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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0272**

In re the Marriage of:
Jessica Elizabeth Solinsky, n/k/a Jessica Elizabeth Grimm, petitioner,
Respondent,

vs.

Joseph Clark Solinsky,
Appellant

**Filed January 31, 2022
Affirmed
Halbrooks, Judge***

Hennepin County District Court
File No. 27-FA-19-6576

Alexandra M. Reynolds, Atticus Family Law, S.C., Stillwater, Minnesota (for
respondent/cross-appellant)

Joseph Clark Solinsky, Citrus Heights, California (pro se appellant/cross-respondent)

Considered and decided by Reyes, Presiding Judge; Frisch, Judge; and Halbrooks,
Judge.

NONPRECEDENTIAL OPINION

HALBROOKS, Judge

In this appeal from a marital-dissolution judgment, appellant-husband challenges
the district court's division of property, and respondent/cross-appellant wife challenges the

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

district court's finding that husband produced sufficient tracing evidence to justify the district court's classification of some property as nonmarital. We affirm.

FACTS

Appellant Joseph Solinsky and respondent Jessica Solinsky, n/k/a Jessica Grimm, were married in 2012 and separated in 2017. They have no children together. In 2019, Grimm petitioned the district court to dissolve the marriage. At trial, the district court found that Grimm's gross monthly income was \$4,220.10 and her monthly expenses were \$4,168.66. The district court also found that Solinsky had a gross monthly income of \$12,655.06 but did not find his monthly expenses. Neither party sought an award of spousal maintenance. Grimm was represented by counsel. Solinsky was self-represented.

At the conclusion of the trial, which focused on the valuation and division of real property, vehicles, and retirement assets, the district court left the record open for approximately three weeks to receive additional post-trial submissions. The district court then issued its Findings of Fact, Conclusions of Law, and Order for Judgment. After the district court administrator entered judgment, Solinsky filed this appeal, and Grimm filed a notice of related appeal. This court then referred the appeal to the Family Law Appellate Mediation process, which proved unsuccessful.

DECISION

The parties challenge aspects of the district court's classification of property as marital or nonmarital and its division of their property. When dissolving a marriage, the district court "shall make" an "equitable" division of the parties' marital property. Minn. Stat. § 518.58, subd. 1 (2020). "[W]hile the district court must make a just and equitable

division of the [parties'] marital property, '[a]n equitable division of marital property is not necessarily an equal division.'" *Sirek v. Sirek*, 693 N.W.2d 896, 900 (Minn. App. 2005) (quoting *Crosby v. Crosby*, 587 N.W.2d 292, 297 (Minn. App. 1998), *rev. denied* (Minn. Feb. 18, 1999)). "All property acquired by either spouse during the marriage is presumed to be marital property, without regard to the form of ownership. To overcome the presumption that property is marital, a party must demonstrate by a preponderance of the evidence that the property is nonmarital." *Antone v. Antone*, 645 N.W.2d 96, 100-01 (Minn. 2002) (citations omitted), *rev. denied* (Minn. July 16, 2022); *see* Minn. Stat. § 518.003, subd. 3b (2020) (defining marital and nonmarital property).

To successfully claim a nonmarital interest, the claiming party must show both the existence and the amount of the alleged nonmarital interest. *See, e.g., Hafner v. Hafner*, 406 N.W.2d 590, 593 (Minn. App. 1987) (noting that a spouse's recovery in a personal injury suit is nonmarital to the extent it is for that spouse's loss of good health and stating that "[t]he burden of proving that the amount of the recovery was awarded for personal injuries and not for replacement of marital property . . . is on the party seeking the nonmarital classification"). A nonmarital interest in property can be established through credible testimony. *Doering v. Doering*, 385 N.W.2d 387, 390 (Minn. App. 1986). And "[w]hen marital and nonmarital assets have been commingled, the party asserting the nonmarital claim must adequately trace the nonmarital funds in order to establish their nonmarital character." *Kerr v. Kerr*, 770 N.W.2d 567, 571 (Minn. App. 2009).

