014 order that the application of the child-support-modification statute was not helpful to determine whether modification was appropriate because of the stipulation, and instead focused on whether the current order was unreasonable and unfair. The district court found that, while there had been a number of changes in circumstances, including an increase in mother's income, the expense-sharing model was not unreasonable or unfair because the parties' stated intent of the expense-sharing model was to allocate the children's expenses based on their respective PICS percentages. This appeal followed.

DECISION

We review the district court’s denial of father’s modification motion for an abuse of discretion. *See Haefele v. Haefele*, 837 N.W.2d 703, 708 (Minn. 2013). While the district court has broad discretion in ordering a modification of child support, it abuses its discretion when it acts outside the statutory limits set by the legislature or resolves the matter “by reaching a clearly erroneous conclusion that is against logic and the facts on record.” *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002).

A child-support order may be modified on a showing of a substantial change in circumstances that makes the order unreasonable and unfair. *See* Minn. Stat. § 518A.39, subd. 2(a) (2018) (listing circumstances constituting substantial change). The circumstances that may warrant modification include a “substantially increased or decreased gross income of an obligor or obligee,” and a “substantially increased or decreased need of an obligor or obligee.” *Id.*, subd. 2(a)(1), (2). Father, as the moving party, bears the burden of proof in this support-modification proceeding. *See Bormann v. Bormann*, 644 N.W.2d 478, 481 (Minn. App. 2002).

While the existence of a stipulation does not bar later consideration of whether a change in circumstances warrants modification, a district court should “carefully and only reluctantly” alter its terms. *O’Donnell v. O’Donnell*, 678 N.W.2d 471, 475 (Minn. App. 2004). In the case of a stipulation,

[b]arring a showing of an actual substantial change in circumstance that makes the terms of the order unfair and unreasonable, granting a child support modification simply on the basis that it is 20% and \$50 less than the guidelines would be contrary to the parties’ agreement and the judgment of the

court. To modify in this setting would produce an unfair and unreasonable result.¹

Id. at 477. A stipulation provides the “baseline circumstances against which claims of substantial change are evaluated.” *Hecker v. Hecker*, 568 N.W.2d 705, 709 (Minn. 1997). This court has held that a stipulated judgment, supported with findings, may rebut a presumption of unfairness and unreasonableness in a support-modification proceeding. *See O’Donnell*, 678 N.W.2d at 477.

We can easily resolve father’s first argument that the district court erred by holding that the statutory mechanism for child-support modification in section 518A.39 does not apply because the parties previously stipulated to a deviation from the guidelines child support. Father is incorrect that the district court held that the statutory mechanism for modification of child support does not apply to a stipulated deviation. Rather, the district court recognized that the modification statute was not helpful to determine whether modification was appropriate due to the parties’ agreement to deviate from the child-support guidelines. The district court recognized that the stipulation provided a baseline from which to identify whether there had been a substantial change in circumstances. Therefore, the district court did not fail to apply the child-support-modification statute.

Father argues that the district court abused its discretion when it found that the stipulation was not unreasonable and unfair despite father showing a substantial change in circumstances due, namely, to mother’s increased income. Despite the district court

¹ The rebuttable presumption that child support that deviates from the guidelines by 20% and \$50 higher or lower than the current order is unfair and unreasonable has since changed to 20% and \$75. *See* Minn. Stat. § 518A.39, subd. 2(b)(1) (2018).

finding that there had been a substantial change in circumstances, the district court did not abuse its discretion in finding the stipulation fair and reasonable given the parties' use of a stipulated agreement rather than the child-support guidelines.

First, both parties were represented and adequately apprised of the circumstances surrounding the 2016 stipulation at the time it was entered. Father has made no allegation of fraud, mistake, or duress.

Second, an increase in mother's income was foreseeable at the time father entered into the stipulated agreement. This court has recognized that circumstances which are foreseeable to the parties when they enter into a stipulated agreement are insufficient to support modification. *See id.* at 476. At the time father entered into the agreement, he was aware that mother's gross monthly income and PICS percentage were higher than his. Here, the district court found that the intent of the 2016 stipulation was to share the expenses of the children so the annual expense allocation results in a division based on each parties' PICS percentage. In addition, the district court ordered that the parties review their PICS percentages annually. These terms, which formed the basis of the stipulation, recognized that the parties' incomes could change. Because the stipulated agreement included a mechanism to adjust the allocation of the children's expenses, an increase in mother's income was foreseeable.

Finally, father has failed to show how an increase in mother's income affected his ability to meet the needs of his children. Father produced no evidence and made no argument concerning the stipulation's adequacy to provide for the needs of his children. *See Frank-Bretwisch v. Ryan*, 741 N.W.2d 910, 916 (Minn. App. 2007) (“[T]he fairness

and reasonableness of the [child-support order] goes to matters beyond the interests of each parent, to the paramount consideration of the children's best interests. This observation becomes critical in circumstances . . . when the primary argument against modification regards the . . . stipulation of the parties"). Here, father's arguments focused on mother's increased income, her job stability, his unsupported assertion that he had increased expenses due to a non-joint child, and the conflict that resulted from the expense-sharing model. As father failed to demonstrate that the changed circumstances made the existing stipulation inadequate to meet his children's needs, the district court did not abuse its discretion by denying his modification motion.

As a final matter, the parties argue about the statutorily required findings regarding the children's best interests when there is a deviation from the child-support guidelines. The district court implicitly addressed the children's best interests. This court "may treat statutory factors as addressed when they are implicit in the findings." *Prahl v. Prahl*, 627 N.W.2d 698, 703 (Minn. App. 2001). The district court found that if it granted father's motion and ordered guidelines support, the parties would still have to reconcile unreimbursed medical and dental expenses and it would eliminate the requirement that the parties share in the children's expenses. These findings implicitly recognize that the stipulation benefitted the children because it provided a workable mechanism to provide for their expenses. Therefore, the district court adequately addressed the children's best interests.

Affirmed.