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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0295**

In re the Marriage of: Kimberly JoAnn Wauzynski,
n/k/a/ Kimberly JoAnn Denne, petitioner,
Appellant,

vs.

John Justin Wauzynski,
Respondent.

**Filed November 30, 2020
Reversed and remanded
Hooten, Judge**

St. Louis County District Court
File No. 69HI-FA-18-71

Bill L. Thompson, Duluth, Minnesota (for appellant)

John Wauzynski, Eveleth, Minnesota (pro se respondent)

Considered and decided by Florey, Presiding Judge; Hooten, Judge; and Gaïtas,
Judge.

U N P U B L I S H E D O P I N I O N

HOOTEN, Judge

In this marital dissolution appeal, appellant wife argues that the district court should have awarded her permanent spousal maintenance, rather than temporary spousal maintenance, at an increased amount and need-based attorney fees. Appellant also seeks

to overturn the district court's award of the parties' dog to respondent husband, arguing that she had a nonmarital interest in the dog. We reverse and remand.

FACTS

Appellant Kimberly JoAnn Wauzynski, n/k/a Kimberly JoAnn Denne (Denne), married respondent John Justin Wauzynski in 2012. The parties separated in February 2018, and Denne filed a petition for dissolution in March 2018.

The parties have one child, who was born in 2002. The child has been diagnosed with autism, attention-deficit hyperactive disorder (ADHD), anxiety, adjustment disorder, and persistent depressive disorder. After a trial, the district court granted Wauzynski sole legal and sole physical custody of the minor child. In addition, Wauzynski was adjudicated the father of the minor child. Neither custody of the minor child nor the adjudication of Wauzynski as the father of the minor child is an issue in this appeal. Also, at the time of their separation, the parties had two dogs. Wauzynski took one of the dogs with him and left the other dog, Lilly, with Denne. Each party requested that the district court award Lilly to him or her.

Denne appeared pro se at both days of trial. At trial, Denne, citing her inability to earn income as a result of her disability, sought \$3,000 per month in spousal maintenance and \$2,300 in need-based attorney fees, which she incurred prior to her counsel's withdrawal.

Wauzynski, who was 40 years old at the time of trial, was employed full-time as a truck driver. Wauzynski testified that his annual income might be only \$70,000 in a year when he does not receive income from profit sharing or incentives. According to his tax

returns, Wauzynski's adjusted gross income was \$84,567 in 2017 and \$84,595 in 2018. Wauzynski received profit-sharing income of \$5,089 in 2018 and a bonus of \$4,000 in December 2018. Wauzynski's December 25, 2018, pay slip indicates that he also received \$9,082.82 in "incentive pay" during 2018. His March 2019, pay slip indicates that he received \$1,604.61 in "incentive pay" between January 2019 and March 2019. At trial, Wauzynski acknowledged that he receives \$32.67 per hour for his work and sometimes "a little bit of overtime per day." Wauzynski also testified that a signing bonus was included in one or more of his paychecks and that he sometimes receives profit-sharing income in his paychecks, although it is "not a guaranteed thing," so his gross income "may not be \$84,000 every year."

Wauzynski claimed his reasonable monthly living expenses totaled \$4,290. Wauzynski's monthly expenses include costs for the following line items: mortgage, home maintenance, utilities, phone, television, internet, food, clothing, personal allowances and incidentals, the child's school needs and counseling, gasoline/transportation, vehicle maintenance, truck payment, truck insurance, uncovered medical and dental, half of his credit card payments, recreation, entertainment, travel, and miscellaneous. Wauzynski testified that his budget covers food, recreation, entertainment, and travel for both himself and the child, and that the child uses the internet for school work. He also testified that there are "added costs" to caring for the child, including medical bills. During their marriage, the parties incurred miscellaneous debts and obligations totaling \$28,608.64, the payment of which was included in Wauzynski's monthly expenses.

At the time of the trial, Denne was unemployed, receiving \$827 per month from Social Security disability. Denne has been unemployed since approximately 2006 or 2007. Denne testified that she has not recently applied for employment and the last time she applied for a job was “many, many years ago.” When asked if there was anything preventing her from working, Denne testified that she has chronic pain in her lower back. She also testified that she visited a chiropractor in 2017, and as a result of her treatment, did receive some relief of her back pain. But, Denne testified that she has not been back to a chiropractor since the 2017 visit because she does not have “the co-pays to pay for them.” Psychologist Misty Eliason testified that she treats Denne for generalized anxiety disorder and major depressive disorder. Denne receives prescriptions for medication to treat these conditions, and she was hospitalized for mental health reasons in March 2018. Dr. Eliason also testified that Denne has traits of borderline personality disorder, although she doesn’t “meet the full criteria for it.”

