

*This opinion is nonprecedential except as provided by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
A21-0436**

In re the Marriage of:
Heather Elizabeth Wray-Isquierdo, petitioner,
Respondent,

vs.

Christian Matthew Isquierdo,
Appellant.

**Filed July 18, 2022
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-FA-19-8233

Roselyn J. Nordaune, Nordaune & Friesen, PLLC, Wayzata, Minnesota (for respondent)

Christian Matthew Isquierdo, Peoria, Arizona (*pro se* appellant)

Considered and decided by Ross, Presiding Judge; Johnson, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this marital-dissolution appeal, appellant argues that the district court should not have (1) adopted “wholesale” respondent’s proposed order; (2) awarded respondent sole physical custody of the children; (3) established appellant’s support obligation based on imputed potential income; and (4) denied appellant’s request for spousal

maintenance. Appellant also argues that the district court erred in its division of marital property. Because all of appellant's claimed errors either lack merit or have been forfeited, we affirm.

FACTS

Appellant Christian Matthew Isquierdo (husband) and respondent Heather Elizabeth Wray-Isquierdo (wife) married in 2001 and have two minor children. In December 2019, the parties began dissolution proceedings. Trial occurred in December 2020 on the issues of child custody, parenting time, child support, spousal maintenance, valuation of nonmarital property, and division of marital property and debts. All issues, except for parenting time and the valuation of nonmarital property, are the subject of this appeal.

The district court heard testimony from wife as well as wife's financial-expert witness. Wife also submitted several exhibits related to the parties' finances. Husband appeared *pro se*, testified, and submitted no exhibits. Each party submitted a proposed order that included findings of fact and conclusions of law.

In February 2021, the district court issued its findings of fact, conclusions of law, order for judgment, and judgment and decree (J&D). The J&D granted wife sole physical custody of the minor children and joint legal custody to the parties.

As part of its child-support calculation, the district court imputed to husband a potential gross monthly income of \$5,833. Based on this imputed income, the district court ordered husband to pay \$1,087 as monthly child support. The district court also denied husband's request for spousal maintenance because he failed to show need.

Finally, the district court divided the parties' marital property and debts according to exhibits submitted by wife during trial. The district court awarded wife the marital homestead and divided the parties' bank accounts according to the party named on the account. The district court also divided the parties' retirement accounts according to the party named on the account except husband was awarded equalization from one of wife's retirement accounts. The district court also awarded husband additional equalization from the "non-retirement" marital assets. The district court ordered each party to pay their own attorney fees.¹ Husband appeals.

DECISION

I. The district court independently evaluated the parties' testimony and evidence.

Husband argues that the district court erred by "rubber stamping" wife's proposed J&D. The record belies husband's argument.

It is discouraged, but not *per se* reversible error, for the district court to "wholesale adopt[]" a party's proposed findings of fact and conclusions of law. *Bliss v. Bliss*, 493 N.W.2d 583, 590 (Minn. App. 1992), *rev. denied* (Minn. Feb. 12, 1993). We strongly caution against this practice because it "raises the question of whether the [district] court independently evaluated each party's testimony and evidence." *Id.* To determine whether the district court independently examined the evidence, we assess the district court's

¹ Husband also argues that the district court erred by denying him need-based attorney fees. However, husband failed to request need-based attorney fees from wife at the district court. Because husband failed to request fees during the dissolution, that issue is forfeited. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Further, the record indicates that husband was without counsel for all of these proceedings.

findings to discern whether they are clearly erroneous. *See Kohn v. Minneapolis Fire Dep't*, 583 N.W.2d 7, 14 (Minn. App. 1998), *rev. denied* (Minn. Oct. 20, 1998).

Though husband is correct that the district court directly adopted much of wife's proposed J&D, we discern no clear error in its findings, and we explain why in the sections that follow.