Whether property is marital or nonmarital is a legal question that appellate courts review de novo. *Gill v. Gill*, 919 N.W.2d 297, 301 (Minn. 2018). In reviewing that

determination, however, appellate courts defer to a district court's underlying findings of fact unless those underlying findings are clearly erroneous. *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). The supreme court recently discussed the clear-error standard for reviewing findings of fact in detail, noting, among other things, that a district court's findings of fact are not clearly erroneous unless the appellate court, viewing the record in the light most favorable to the finding being challenged, is left with the definite and firm conviction that a mistake was made. *In re Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021).

When reviewing a district court's division of property, an appellate court recognizes that, in dividing property, the district court has broad discretion and that the district court's division of property will not be altered on appeal absent an abuse of that discretion. *Antone*, 645 N.W.2d at 100. A district court abuses its discretion by making findings that are unsupported by the evidence, by misapplying the law, or by resolving the discretionary question in a manner that is contrary to logic and the facts on record. *Honke v. Honke*, 960 N.W.2d 261, 265 (Minn. 2021).

Solinsky and Grimm argue that the district court erred in its identifications of the nonmarital interests in the property in dispute. On appeal, we address the following issues: 1) Solinsky's SEI Capital account; 2) Solinsky's SEI Trust (IRA) account; 3) the Crystal house; 4) the Plymouth and Citrus Heights, California homes; 5) the parties' vehicles; 6) Grimm's rental income from the Crystal, Minnesota home; 7) the parties' COVID relief check and 2018 federal and state tax payments; and 8) Grimm's MSRS pension fund.

SEI Capital Account

The district court valued the SEI Capital Fund at \$100,646.52. Consistent with exhibit 3.6, the district court noted that the fund had a value of about \$80,000 in 2016. The district court also noted that the record presented to it lacked documentation addressing the account before 2016. Despite Solinsky's testimony that the entire account was his nonmarital asset, the district court ruled that there was a \$20,647 marital interest in the account and awarded Grimm half of that interest.

1. Solinsky's argument: Based in part on "additional evidence" Solinsky claims to have provided to Grimm's appellate counsel during Family Law Appellate Mediation, Solinsky challenges the district court's failure to rule that the entire fund was his nonmarital property. We reject this argument for three reasons.

First, on appeal, appellate courts generally do not consider evidence not presented to the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988); *see also Vangsness v. Vangsness*, 607 N.W.2d 468, 477 (Minn. App. 2000) (citing *Thiele* in a family law appeal); *see also* Minn. R. Civ. App. P. 110.01 (defining the record on appeal as the record created in the district court). Therefore, to the extent Solinsky's argument is based on evidence not presented to the district court, it is based on evidence we cannot consider, and the argument is not properly before this court.

Second, as noted, when reviewing a district court's determination of whether property is marital or nonmarital, this court defers to the district court's underlying findings of fact unless they are clearly erroneous. Here, the district court acknowledged Solinsky's testimony that the entire fund was his nonmarital asset but still ruled that it included a

marital interest. Thus, the district court rejected, albeit implicitly, Solinsky's testimony on the point as not credible. Appellate courts defer to a district court's credibility determination, even if the determination is implicit. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) (credibility determinations); *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (implicit credibility determinations). Therefore, we cannot alter the district court's rejection of Solinsky's testimony.

Third, given the district court's credibility determination and Solinsky's failure to present additional documentation to the district court regarding the \$20,647 at issue, this record simply does not support the findings that the district court would have to make to rule that the funds at issue are Solinsky's nonmarital funds. As we have noted: "On 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." *Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003), *rev. denied* (Minn. Nov. 25, 2003).