Denne claimed her reasonable monthly living expenses totaled \$1,707. Denne’s expenses include payments for food, rent, gas, a car, a cell phone, electric bills, a loan, insurance, laundry, and extras. Denne receives public assistance for housing and Medicare.

In the judgment and decree, the district court found that Wauzynski had a net monthly income of \$4,000 and reasonable monthly living expenses of \$4,290 and that Denne had a net monthly income of \$827 and reasonable monthly living expenses of \$1,707. The district court awarded Denne \$250 per month in temporary spousal maintenance for two years following the date of the judgment and decree and required Wauzynski to pay the marital debts of \$28,608.64. Also, Wauzynski was awarded Lilly,

the dog. While the district court granted sole legal and physical custody of the parties' child to Wauzynski, it referred the calculation of Denne's child support to the child support magistrate.

The district court made the following findings regarding its spousal maintenance award: (1) the parties' marriage was short-term; (2) Denne was unemployed throughout the marriage and received Social Security disability income; (3) Denne's financial resources and ability to provide adequate self-support were minimal; (4) there was limited personal property to award in lieu of spousal maintenance; (5) since the marriage was short-term, permanent spousal maintenance was unwarranted; (6) the amount of Denne's request for maintenance was unreasonable because it would prohibit Wauzynski from meeting his own monthly needs; and (7) temporary spousal maintenance would allow Denne to find sufficient education or training to secure employment to meet her needs. Based on these findings, the district court determined that awarding maintenance of \$250 per month to Denne for a period of two years was "fair, reasonable, and just."

In response to Denne's motion for a new trial, or in the alternative, to amend certain findings, the district court made an additional finding that Wauzynski lacked the means to pay attorney fees, "given the allocation of property and debt as well as the temporary spousal maintenance awarded to [Denne]." The district court also amended its calculation of Wauzynski's net monthly income, increasing the amount from \$4,000 to \$4,750. Finally, the district court increased Denne's spousal maintenance award from \$250 per month to \$450 per month for a period of two years. Denne appeals.

DECISION

I. The district court abused its discretion in awarding \$450 per month in temporary spousal maintenance to Denne.

We review a district court's spousal maintenance award for an abuse of the district court's broad discretion. *Curtis v. Curtis*, 887 N.W.2d 249, 252 (Minn. 2016). A district court abuses its discretion when it "misapplies the law, or resolves the matter in a manner that is contrary to logic and the facts on the record." *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019).

The district court based its award of \$450 per month in spousal maintenance on the following findings of fact: (1) Wauzynski's net monthly income totals \$4,750 per month, based on his hourly rate of \$32.67; (2) Wauzynski's monthly expenses total \$4,290 per month; (3) Denne's monthly income totals \$827 per month from Social Security disability; (4) Denne's monthly expenses total \$1,707 per month; and (5) Denne's request for \$3,000 in maintenance is unreasonable because it would prohibit Wauzynski from meeting his own monthly needs.

On appeal, Denne argues that the district court erred because it (1) made clearly erroneous findings of fact in setting the amount of Denne's spousal maintenance award, and (2) misapplied the law by issuing insufficiently-detailed findings and failing to consider the necessary statutory factors. For the reasons that follow, we agree.

A. The district court made clearly erroneous findings of fact.

We review a district court's factual findings regarding spousal maintenance for clear error. *Maiers v. Maiers*, 775 N.W.2d 666, 668 (Minn. App. 2009). "Findings of fact are

clearly erroneous where an appellate court is left with the definite and firm conviction that a mistake has been made.” *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (quotation omitted). In reviewing an award of spousal maintenance, we view the record in the light most favorable to the district court’s findings. *Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000). When reviewing the record regarding maintenance, appellate courts leave credibility determinations to the district court, which is in the best position to assess credibility. *Robert v. Zygmunt*, 652 N.W.2d 537, 544 (Minn. App. 2002), *review denied* (Minn. Dec. 30, 2002).