We “view the evidence in a light favorable to the [district court's] findings[,]” and “will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed.” *In re Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (citations and quotations omitted). When reviewing findings of fact for clear error, “an appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the trial court.” *Id.* at 222 (quotation omitted). Instead, our “duty is fully performed after [we have] fairly considered all the evidence and [have] determined that the evidence reasonably supports the decision.” *Id.* (quotations omitted). When giving proper deference to the district court, and based on our review of the record, we determine that the district court's findings are not clearly erroneous. *See Cook v. Arimitsu*, 907 N.W.2d 233, 240 n.3 (Minn. App. 2018) (stating that “[m]other challenges a number of the district court's findings of fact . . . we have reviewed the record, and we are satisfied that the findings that mother challenges are not clearly erroneous”).

II. The district court acted within its discretion by granting wife sole physical custody of the minor children.

Husband argues that the district court failed to consider the 12 best-interest factors enumerated in Minnesota Statutes section 518.17, subdivision 1(a) (2020). A review of the J&D persuades us otherwise.

The best interests of the children govern the determination of custody of a child. *See* Minn. Stat. § 518.17, subd. 1(a). There is “scant if any room for an appellate court to question the [district] court’s balancing of best-interests considerations.” *Vangsness v. Vangsness*, 607 N.W.2d 468, 477 (Minn. App. 2000). For that reason, a district court has broad discretion to provide for the custody of the parties’ children. *Pollard v. Crowghost*, 794 N.W.2d 373, 378 (Minn. App. 2011).

Contrary to husband’s argument, the district court explicitly considered each of the 12 statutory factors in the J&D and references evidence presented at trial regarding each factor. We provide examples from the J&D’s findings related to some of the factors:

- **Children’s physical, emotional, cultural, and spiritual needs:** The district court cited evidence related to the parties’ different parenting styles regarding child-discipline, as well as how best to address the children’s medical and emotional needs. *See* Minn. Stat. § 518.17, subd. 1(a)(1).
- **Children’s special needs:** The district court cited evidence regarding the parties’ different approaches to one of their children’s chemical dependency struggles. *See id.*, subd. 1(a)(2).

- **History and nature of the care provided by each parent:** The district court found, based on evidence in the record, that wife was the children’s primary provider throughout their lives. *See id.*, subd. 1(a)(6).
- **Benefit to the children in maximizing both parents’ time:** The district court explicitly found that both parents are “important to these children” and that the proposed parenting arrangement “will benefit the children.” *See id.*, subd. 1(a)(10).

We defer to the district court’s balancing of the factors. *See Vangness*, 607 N.W.2d at 477. Because the record supports the district court’s best-interest findings, it independently examined the facts and did not clearly err. The district court acted within its discretion by granting wife sole physical custody of the children.

III. The district court properly imputed potential income to husband.

Husband argues that the district court erred by imputing income to him to determine his child-support obligation. We disagree.

When a parent is voluntarily unemployed—as the district court found husband is—any child support obligation “must be calculated based on a determination of potential income.” Minn. Stat. § 518A.32, subd. 1 (2020). Whether a parent is voluntarily unemployed is a finding of fact that we will not reverse but for clear error. *Newstrand v. Arend*, 869 N.W.2d 681, 685 (Minn. App. 2015), *rev. denied* (Minn. Dec. 15, 2015). If the district court determines a parent is voluntarily unemployed, its “determination of income must be based in fact and will stand unless clearly erroneous.” *Id.* (quotation omitted).

When the district court finds that a parent is voluntarily unemployed, it may determine the parent’s potential income in one of three ways. Minn. Stat. § 518A.32,

subd. 2 (2020). Relevant here, the district court may determine the parent’s “probable earnings” based on the parent’s employment potential, work history, and qualifications. *Id.*

The district court’s finding that husband is voluntarily unemployed is supported by the record. Husband and wife testified that husband previously was employed as a coach and also operated several businesses during their marriage. Husband provided no testimony or other evidence that he was incapable of employment and testified that he was an entrepreneur, was in the process of writing a book, volunteers with a religious chemical-dependency program, and is seeking a therapist certification. Further, husband testified that he rejected a coaching position in Arizona which would pay between \$50,000 and \$70,000 annually. And, critically, husband testified that he was waiting to become reemployed until the dissolution was final “in terms of investments and creating companies.” Thus, the district court did not clearly err by finding that husband was voluntarily unemployed.²