2. Grimm's argument: Grimm argues that the district court erred in its treatment of the SEI Capital Fund by treating \$80,000 as Solinsky's nonmarital property. The record on all issues in this case is lean but strict tracing is not required, and mere testimony, if credited by the district court, can be sufficient to trace a claimed nonmarital interest. *Doering*, 385 N.W.2d at 390-91; *see also Risk ex rel. Miller v. Stark*, 787 N.W.2d 690, 697 (Minn. App. 2010) (stating that "tracing property to its nonmarital source does not require intricate detail"), *rev. denied* (Minn. Nov. 16, 2010). Here, Solinsky testified that the initial funds for the SEI capital account were deposited "prior to 2006" and that those funds

represent his nonmarital investment. In contrast to its treatment of Solinsky's testimony about the \$20,647 that accumulated in the fund after 2016, the district court clearly deemed Solinsky's testimony about the origin of the \$80,000 credible. We defer to this determination. *Sefkow*, 427 N.W.2d at 210; *Pechovnik*, 765 N.W.2d at 99. Therefore, we reject Grimm's argument on this point.

SEI Trust Account

In a section of its judgment captioned "SEI Private Trust Account," the district court valued Solinsky's SEI IRA at \$235,541.36 as of September 30, 2019. The district court noted that Solinsky "is making a total non-marital claim of \$169,875.39 of the funds held in the SEI [IRA]" and that much of the account was the result of consolidating monies from several other accounts over time. The district court then ruled that Solinsky had a \$167,016.07 nonmarital interest in the SEI IRA account and awarded Grimm half of the remaining \$68,525.29. Both parties challenge aspects of these rulings. On this record, we reject both parties' challenges.

1. Solinsky's arguments: Regarding his SEI IRA account, Solinsky asserts that "the ruling states a lower than proven amount with no explanation of this change." Citing unspecified "[a]dditional evidence," Solinsky asserts that "more precise calculations" can or should be made. If the unspecified additional evidence mentioned by Solinsky is the evidence he claims to have provided to Grimm's appellate counsel during the Family Law Appellate Mediation, his argument on this point is not properly before this court for the same reasons that his argument regarding the SEI Capital account is not properly before us. *See Thiele*, 425 N.W.2d at 582-83; *Vangsness*, 607 N.W.2d at 477-78. Additionally,

even if the district court erred in awarding Solinsky a \$167,016.07 nonmarital interest in the SEI IRA account rather than the \$169,875.39 interest he claimed, the difference is \$2,859.32—a very small portion of a single account that, itself, was only part of the parties’ estate. On this record, any such error can be ignored as de minimis. *See Risk*, 787 N.W.2d at 694 n.1 (noting that a district court’s failure to account for \$400 in value of land worth \$99,000 and with \$54,900 in equity was a de minimis error and declining to remand).

2. Grimm’s argument: Grimm argues that Solinsky failed to adequately trace \$38,486 of the nonmarital interest in the SEI IRA awarded to him by the district court. The district court found that this portion of Solinsky’s nonmarital interest in the account was due to “[Solinsky] consolidating accounts.” This, Grimm argues, is improper because the district court’s finding is not supported by evidence Solinsky presented.

Evidence of tracing, however, can be established through credible testimony. *Doering*, 385 N.W.2d at 390. We give deference to the “district court’s opportunity to evaluate witness credibility.” *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008). Solinsky testified to providing “every statement that was available” and that he “rolled” other accounts together and then rolled those consolidated accounts “completely in[to] the SEI” account. In relying on this testimony, the district court relied on the available information in the record. Grimm has not shown that the district court erred in ruling the that the \$38,486 was nonmarital.

Real Property

A district court has broad discretion in dividing and evaluating “property in a marital dissolution and will not be overturned except for abuse of discretion. [An appellate court]

will affirm the [district] court's division of property if it had an acceptable basis in fact and principle even though we might have taken a different approach." *Antone*, 645 N.W.2d at, 100 (citation omitted); *see also Lee v. Lee*, 775 N.W.2d 631, 637 (Minn. 2009) (stating that a district court has "broad discretion regarding the division of property" and that its division of property "will only be reversed on appeal if the [district] court abused its discretion"). A district court abuses its discretion in dividing property if it resolves the matter in a manner "that is against logic and the facts on record." *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984).