Denne points to two findings of fact included in the district court’s spousal maintenance analysis that she claims are unsupported by the facts in the record and thus clearly erroneous.

1. *The district court’s finding that Denne’s request for a greater amount of spousal maintenance would prohibit Wauzynski from meeting his own monthly needs*

Denne argues that the district court clearly erred by finding that her request for a greater amount of spousal maintenance is unreasonable, contending that this finding is unsupported by the record. What is clear from the record is that Denne’s living expenses of \$1,707 exceeded the sum of her \$827 monthly income and \$450 monthly spousal maintenance award by \$430 each month. And, because the district court referred the issue of Denne’s child support obligation to the child support magistrate, it is likely that Denne’s shortfall in supporting herself will increase. In contrast, Wauzynski’s \$4,750 monthly income, which excludes any income he receives through bonuses or profit-sharing, exceeds his monthly living expenses of \$4,290 by \$460. Additionally, if the total amount of his

income is considered to be the amount reflected by his tax returns, he would, before accounting for his child support obligation, have had an excess of \$2,757.08 per month in 2017 and \$2,759.58 per month in 2018. There is no evidence in the record to support the district court's finding that Wauzynski would be unable to pay Denne more than \$450 per month in spousal maintenance while still meeting his monthly expenses. Thus, we conclude that the district court made a clearly erroneous finding on this point.

2. *The district court's finding that Wauzynski's monthly expenses total \$4,290 per month*

The district court also erred by including childcare costs in its calculation of Wauzynski's monthly expenses.

The district court erred by including childcare costs in its calculation of Wauzynski's expenses because childcare costs should be accounted for in child-support calculations. Wauzynski testified that his monthly expense amount of \$4,290 included expenses related to caring for their child. However, spousal maintenance is "an award made in a dissolution . . . proceeding of payments from the future income or earnings of one spouse for the support and maintenance of *the other*." Minn. Stat. § 518.003, subd. 3a (2018) (emphasis added). A district court may only award spousal maintenance if it finds that the party seeking maintenance "lacks sufficient property . . . to provide for reasonable needs of *the spouse*" or sufficient income to provide "adequate *self-support*." Minn. Stat. § 518.552, subd. 1(a), (b) (2018) (emphasis added). The statutory spousal-maintenance provisions thus require consideration of the needs of the spouse, not the needs of a child.

A child's needs are instead accounted for in the child-support calculation, as articulated by the child-support statutes. See Minn. Stat. §§ 518A.26-.79 (2018). Child support “means an amount for basic support, child care support, and medical support[.]” Minn. Stat. § 518A.26, subd. 20 (2018). “Basic support includes the dollar amount ordered for a child's housing, food, clothing, transportation, and education costs, and other expenses relating to the child's care.” *Id.*, subd. 4 (2018). The overarching policy behind the child-support statutes “is to ensure that children's needs are met.” *Strandberg v. Strandberg*, 664 N.W.2d 887, 890 (Minn. App. 2003).

Wauzynski testified that his expenses include the child's food, recreation, entertainment, travel, internet, and school needs. He also testified that there are “added costs” to caring for the child, including medical bills. These expenses can all be categorized as food, education, childcare, or other costs related to the children's care. See Minn. Stat. § 518A.26, subds. 4, 20. Therefore, the child-support statutes provide that these costs should be accounted for in the child-support calculation, not the spousal-maintenance calculation.

By including child-related costs in the calculation of Wauzynski's monthly expenses, and then by referring the matter to the child support magistrate for the calculation of Denne's child support obligation, the district court's calculations, in effect, artificially inflated Wauzynski's expenses for purposes of determining Denne's spousal maintenance award and Denne's responsibility for child-related expenses.

For these reasons, the district court's calculation of Wauzynski's monthly expenses is not supported by the record. We conclude that the district court made a clearly erroneous finding on this point.

B. The district court abused its discretion when it misapplied the law by failing to consider the necessary statutory factors.

