

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1085**

In re the Marriage of:
Hirut Woldemariam, petitioner,
Respondent,

vs.

Dereje F. Gulema,
Appellant.

**Filed May 17, 2021
Affirmed
Bjorkman, Judge**

Ramsey County District Court
File No. 62-FA-07-67

Hirut Woldemariam, Mahtomedi, Minnesota (pro se respondent)

Dereje Fisseha Gulema, San Francisco, California (pro se appellant)

Considered and decided by Segal, Chief Judge; Bjorkman, Judge; and Bratvold,
Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges the decision of a child-support magistrate (CSM) reducing his child-support obligation, arguing that the CSM abused its discretion by (1) not further reducing or terminating his obligation, and (2) not making the reduction retroactive to the beginning of the marriage-dissolution proceeding. We affirm.

FACTS

The marriage of appellant-father Dereje Gulema and respondent-mother Hirut Woldemariam was dissolved in 2008. Father was awarded sole legal and physical custody of the parties' son (born December 1996), and mother was awarded sole legal and physical custody of the parties' daughter (born February 2003), with each party receiving parenting time with both children on alternating weekends. Based on the parties' finances and the split-custody arrangement, father was ordered to pay \$304 per month in child support. A subsequent cost-of-living adjustment (COLA) increased the obligation to \$306 per month.

In August 2011, father moved with son to California. That December, he moved to modify his child-support obligation because he was "unable to work and getting public assistance." A CSM granted father's motion in February 2012, suspending his child-support obligation for "any month" in which he receives need-based public assistance. After a review hearing in April, the CSM continued the suspension because father was still receiving need-based public assistance. The CSM also noted that mother had requested that custody of son be transferred to her, and reasoned that any outstanding child-support issues could be resolved as part of the custody matter. But the parties apparently resolved the custody dispute themselves, and the CSM did not modify the custody order or further address child support. Consequently, father's support obligation remained at \$306 per month.

In May 2020, father moved to modify child support and stop a COLA that was set to increase his obligation to \$367 per month. He stated that he is unemployed and has two minor children from his current marriage. After a June hearing, the CSM denied father's

motion to stop the COLA but granted father's child-support motion, reducing his obligation to \$292 per month effective June 1, 2020. Father appeals.

DECISION

We review a district court's child-support modification decision for an abuse of discretion. *Haefele v. Haefele*, 837 N.W.2d 703, 708 (Minn. 2013). We will not disturb factual findings unless they are clearly erroneous. *Suleski v. Rupe*, 855 N.W.2d 330, 334 (Minn. App. 2014). These same standards apply to a CSM's decision. *Hesse v. Hesse*, 778 N.W.2d 98, 102 (Minn. App. 2009).

A district court may modify the terms of a child-support order if the moving party demonstrates that a substantial change in circumstances has made the terms of the existing order "unreasonable and unfair." Minn. Stat. § 518A.39, subd. 2(a) (2020). The party seeking modification has the burden to establish a substantial change in circumstances and resulting unreasonableness. *Rose v. Rose*, 765 N.W.2d 142, 145 (Minn. App. 2009). But it is presumed that a substantial change in circumstances has occurred if application of the child-support guidelines to the parties' current circumstances "results in a calculated court order that is at least 20 percent and at least \$75 per month higher or lower than the current support order." Minn. Stat. § 518A.39, subd. 2(b)(1) (2020).

The CSM determined that father was entitled to that presumption because application of the guidelines to his current circumstances indicates an obligation of \$292, which is more than 20% and \$75 less than his \$367 obligation after the COLA. The CSM reduced his obligation accordingly. Father challenges that decision in two respects.

First, he appears to argue that the CSM abused its discretion by not further reducing or terminating his obligation because he has received public assistance for several years and is currently unemployed. This argument is unavailing. The CSM's role was to assess whether the parties' financial circumstances at the time of the motion—late May 2020—had substantially changed from the parties' circumstances at the time of the existing support order. *Maschoff v. Leiding*, 696 N.W.2d 834, 840 (Minn. App. 2005). And the CSM did so, making findings regarding the parties' income, including father's income from unemployment benefits. See Minn. Stat. § 518A.29(a) (2020) (providing that for purposes of child support gross income includes unemployment benefits). The CSM also accounted for the parties' financial obligations, including those associated with their nonjoint children. See Minn. Stat. § 518A.33 (2020) (permitting deduction for nonjoint children).

Father does not dispute any of the CSM's findings or the CSM's application of the child-support guidelines. Rather, he contends that he cannot pay \$292 per month because he remains unemployed and stopped receiving unemployment benefits in December 2020. But because that information was not part of the record at the June 2020 hearing, it is not properly before us and we cannot consider it. See Minn. R. Civ. App. P. 110.01 (defining the record on appeal). In fact, the CSM carefully sought to account for the shifting framework for unemployment benefits by not attributing to father federal benefits that were likely to end shortly after the CSM issued its decision. The CSM did not abuse its discretion by determining father's child-support obligation based on the parties' financial circumstances at the time of the motion.

Second, father suggests that the CSM abused its discretion by not making the reduction in his obligation retroactive to the beginning of this case. He asserts it was inequitable to require him to pay child support while he had custody of the parties' son and that he relied on public assistance for many years before filing this motion. But a motion to modify child support is not a vehicle to relitigate an entire dissolution case. Its scope is limited to determining whether the parties' circumstances have changed substantially since the time of the existing child-support order, making the existing order unfair. Minn. Stat. § 518A.39, subd. 2(a). And a child-support modification "may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion." Minn. Stat. § 518A.39, subd. 2(f) (2020). Accordingly, the CSM did not abuse its discretion by making the reduction in father's child-support obligation retroactive to the beginning of the month after he served his modification motion.

Affirmed.