Upon finding that husband was voluntarily unemployed, the district court found that he had historically earned “at least” \$6,000 per month and had a “potential gross monthly income” of \$5,833. This finding is supported by the record. As noted above, husband testified that he was offered a job that would pay him up to \$70,000 annually, or \$5,833.33

² Husband argues that certain exceptions to the district court finding him voluntarily unemployed apply here. *See* Minn. Stat. § 518A.32, subd. 3 (2020). Husband failed to present this argument to the district court. Therefore, he forfeits the argument on appeal. *Annis v. Annis*, 84 N.W.2d 256, 261 (Minn. 1957) (“[L]itigants are bound [on appeal] by the theory or theories, however erroneous or improvident, upon which the action was actually tried below.”).

monthly. Thus, the district court did not clearly err by determining that husband's potential income is \$5,833 per month.

IV. The district court acted within its discretion by denying husband's request for spousal maintenance.

Husband argues that the district court erred by denying his spousal-maintenance request in the amount of \$48,300 annually because he demonstrated a need based upon his lack of employment. Husband also argues that the district court failed to make findings related to spousal-maintenance factors. We review a district court's determination of spousal maintenance for an abuse of discretion. *Curtis v. Curtis*, 887 N.W.2d 249, 252 (Minn. 2016).

The party requesting spousal maintenance bears the burden of proving need. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997). When determining spousal maintenance, the district court engages in a two-part inquiry. First, the district court determines whether the party requesting spousal maintenance either lacks sufficient property to maintain the marital standard of living or cannot provide adequate self-support. Minn. Stat. § 518.552, subd. 1 (2020). Second, if the district court determines that the spouse is entitled to spousal maintenance, it determines the amount and duration of maintenance. *Id.*, subd. 2 (2020).

Our analysis ends with the first inquiry. The district court found that husband is not in need of spousal maintenance because he "is capable of providing for his own support," based on his employment history. *See Dobrin*, 569 N.W.2d at 202 ("Implicit in Minn. Stat. § 518.552 is that the spouse seeking maintenance demonstrate the need therefor."). This finding is supported by the record for the reasons we previously identified regarding

husband's voluntary unemployment. The district court, therefore, need not consider the factors listed in Minn. Stat. § 518.552, subd. 2, (2020), as husband contends.

V. Husband has forfeited issues involving division of marital property.

Husband next argues that the district court abused its discretion in its division of marital property and debt. Husband makes a number of conclusory claims that the district court erred by (1) failing to consider his request to sell the marital homestead and divide the proceeds between the parties; (2) denying his request that, prior to a division of business assets, wife “return” \$225,000 which, he claims, wife transferred from the former business-account; and (3) failing to equitably divide the parties’ retirement accounts and other business and marital assets.

“A [district] court has broad discretion in evaluating and dividing property in a marital dissolution and will not be overturned except for abuse of discretion.” *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). We uphold the district court’s division of property provided “it had an acceptable basis in fact and principle even though we might have taken a different approach.” *Id.*

Each of husband’s arguments are presented as conclusory statements with no citation to caselaw or the record. “[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it.” *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944); *see also Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949). We decline to reach inadequately briefed issues. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982). Though husband is “accorded some leeway” as a *pro se* party, “he is still not

relieved of the burden of, at least, adequately communicating to the court what it is he wants accomplished and by whom.” *Carpenter v. Woodvale, Inc.*, 400 N.W.2d 727, 729 (Minn. 1987).

Based on a careful review of husband’s brief, we cannot infer any findings in the J&D that he argues are in error. Because he does not support his factual assertions with citation to the record and does not support his arguments with citations to caselaw or other authority, and because “mere inspection” reveals no error in the J&D, husband forfeits each of these arguments. *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971).

Affirmed.