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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0137**

Hubbard County Social Services,
Respondent,

Amy Alyssa Post,
Respondent,

vs.

Samuel Morton Post III,
Appellant.

**Filed July 22, 2019
Affirmed
Bjorkman, Judge**

Hubbard County District Court
File No. 29-FA-17-26

Jonathan Frieden, Hubbard County Attorney, Kristine A. Peterson-Lahr, Assistant County Attorney, Park Rapids, Minnesota (for respondent county)

Amy Alyssa Post, confidential address (pro se respondent)

Samuel Morton Post III, Nevis, Minnesota (pro se appellant)

Considered and decided by Reyes, Presiding Judge; Cleary, Chief Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant-father challenges the order modifying his child-support obligation, arguing that the district court erred by ordering a guidelines amount rather than the downward deviation recommended by the county. We affirm.

FACTS

Appellant Samuel Morton Post III and respondent Amy Alyssa Post were married in 2001 and are the parents of one adult child and five minor children. After mother petitioned for dissolution, respondent Hubbard County Social Services (the county) moved to establish child support. A child-support magistrate (CSM) ordered father to pay \$100 per month in basic support. In 2018, the district court dissolved the marriage. Father appealed the dissolution judgment, arguing that the district court erred in its custody and parenting-time determinations and in dividing the parties' property. *Post v. Post*, No. A18-0980, 2019 WL 1983368, at *1 (Minn. App. May 6, 2019).¹

During the pendency of the appeal, the county moved to modify child support based on a substantial change in circumstances, namely that father's gross income had nearly doubled since the initial order. The county proposed increasing father's basic support to \$390 per month, noting that the recommendation was a downward deviation from the guidelines to avoid causing further financial hardship. Father requested a hearing. During the hearing, father testified that he worked full-time and earned \$13 per hour, but was

¹ This court affirmed in part, reversed in part, and remanded for further findings with respect to parenting time. *Post*, 2019 WL 1983368, at *1.

homeless and owed \$48,000 in legal fees. Father also testified that he had appealed the dissolution judgment. The CSM ordered modification of child support, setting father's basic support at \$747 per month. Father requested review of the CSM's order, and the district court affirmed. Father appeals.

D E C I S I O N

"A district court has broad discretion to provide for the support of the parties' children," and we will reverse that decision only if the district court abused its discretion. *Hubbard Cty. Health & Human Servs. v. Zacher*, 742 N.W.2d 223, 226 (Minn. App. 2007). We likewise review a district court's decision affirming a CSM's order for abuse of discretion. *Id.* "A district court abuses its discretion when it establishes a child-support obligation in a manner that is against logic and the facts in the record or when it misapplies the law." *Id.*

I. The district court did not abuse its discretion by ordering father to pay child support consistent with the statutory guidelines.

A district court may modify an award of child support if there has been a substantial change in circumstances that makes the existing award unfair and unreasonable. Minn. Stat. § 518A.39, subd. 2(a) (2018). Circumstances that may warrant modification include a substantial increase in an obligor's gross income. *Id.*, subd. 2(a)(1). Father does not dispute that his gross monthly income nearly doubled since the initial child-support order, and that this is a substantial change in circumstances. Accordingly, we turn to the district court's calculation of father's support obligation.

“It is a rebuttable presumption that a child support order should not exceed the obligor’s ability to pay.” Minn. Stat. § 518A.42, subd. 1(a) (2018). An obligor’s ability to pay is determined as follows:

The court shall calculate the obligor’s income available for support by subtracting a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person from the obligor’s gross income. If the obligor’s income available for support calculated under this paragraph is equal to or greater than the obligor’s support obligation calculated under section 518A.34, the court shall order child support under section 518A.34.

Minn. Stat. § 518A.42, subd. 1(b) (2018). The CSM found father’s gross monthly income is \$2,253. In 2018, the federal poverty guidelines for a single person household was \$12,140 annually; 120% of this amount for one person is \$1,214 per month. Annual Update of the HHS Poverty Guidelines, 83 Fed. Reg. 2642 (Jan. 18, 2018). Thus, father is able to pay up to \$1,039 per month in child support.

To determine the amount of a parent’s basic support obligation, the district court must:

- (1) determine the gross income of each parent under section 518A.29;
- (2) calculate the parental income for determining child support (PICS) of each parent, by subtracting from the gross income the credit, if any, for each parent’s nonjoint children under section 518A.33;
- (3) determine the percentage contribution of each parent to the combined PICS by dividing the combined PICS into each parent’s PICS;
- (4) determine the combined basic support obligation by application of the guidelines in section 518A.35;
- (5) determine each parent’s share of the combined basic support obligation by multiplying the percentage figure from

clause (3) by the combined basic support obligation in clause (4); and

(6) apply the parenting expense adjustment formula provided in section 518A.36 to determine the obligor's basic support obligation.

Minn. Stat. § 518A.34(b) (2018). The district court found that mother's gross monthly income and parental income for determining child support (PICS) is \$2,928 and father's gross monthly income and PICS is \$2,253 for a combined PICS of \$5,181. The district court found that mother's percentage share of the PICS is 57% and father's percentage share of the PICS is 43%. Under Minn. Stat. § 518A.35, subd. 2 (2018), with a combined PICS of \$5,181, the parties' combined basic-support obligation for their five minor children is \$1,975 per month. After applying father's percentage and the 12% parenting-time-expense adjustment, the district court ordered father to pay \$747 per month in basic support. This amount does not exceed father's ability to pay and is within the statutory guidelines. See Minn. Stat. §§ 518A.34(b) (computation of obligor's basic support obligation), .35, subd. 2 (basic support guideline).

Father does not dispute the calculation of gross income, PICS, percentage share of the PICS, or the parenting-time-expense adjustment. Rather, he seems to argue that the district court lacked authority to order an amount other than the downward deviation recommended by the county. Because father cites no supporting legal authority, and because no error on this point is obvious, this argument is not properly before us. See *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) (stating that an "assignment of error based on mere assertion and not supported by an argument or authorities in appellant's brief is waived and will not be considered on appeal

unless prejudicial error is obvious on mere inspection”); *Braith v. Fischer*, 632 N.W.2d 716, 725 (Minn. App. 2001) (applying *Schoepke* in a family law appeal), *review denied* (Minn. Oct. 24, 2001). A district court may, but is not required to, deviate from the presumptive child-support obligation to “encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty.” *In re Dakota County*, 866 N.W.2d 905, 911 (Minn. 2015) (quotation omitted). On this record, we discern no abuse of the district court’s broad discretion.

II. The district court had jurisdiction to modify child support.

Father argues that the district court erred by modifying his child-support obligation while the dissolution-judgment appeal was pending. We are not persuaded. District courts retain jurisdiction over “matters independent of, supplemental to, or collateral to the order or judgment appealed from.” Minn. R. Civ. App. P. 108.01, subd. 2. And “a properly grounded motion to modify child support is independent of, supplemental to, or collateral to previous child-support orders.” *Perry v. Perry*, 749 N.W.2d 399, 403 (Minn. App. 2008) (quotation omitted). The district court was authorized to decide the motion to modify child support while the dissolution-judgment appeal was pending.

Affirmed.