1. Crystal House

After the parties separated, Grimm bought a house in Crystal. Grimm testified that she used marital funds to purchase the home. The district court found there was no indication "from the testimony that [Grimm] was seeking any sort of nonmarital claim to the funds used to purchase this property." The Crystal house had a market value of \$147,900. The unpaid balance on the Crystal house was \$121,653.99 at the time of valuation. The district court found the \$26,247 of equity in the Crystal house to be marital property but awarded the house and the associated debts to Grimm.

2. Plymouth & Citrus Heights Homes

In February 2019, Solinsky paid earnest money toward, made a down payment on, and purchased a \$358,000 home in Citrus Heights, California. In April 2019, Grimm, at Solinsky's request, executed an Interspousal Transfer Grant Deed (ITGD) regarding her interest in that home. In June 2019, the parties sold their marital home in Plymouth, netting \$192,650.47. It is undisputed that Solinsky owned the Plymouth home before the parties'

married, that he failed to enter any evidence of the value of the Plymouth home as of the date of the parties' marriage, and that Solinsky used all the net proceeds of the Plymouth home to reduce the lien on the Citrus Heights home. As of August 8, 2019, the mortgage balance on the Citrus Heights home was \$130,062.47.

Based on the sparse record presented to it, the district court ruled that the funds Solinsky used for earnest money and the down payment on the Citrus Heights home were marital and that Grimm was entitled to half of those funds (\$19,279). The district court also ruled that Solinsky had a nonmarital interest in the Plymouth home and, "as a matter of fairness," ruled that Solinsky was entitled to about two thirds (\$128,432) of the net proceeds of that home as the sum of the values of (a) his nonmarital interest in the Plymouth home¹ and (b) his share of the marital interest that home. The district court further ruled that the remaining \$64,218 of the net sale proceeds should be attributed to Grimm as her share of the marital interest in the Plymouth home. Recognizing that Solinsky had a

¹ A spouse claiming a nonmarital interest in property acquired while married has the burden of showing the existence and extent of the claimed nonmarital interest. *Antone*, 645 N.W.2d at 100-01; *Hafner*, 406 N.W.2d at 593. When an asset has both marital and nonmarital components, a party's failure to adequately trace a claimed nonmarital interest can result in the entire asset being treated as marital property. *Wiegers v. Wiegers*, 467 N.W.2d 342, 344 (Minn. App. 1991); see *Baker v. Baker*, 753 N.W.2d 644, 653 (Minn. 2008) (noting this aspect of the *Wiegers* opinion). When there are marital and nonmarital interests in an asset owned by a spouse before marriage, proper identification of the extent of a claimed nonmarital interest in that asset requires, among other things, knowledge of the value of the asset when the spouses married. See *Antone*, 645 N.W.2d at 102 (reciting a formula for apportioning the equity in an asset between that asset's marital and nonmarital components that requires identification of the value of the asset at the time of marriage). Here, it is undisputed that Solinsky failed to enter evidence of the value of the Plymouth home at the time of the marriage. Thus, he failed to adequately trace the extent of his claimed nonmarital interest in the Plymouth home, and the district court could have treated all the proceeds of its sale as marital.

\$13,123 interest in Grimm’s home, the district court then netted Solinsky’s \$13,123 interest in Grimm’s home against Grimm’s \$64,218 marital share of the proceeds of the sale of the Plymouth home and her \$19,279 interest in the funds used for the down payment on the Citrus Heights home to award Grimm \$70,373 net interest in the Citrus Heights home.

