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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-2013**

In re the Marriage of:
Edith Ponciano, petitioner,
Respondent,

vs.

Felix Murillo,
Appellant.

**Filed August 24, 2020
Reversed and remanded
Segal, Chief Judge**

Rice County District Court
File No. 66-FA-18-1110

W. Bradley Frago, Frago & Lasswell, P.A., Northfield, Minnesota; and

Kenneth R. White, The Law Office of Kenneth R. White, Mankato, Minnesota (for
respondent)

Michael D. Gavigan, Wilson Law Group, Minneapolis, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Segal, Chief Judge; and
Kirk, Judge.*

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

UNPUBLISHED OPINION

SEGAL, Chief Judge

Appellant-husband challenges the award of spousal maintenance to respondent-wife, arguing that the record does not support the award. We reverse and remand.

FACTS

Appellant-husband Felix Murillo and respondent-wife Edith Ponciano were married in 1999. The parties have one adult child and one minor child. The parties separated in 2017, and wife filed a petition for dissolution of marriage in 2018. As part of the petition for dissolution, wife sought an award of spousal maintenance.

The district court issued a judgment and decree dissolving the marriage in October 2019. Based on the evidence presented at trial, the district court determined that wife was not able to meet her reasonable expenses and was entitled to spousal maintenance. Specifically, the district court determined that wife's reasonable expenses were \$3,053 and that she had a gross monthly income of \$2,424 for child-support purposes. The district court determined that husband had a monthly budget of \$2,592 and a gross monthly income of \$4,070 for child-support purposes. The district court ultimately awarded wife temporary spousal maintenance that would gradually be reduced. Under the terms of the judgment, wife would receive \$700 per month until May 2021, \$500 per month until May 2024, and \$250 per month until May 2027, at which time the spousal maintenance would terminate. The district court also ordered husband to pay wife \$502 per month for basic child support and \$80 per month for medical support for the minor child. Husband now appeals the award of spousal maintenance.

DECISION

We review a district court’s spousal-maintenance decision for an abuse of discretion. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997). A district court abuses its discretion if it reaches a conclusion “that is against logic and the facts on record.” *Curtis v. Curtis*, 887 N.W.2d 249, 252 (Minn. 2016) (quotation omitted). We review legal questions de novo and findings of fact for clear error. *Kampf v. Kampf*, 732 N.W.2d 630, 633 (Minn. App. 2007), *review denied* (Minn. Aug. 21, 2007). Findings of fact are clearly erroneous when they are “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *Id.* (quotation omitted).

A district court may order spousal maintenance if it finds that the spouse requesting maintenance either:

(a) lacks sufficient property . . . to provide for reasonable needs of the spouse considering the standard of living established during the marriage . . . or

(b) is unable to provide adequate self-support, after considering the standard of living established during the marriage and all relevant circumstances, through appropriate employment

Minn. Stat. § 518.552, subd. 1 (2018); *see also Lyon v. Lyon*, 439 N.W.2d 18, 22 (Minn. 1989) (stating that an award of spousal maintenance requires a showing of need). The district court may award temporary or permanent spousal maintenance as it “deems just” and after considering “all relevant factors.” Minn. Stat. § 518.552, subd. 2 (2018). Although the statute lists several factors, the issue is “basically the financial needs of [the spousal-maintenance obligee] and her ability to meet those needs balanced against the

financial condition of [the spousal-maintenance obligor.]” *Erlandson v. Erlandson*, 318 N.W.2d 36, 39-40 (Minn. 1982).

Husband makes several arguments challenging the district court’s award of temporary spousal maintenance to wife. First, husband argues that the district court abused its discretion because it failed to make adequate findings about the parties’ prior standard of living and the statute requires consideration of “the standard of living established during the marriage” in determining spousal maintenance. Minn. Stat. § 518.552, subd. 1. The district court found that the parties “lived frugally throughout their marriage,” as evidenced by the fact that they paid off their manufactured home and kept a savings account, and that both parties worked outside the home and contributed to the family’s finances during the marriage. Husband complains that this finding is not adequate. Neither party, however, submitted evidence detailing pre-separation expenses and their budget. The district court is not obligated to make findings that are more specific than the evidence presented and, thus, we find no error in the court’s findings on this issue. *See Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that “[o]n appeal 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).

Moreover, it appears that the real crux of husband’s argument is that the district court erred by looking to husband’s higher level of earnings post-separation than his earnings level during the marriage. But the district court did not assess wife’s need for spousal maintenance based on husband’s post-separation earnings. The district court

looked to his earnings only to assess his ability to pay maintenance, which is permissible under the statute. See Minn. Stat. § 518.552, subd. 2(g). Thus, we find no error in the district court’s findings on the standard of living established during the marriage or in its reliance on husband’s current rate of income in determining his ability to pay spousal maintenance.

Husband next argues that the record does not support the spousal-maintenance award because the district court looked only to wife’s income calculated for child support purposes, not total net income. In calculating income for child support purposes, the district court correctly included income only from the parties’ regular 40-hour per week jobs. But “[w]hen awarding spousal maintenance, a district court must consider all income of the requesting spouse.” *Madden v. Madden*, 923 N.W.2d 688, 701 (Minn. App. 2019) (quotation omitted). Wife also had a 10-hour per week part-time job and the district court erred in not including this income in calculating wife’s spousal maintenance award.¹ *Id.*

Finally, husband argues that the spousal-maintenance award is unreasonable in light of his separate child-support obligation. Specifically, husband points to the district court’s finding that \$498, of wife’s \$3,053 monthly budget, related to “expenses exclusively for the minor child,” including expenses for the child’s food, clothing, spending money, school lunches, and sports. The district court ordered husband to pay \$502 per month in basic

¹ It should be noted that the district court similarly failed to calculate husband’s total net income, because he also has a part-time job in addition to his full-time position. But since husband’s ability to pay maintenance is not at issue, the district court’s failure to consider the income from his second job does not substantively impact the spousal-maintenance analysis.

child support for the minor child. Notably, the amount of basic child support is almost identical to the amount of expenses in wife's budget that relate exclusively to the minor child. Because of the lack of findings and analysis on the spousal-maintenance issue, it is unclear from the record whether expenses for the minor child were being double counted. The reasonableness of wife's expenses related to the minor child must be evaluated in light of the child-support order.

We therefore reverse and remand to the district court to make additional findings regarding the wife's net income for spousal maintenance purposes and the reasonableness of wife's monthly expenses regarding the minor child to avoid any double payments.

Reversed and remanded.