

*This opinion is nonprecedential except as provided by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
A21-0435**

In re the Marriage of:
Bobbi Jean Suhonen, n/k/a Bobbi Jean Lindsay, petitioner,
Appellant,

vs.

Robert Thomas Suhonen,
Respondent.

**Filed November 8, 2021
Reversed and remanded
Worke, Judge**

St. Louis County District Court
File No. 69HI-FA-19-252

Misty K. Myers, Groshek Law, P.A., Minneapolis, Minnesota (for appellant)

Robert Suhonen, Hibbing, Minnesota (pro se respondent)

Considered and decided by Worke, Presiding Judge; Florey, Judge; and Bryan,
Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant-wife challenges the district court's reopening of the stipulated judgment dissolving the parties' marriage to address a property-division dispute. We reverse and remand.

FACTS

In October 2019, appellant-wife Bobbi Jean Suhonen, n/k/a Bobbi Jean Lindsay, petitioned to dissolve her marriage to respondent-husband Robert Thomas Suhonen. The parties reached agreement on all matters, and the stipulated judgment was entered on November 1, 2019. The stipulated judgment included the following provisions. “The parties agree that they will divide their personal property by mutual agreement and [wife] will be awarded her animals.” “If the parties are unable to divide the property by mutual agreement, then the dispute shall be submitted to binding arbitration.”

Following the dissolution, the parties discussed arrangements for a pet, a dog named Gus. While the stipulated judgment awarded wife “her animals,” it did not specifically address any animal, including Gus. The parties dispute the arrangement regarding Gus.

According to wife, Gus was one of “her animals” awarded to her, and she verbally agreed to allow husband to “take Gus for a temporary trial visitation with the thought of possibly some type of shared arrangement/visitation with Gus.” She claimed that she “set forth strict guidelines that [husband] would have to follow such as first right of refusal . . . and that this was a trial period.”

According to husband, he was to be awarded Gus in the dissolution and wife proposed a “transition period.” He claimed that he picked up Gus in December 2019, and that all subsequent communications with wife show that Gus is his dog. Husband claimed that it was not until late August 2020 that wife stated her intention of picking up Gus because he was her dog and husband failed to follow through with the guidelines of the verbal agreement.

On September 9, 2020, Gus was returned to wife. On October 9, 2020, husband moved the district court for an order that wife return Gus. During a hearing, husband testified that wife adopted Gus before the marriage, but they were in a relationship at the time, and he reimbursed wife for Gus's adoption fee. Wife testified that husband paid her for half of Gus's adoption fee and agreed that husband was Gus's half-owner. But wife testified that her adoption contract for Gus requires her to relinquish ownership to the rescue organization if she is unable to care for Gus and prohibits her from transferring ownership to anyone.

The district court ordered wife to return Gus to husband but granted wife "visitation." The district court concluded that the evidence showed that "Gus was jointly owned by the parties" and that "Gus was a family pet, not just the pet of one person or the other." Alternatively, the district court concluded that if wife was Gus's sole owner after the dissolution, the evidence showed that she gifted Gus to husband and "her ownership of Gus ended" at that point.

Wife moved for amended findings and a new trial, claiming that there was no legal basis to reopen the stipulated judgment and that the district court erred by modifying the property award. Husband requested that the district court deny wife's motion and vacate the visitation provision. Following a hearing, the district court denied wife's motion and granted husband's motion to vacate the visitation provision, concluding that "visitation" was not in Gus's "best interest" and caused problems between the parties. This appeal followed.

DECISION

Wife challenges the district court's reopening of the stipulated judgment, its failure to abide by the provisions of the stipulated judgment, and its classification of property. This court reviews the district court's ruling on a request to reopen a judgment and decree for an abuse of discretion. *Kornberg v. Kornberg*, 542 N.W.2d 379, 386 (Minn. 1996). A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or rendering a decision that is "against logic and the facts on record." *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997).

Wife first argues that the district court reopened the stipulated judgment without husband satisfying a statutory basis for reopening it. "Subject to the right of appeal, a dissolution judgment and decree is final when entered, unless in a timely motion a party establishes a statutory basis for reopening the judgment and decree." *Thompson v. Thompson*, 739 N.W.2d 424, 428 (Minn. App. 2007).

Minn. Stat. § 518.145, subd. 2 (2020), provides the statutory bases for reopening, and granting relief from, a judgment entered under chapter 518. A district court may reopen a judgment for the following reasons: "(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence . . . ; (3) fraud . . . misrepresentation, or other misconduct . . . ; (4) the judgment and decree or order is void; or (5) the judgment has been satisfied, released, or discharged." Minn. Stat. § 518.145, subd. 2. "The sole relief from the judgment and decree lies in meeting the requirements of Minn. Stat. § 518.145, subd. 2." *Shirk v. Shirk*, 561 N.W.2d 519, 522 (Minn. 1997) (footnote omitted).

Wife is correct. The district court did not require husband to establish a basis for reopening the stipulated judgment. *See Haefele v. Haefele*, 621 N.W.2d 758, 765 (Minn. App. 2001) (“For the purposes of reopening a dissolution judgment, the moving party bears the burden of proof.”), *rev. denied* (Minn. Feb. 21, 2001); *see also Knapp v. Knapp*, 883 N.W.2d 833, 835 (Minn. App. 2016) (stating that moving party must prove statutory basis by a preponderance of the evidence).

Husband asserted in district court that he did not need to establish a basis for reopening the stipulated judgment because he did not move to reopen the stipulated judgment. Rather, husband claimed that the stipulated judgment awarded wife “her animals,” and Gus, being his animal, was not addressed in the stipulated judgment; thus, according to husband, the district court did not reopen the stipulated judgment when it ordered wife to return Gus. However, the district court ruled that Gus was “jointly owned by the parties.” As such, the district court determined that Gus was marital property. The district court reopened the stipulated judgment without considering the statutory bases for doing so when it made a ruling on the division of property. By doing so, the district court abused its discretion by misapplying the law. *See Dobrin*, 569 N.W.2d at 202.

Wife next argues that the district court failed to abide by the provisions of the stipulated judgment. The stipulated judgment addresses the division of personal property and provides that if the parties have a property dispute, the dispute must be submitted to binding arbitration. The parties have a dispute regarding the division of property. This dispute was to be submitted to binding arbitration. Thus, the district court improperly held a hearing on the disputed issue. Based on the stipulated judgment and the parties’ post-

dissolution dispute regarding personal property, the district court erroneously circumvented the arbitration provision in the stipulated judgment.

Finally, wife argues that the district court abused its discretion by misclassifying Gus as a gift. The legal elements of a gift are delivery, absolute disposition, and, most importantly, donative intent. *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). The district court concluded:

[I]f [wife] was the sole owner of Gus after the dissolution, the evidence demonstrates that she gifted Gus to [husband]. The evidence also established that the gift was conditioned on [husband] allowing [wife] to have visitation with Gus. When [husband] did not provide visitation with Gus, [wife] decided to reclaim ownership

It is not clear from the district court's order under what authority it acted in determining that wife gifted Gus, nor did it conduct a legal analysis in doing so. Moreover, the record fails to establish that wife intended to relinquish ownership of Gus absolutely. The district court therefore abused its discretion by determining that wife gifted husband Gus after the dissolution because this determination does not align with the legal elements of a gift.

We reverse and remand. On remand, the district court must abide by the stipulated judgment, and the parties, if their dispute persists, must adhere to the arbitration provision.

Reversed and remanded.