In district court, Solinsky asserted that the ITGD precluded Grimm from having any interest in the Citrus Heights home. The district court, however, made its award without explicitly addressing that assertion. On appeal, Solinsky argues that Grimm’s claim to any equity in the Citrus Heights home is precluded by the ITGD, which, he asserts, can only be challenged according to the California Family Code.

In California, an ITGD is used to, among other things, “transmute community property to separate property of either spouse.” Cal. Fam. Code § 850(a) (2020); *see In Re Marriage of Kushesh & Kushesh-Kaviani*, 238 Cal. Rptr.3d 174, 175 (Cal. Ct. App. 2018) (discussing ITGDs). Minnesota dissolution law, however, has neither “community property” nor “separate property.” Nor does Minnesota dissolution law address the concept of “transmutation” of property interests. The questions of whether, to what extent, and how (if at all) the concepts of transmutation, separate property, and community property might be applied in Minnesota’s legal scheme for dividing property when a marriage is dissolved were not argued to, or otherwise unpacked for, the district court. Thus, it is not surprising that the district court did not address those matters. Nor are those matters briefed in any detail to this court. Appellate courts need not address matters that are inadequately briefed. *State Dep’t of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address an inadequately briefed question); *see Brodsky v.*

Brodsky, 733 N.W.2d 471, 479 (Minn. App. 2007) (applying *Wintz* in a family-law appeal).

It is based on this lack of adequate briefing that we decline to address these matters.²

Valuation of the Vehicles

The district court treated the parties' cars as marital property and awarded each car to its respective owner, valuing the car awarded to Solinsky at \$27,152, and the car awarded to Grimm at \$22,322. Solinsky contends that the district court failed to recognize his nonmarital interest in the car awarded to him and that the difference in the values of the

² Even if California's concepts of community and separate property are directly analogous to Minnesota's concepts marital and nonmarital property, much of Solinsky's argument is still suspect. First, Grimm executed the ITGD in April 2019. The ITGD states Grimm "[h]ereby GRANT(S)" (present tense) Solinsky the Citrus Heights home as his "separate property." The parties' sale of their Plymouth home, and Solinsky's use of its proceeds to reduce the lien on the Citrus Heights home, however, did not occur until June 2019. Thus, whatever interests the ITGD purported to transfer, they did not include the later-created marital interest generated by Solinsky's post-ITGD use of the marital share of the proceeds of the sale of the Plymouth home to reduce the lien on the Citrus Heights home. Second, in addition to the marital funds used in the acquisition of the Citrus Heights home, Solinsky used his nonmarital share of the proceeds of the Plymouth home to reduce the mortgage on the Citrus Heights home. Thus, the Citrus Heights home had both marital and nonmarital interest in it. California's ITGD statute states: "Nothing in [the section of the California statutes addressing the requirements for an ITGD] affects the law governing characterization of property [like the Citrus Heights home] in which separate property and community property are commingled or otherwise combined." Cal. Fam. Code § 852(d) (2020). Solinsky addressed the impact of this provision on the interests in the Citrus Heights home in neither the district court nor this court. Finally, even if the ITGD is read to preclude the existence of a marital interest in the Citrus Heights home, that fact, by itself, would *not* preclude the district court from awarding Grimm an interest in that home. Under Minn. Stat. § 518.58, subd. 2 (2020), a district court can, in certain circumstances, award one spouse a portion of the other spouse's nonmarital property. Given the exceptionally lean record, and the even leaner briefing, on the impact of the ITGD on the interests in the Citrus Heights home presented to the district court, it is not surprising that the district court did not address whether those circumstances were present here, and we do not fault it for not doing so.

cars was “omitted from the district court ruling, showing either an abuse of discretion, or a prejudicial error.”

A district court’s valuation of an item of property is a finding of fact, and it will not be set aside unless it is clearly erroneous. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001); *see also Muschik v. Conner-Muschik*, 920 N.W.2d 215, 224 (Minn. App. 2018).