A district court may award spousal maintenance if it finds that the party seeking maintenance lacks sufficient property to meet their own reasonable needs or “is unable to provide adequate self-support . . . through appropriate employment[.]” Minn. Stat. § 518.552, subd. 1(a), (b); *see Lyon v. Lyon*, 439 N.W.2d 18, 22 (Minn. 1989) (noting that an award of maintenance requires a showing of need). In addition to these findings, a district court considers “all relevant factors” in determining the amount and duration of a spousal maintenance award, including (1) “the financial resources of the party seeking maintenance” and that party’s ability to meet his or her needs independently; (2) the time required for the party seeking maintenance to acquire sufficient education or training to find appropriate employment; (3) the marital standard of living; (4) the length of the marriage and, “in the case of a homemaker, the length of absence from employment and the extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished”; (5) the loss of employment opportunities and benefits foregone by the party seeking maintenance; (6) the age and physical and mental condition of the party seeking maintenance; (7) the ability of the spouse from whom maintenance is sought to meet his or her own needs while meeting the needs of the spouse requesting maintenance; and (8) the contribution of each party to the acquisition and

preservation of the marital property, “as well as the contribution of a spouse as a homemaker[.]” Minn. Stat. § 518.552, subd. 2 (2018). “No single factor is dispositive.” *Maiers*, 775 N.W.2d at 668. The district court must balance the financial needs of the spouse seeking maintenance and the ability to meet those needs against the financial condition of the spouse from whom maintenance is sought. *See Erlandson v. Erlandson*, 318 N.W.2d 36, 39–40 (Minn. 1982).

A court abuses its discretion when it fails to consider the factors necessary to determine the amount and duration of maintenance. *See Nardini v. Nardini*, 414 N.W.2d 184, 197 (Minn. 1987). A district court also abuses its discretion regarding maintenance if its findings of fact are unsupported by the record or if it improperly applies the law. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202, 202 n.3 (Minn. 1997). “Even where the record supports the trial court’s decision, the failure to make specific findings compels a remand.” *Stevens v. Stevens*, 501 N.W.2d 634, 637 (Minn. App. 1993). “Effective appellate review of the exercise of the [the district court’s] discretion is possible only when the [district] court has issued sufficiently detailed findings of fact to demonstrate its consideration of all factors relevant” to a spousal maintenance award. *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989).

Denne contends that the district court abused its discretion both by failing to make sufficiently detailed findings and by failing to consider necessary statutory factors.

1. *The district court's findings regarding Wauzynski's monthly income are not sufficiently detailed.*

Denne argues that the district court failed to accurately portray Wauzynski's true income in its finding that Wauzynski had a net monthly income of \$4,750 based upon an hourly rate of \$32.67.

Gross income is the income figure that is the starting point for addressing spousal maintenance. *See Lee v. Lee*, 775 N.W.2d 631, 635 n.5 (Minn. 2009). "Gross income includes any form of periodic payment," but does not include overtime. Minn. Stat. § 518A.29(a), (b)(iv) (2018). Bonuses may be included in an obligor's income for spousal maintenance purposes when they are regularly received or when they are a dependable form of periodic payment, are expected to continue, and constitute a high percentage of the obligor's annual income. *See Derosier v. Derosier*, 551 N.W.2d 507, 509 (Minn. App. 1996).

Denne contends that the district court's finding that Wauzynski's net monthly income totals \$4,750 per month is clearly erroneous because it is unsupported by the evidence in the record. Wauzynski's tax returns show that his gross income totaled \$84,567 in 2017 and \$84,595 in 2018—around \$27,000 per year more than the district court's calculation (\$4,750 per month x 12 months per year = \$57,000 annual income). Wauzynski received profit-sharing income of \$5,089 in 2018 and a bonus of \$4,000 in December 2018. He also received \$9,082.82 in "incentive pay" during 2018 and \$1,604.61 in "incentive pay" between January 01, 2019 and March 05, 2019. At trial, Wauzynski testified:

Some days you will get a little bit of overtime per day but why my checks are so one is bigger than the other is there's been signing bonus on a couple of them or one. Then there was some profit sharing which is not a guaranteed thing. So, my checks may not be \$84,000 every year. They might be \$70,000 because we didn't get profit sharing for that whole year or some incentive or something

However, Wauzynski made no showing as to whether his income fluctuated in the years prior to 2017, whether the profit-sharing income that he received was part of his compensation package, or how long he would receive incentive compensation. Moreover, Wauzynski noted that he regularly received overtime, and even when he did not get profit sharing, he could make as much as \$70,000 per year, which would equal \$5,833.33 per month.

The district court's findings of fact provide no indication that the district court considered Wauzynski's profit-sharing income, bonuses, incentive compensation, pay stubs or tax returns in its calculation of Wauzynski's monthly income. Because the district court's findings regarding Wauzynski's monthly income lack detail and specificity on these points, we are concerned that the district court miscalculated Wauzynski's true income. Moreover, by failing to issue sufficiently detailed findings, the district court failed to demonstrate that it adequately considered Wauzynski's ability to provide maintenance, which is a relevant statutory factor. As such, the district court misapplied the law and abused its discretion in determining Wauzynski's monthly income.

2. *The district court failed to consider the necessary statutory factors when it determined the amount and duration of Denne's spousal maintenance award.*

Denne argues that the district court abused its discretion by awarding her temporary spousal maintenance without considering all of the necessary statutory factors.

If a court considers the necessary statutory factors, and its findings “justify a permanent award,” the statute does not favor a temporary award of maintenance over a permanent award. Minn. Stat. § 518.552, subd. 3 (2018). When the necessity of a permanent award is uncertain, “the court shall order a permanent award leaving its order open for later modification.” *Id.* But if the uncertainty is based on *when* the spouse seeking maintenance will become self-supporting, not *whether* the spouse will become self-supporting, an award of temporary maintenance is appropriate. *Maiers*, 775 N.W.2d at 666. “An award of temporary maintenance is based on the assumption that the party receiving the award not only should strive to obtain suitable employment and become self-supporting but that he or she will attain that goal.” *Nardini*, 414 N.W.2d at 198. In light of this body of case law, an award of temporary spousal maintenance implies that the recipient presently is not self-supporting, but is expected to become self-supporting, and thus has an obligation to make reasonable efforts to increase his or her earning capacity to become self-supporting. *See Hecker v. Hecker*, 568 N.W.2d 705, 708–10 (Minn. 1997); *Maiers*, 775 N.W.2d at 668.

The district court found that awarding permanent spousal maintenance was unwarranted because the parties’ marriage was short-term. It also found that temporary

spousal maintenance would allow Denne to find sufficient education or training to secure employment to meet her needs.

However, Denne argues that the district court abused its discretion by failing to consider the following statutory factors when it determined the amount and duration of her spousal maintenance award: (1) Denne's length of absence from employment; (2) the extent to which her education, skills, or experience have become outmoded and her earning capacity has become permanently diminished; and (3) Denne's health—in particular, her mental health. *See* Minn. Stat. § 518.552, subd. 2.

The record contains no indication that the district court considered any of these factors, despite evidence in the record that (1) the Social Security Administration determined that Denne is disabled; (2) she has not worked since sometime between 2006 and 2007; and (3) no vocational evaluation has been conducted. Further, nothing in the record suggests that the district court considered Denne's mental health issues in determining her spousal maintenance, although the district court considered Denne's mental health in determining child custody. Based upon this record, we conclude that the district court's award of spousal maintenance is not supported by sufficient findings of fact and is contrary to the evidence. The district court abused its discretion when it misapplied the law by failing to consider the necessary statutory factors in its award of maintenance.

In sum, the district court made clearly erroneous findings of fact that are unsupported by the record evidence, and it misapplied the law by failing to consider necessary statutory factors in its award of spousal maintenance. Because we find that the district court abused its discretion, we reverse and remand the district court's award to

Denne of \$450 in temporary spousal maintenance. On remand, the district court shall reevaluate both the amount and duration of Denne's spousal maintenance award. Whatever decisions the district court makes on these matters on remand shall be supported by adequate findings of fact.

II. The district court abused its discretion in failing to award need-based attorney fees to Denne.

Denne argues that the district court abused its discretion by denying her request for need-based attorney fees that she incurred when she was represented by counsel. In a marriage dissolution action, a district court "shall" award attorney fees where it finds that (1) the fees are necessary to a party's good-faith claim "and will not contribute unnecessarily to the length and expense of the proceeding"; (2) the party from whom fees are sought has the means to pay; and (3) the party who seeks the fees does not have the means to pay them. Minn. Stat. § 518.14, subd. 1 (2018). We review the district court's decision regarding need-based attorney fees for an abuse of discretion. *Schallinger v. Schallinger*, 699 N.W.2d 15, 24 (Minn. App. 2005), *review denied* (Minn. Sept. 28, 2005).