Here, the district court heard the parties’ testimony on the valuation of the vehicles and Grimm provided evidence of the Kelley Blue Book valuation for both vehicles. Solinsky argued to the district court that his testimony on the values of the vehicles was more credible because he is “one of the founders of the Tesla club and active nationally in electric vehicles and ha[s] personal relationships with executives at Tesla.”

This court, however, does not disturb findings of fact based on conflicting evidence unless the findings are “manifestly and palpably contrary to the evidence as a whole.” *In re S.G.*, 828 N.W.2d 118, 127 (Minn. 2013) (quotation omitted). Further, “when evidence relevant to a factual issue consists of conflicting testimony, the district court’s decision is necessarily based on a determination of witness credibility, which we accord great deference on appeal.” *Alam v. Chowdhury*, 764 N.W.2d 86, 89 (Minn. App. 2009). The district court relied on Grimm’s unchallenged testimony with respect to the Blue Book values in determining the value of the vehicles. Given the deference we afford the district court in making credibility determinations, the district court’s valuation of the two cars was not clearly erroneous.

To the extent that Solinsky asserts that the district court ignored what he alleged was his nonmarital interest in his car, we will, for purposes of this appeal, assume that

Solinsky proved the existence of a nonmarital interest. On this record, however, we cannot say that he adequately traced the extent of that interest as is required by caselaw. Therefore, the district court had the discretion to treat the interest as marital. *Wiegers*, 467 N.W.2d at 344; *see Baker*, 753 N.W.2d at 653. Nor, on this record, can we say that the resulting division of marital property was so disproportionate as to be inequitable. *See Sirek*, 693 N.W.2d at 900 (noting that a property division need not be equal to be equitable); *White v. White*, 521 N.W.2d 874, 878 (Minn. App. 1994) (“The trial court is not required to make an equal division of marital property but, rather, a ‘just and equitable’ division”).

Omissions from the District Court Order

Solinsky argues the district court abused its discretion or erred by omitting from its ruling the COVID-19 relief check the parties received, the taxes due the parties from joint filings in 2018, and the “marital business income” that Grimm receives from renting the Crystal house. Solinsky also asserts that the district court erred in determining the value of Grimm’s retirement account. As previously stated, a district court has “broad discretion in evaluating and dividing property” and we will not overturn a decision “except for abuse of discretion.” *Antone*, 645 N.W.2d at 100. All marital property is subject to equitable, but not necessarily equal, division between the parties. *White*, 521 N.W.2d at 878.

Solinsky is incorrect in stating the district court omitted the rental income in the finding of fact about Grimm’s income. Because the evidence was that the rental income was completely offset by the expense of the mortgage and utility payments, the district court did not assign any of the income to Grimm. We discern no error in this decision.

Solinsky is correct in noting the district court did not address either the COVID-19 relief check or the parties' tax burden from 2018. As marital property, including debt, is subject to equitable division, the district court's silence places the tax burden on Solinsky. Distribution of the debt did not need to be equal, only "just and equitable." *See Justis v. Justis*, 384 N.W.2d 885, 888-89 (Minn. App. 1986), *rev. denied* (Minn. May 29, 1986). Based on the difference in income between the two parties, the district court's decision to not assign the tax debt to Grimm or require Grimm to reimburse Solinsky for the COVID-19 relief check meets the "just and equitable" standard. *Id.*

Finally, Solinsky argues the district court erred in determining the value of Grimm's MSRS retirement plan and uses an incorrect retirement age. The district court, however, relied on the valuation of \$39,329 provided by a consulting actuary agreed to by Grimm and Solinsky. Grimm agreed that "the Court adopt the value of approximately \$39,000." The district court properly relied on the testimony and the agreement when determining the value of the retirement account at \$39,329.

In conclusion, based on this lean record and even leaner briefing presented to the district court and to this court, we cannot say that Solinsky demonstrated that the district court abused its broad discretion in its evaluation and division of property.

Affirmed.