The district court denied need-based attorney fees to Denne. It found that each party had the ability to pay their own fees and costs. It also found that Wauzynski lacked the means to pay Denne's attorney fees "given the allocation of property and debt as well as the temporary spousal maintenance awarded to [Denne.]"

Denne argues that the district court did not make sufficient findings to support the denial of need-based attorney fees. Denne also argues that the district court should have

concluded that she would need assistance repaying her attorney fees, since it found that she needed spousal maintenance.

The district court's attorney-fee analysis is necessarily interconnected with its maintenance analysis. Concerning the second element of Minn. Stat. § 518.14, subd. 1, the district court found in its maintenance analysis that Wauzynski's net monthly income totaled \$4,750 per month while his monthly living expenses totaled \$4,290, leaving approximately \$460 available in his monthly budget. But it based its calculations on insufficiently detailed findings regarding Wauzynski's monthly income, as we have separately explained in our spousal-maintenance analysis above.

Regarding the third element of § 518.14, subd. 1, the district court made insufficient findings to support its determination that Denne has the ability to pay her attorney fees. The district court determined that Denne's monthly expenses total \$1,707, while she only receives \$827 per month from Social Security disability. However, the district court made no findings to explain how Denne has an ability to pay attorney fees, given her \$430 monthly deficit even after her award of \$450 in spousal maintenance. This inability to pay her attorney fees is even more pronounced if she has to pay child support from the spousal maintenance she is awarded. In general, "[c]onclusory findings on the statutory factors do not adequately support a fee award." *Geske v. Marcolina*, 624 N.W.2d 813, 817 (Minn. App. 2011). Because the district court reached a conclusory attorney fee decision based on insufficient findings, we discern an abuse of discretion.

III. The district court erred in awarding the dog, Lilly, to Wauzynski.

Denne challenges the district court's award of the parties' dog, Lilly, to Wauzynski. Denne argues that she has a nonmarital claim to Lilly, and that Lilly has been in her sole possession prior to the marriage and after the parties' separation.

All property acquired during a marriage is presumed to be marital; property acquired before the marriage is nonmarital. Minn. Stat. § 518.003, subd. 3b; *Antone v. Antone*, 645 N.W.2d 96, 100–01 (Minn. 2002). To overcome the presumption that property is marital, a party must show by a preponderance of the evidence that the property is nonmarital. *Baker v. Baker*, 753 N.W.2d 644, 649 (Minn. 2008). Appellate courts independently review whether property is marital or nonmarital, but a reviewing court must defer to the district court's finding of fact. *Id.* We may find the district court's decision to be clearly erroneous “if we are left with the definite and firm conviction that a mistake has been made . . . notwithstanding the existence of evidence to support such findings.” *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997) (quotation omitted).

On appeal, Denne argues that she has a nonmarital claim to the dog, Lilly, because she provided unrefuted evidence at trial that she purchased Lilly prior to the parties' marriage in 2012. Denne testified that Lilly was her dachshund that she “got back in 2010 before [the parties] got married.” Wauzynski did not deny Denne's testimony. Denne entered into evidence several documents dated June 19, 2014: a receipt for Lilly's veterinary care, Lilly's rabies vaccination certificate, a credit card sales draft indicating a payment made to the veterinary clinic, a report card of Lilly's physical exam, and a medical records exam. On the receipt are the handwritten words, “purchased [L]illy August 2010

when she was 8 weeks old.” The record also contains Lilly’s certificate of vaccination dated March 15, 2019. Finally, the record includes a transaction history for Lilly’s veterinary care prior to March 15, 2019. The transaction history lists line items for Lilly’s care dating from 2010 through 2014.

The district court made no findings of fact on this issue to which we must defer, and Wauzynski provided no contradictory evidence. Based upon this record, we are left with a definite and firm conviction that the district court clearly erred by not finding that Denne bought and took care of Lilly prior to the parties’ marriage. Because these unrefuted facts support the legal conclusion that Lilly was nonmarital property, we reverse the district court’s award of Lilly to Wauzynski.

Also, in light of the district court’s abuse of discretion in its award of temporary spousal maintenance and its denial of need-based attorney fees on behalf of Denne, we reverse on these issues and remand for further consideration consistent with this opinion. On remand, the district court may, in its discretion, reopen the record on these two issues.

Reversed and remanded.