

*This opinion is nonprecedential except as provided by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
A21-1304**

In re the Marriage of: Christine Stelben Connolly, petitioner,
Respondent,

vs.

Sean Timothy Connolly,
Appellant.

**Filed May 23, 2022
Affirmed
Hooten, Judge***

Hennepin County District Court
File No. 27-FA-14-8193

Kathleen M. Newman, James R. Todd, DeWitt, L.L.P., Minneapolis, Minnesota (for respondent)

Phillip Gainsley, Law Offices of Phillip Gainsley, Minneapolis, Minnesota (for appellant)

Considered and decided by Segal, Chief Judge; Smith, Tracy M., Judge; and Hooten, Judge.

NONPRECEDENTIAL OPINION

HOOTEN, Judge

In this post-decree marriage-dissolution appeal, appellant Sean Timothy Connolly (husband) appeals various decisions made by the district court during its adjudication of

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

respondent Christine Stelben Connolly's (wife's) motion to modify spousal maintenance. We affirm.

FACTS

The relevant facts are not in dispute. The parties married in 1997 and wife petitioned for divorce in 2014. The district court issued its Findings of Fact, Conclusions of Law, and Order for Judgment and Judgment and Decree (J&D) in September 2016. After amending the J&D twice, the district court granted wife \$3,930 in monthly permanent spousal maintenance and \$1,879 in monthly child support for the parties' three minor children.¹ When determining the amount of spousal maintenance, the district court equalized the parties' post-tax cash flow.²

During the dissolution trial, husband lost his job. Because of this, husband moved to modify spousal maintenance. The district court granted husband's motion and reduced his spousal maintenance obligation to \$510 per month while increasing his child support obligation to \$1,963 per month. The district court chose the amount of spousal maintenance to equalize the parties' post-tax cash flow.

In February 2021, wife moved to modify spousal maintenance. At some point after the reduction in his spousal maintenance obligation, husband found a new job. Wife's motion alleged that husband's income from this new job increased after he received a

¹ Husband's child support obligation is not at issue in this appeal.

² While husband suggested this approach to the district court, wife did not stipulate to this approach. We note that the district court did not conduct the analysis required by Minn. Stat. § 518.552 (2020). Because neither party challenges this approach by the district court, we decline to address whether the district court's failure to conduct the statutory analysis is fatal to the award.

promotion to an executive level position. Wife also claimed in the motion that her parents loaned her money to allow her to maintain her marital standard of living. Wife served husband with her motion as well as with interrogatories and demands for documents. Husband, then acting pro se, neither responded to the motion nor fully responded to wife's discovery requests. Wife served and filed an amended motion in March 2021.

The district court held an evidentiary hearing on wife's motion in April 2021.³ Husband appeared pro se. After the district court allowed husband to testify at the hearing, it orally granted all of wife's motions. The district court then issued its written order on April 22, 2021, consistent with its prior oral ruling.

As part of the order, the district court stated that it would appoint a neutral financial expert to "effectuate an equalization of the parties' incomes in a manner that maximizes the available cash flow." On May 11, 2021, the district court issued an order appointing the neutral financial expert. The order included the following language:

4. Consistent with Minnesota Rule of Evidence 706, the Expert findings in this matter are subject to cross examination by either party, including the party who calls the witness. Either party is entitled to retain their own financial expert for trial in this matter.

Three days later, the district court issued an amended order appointing the neutral financial expert. That order changed the language of paragraph 4 to read:

4. Consistent with Minnesota Rule of Evidence 706, the Expert findings in this matter are subject to cross examination

³ Initially, a referee heard this matter, and the referee made recommendations which were adopted by the district court. Because the district court adopted the referee's recommendations, when we refer to the district court's actions, we are, in fact, referring to the referee's actions. Minn. R. Civ. P. 52.01.

by either party *in the event of a trial or evidentiary hearing*, including the party who calls the witness. Either party is entitled to retain their own financial expert in this matter *in the event of a trial or evidentiary hearing*.

(Emphasis added.) The amended order also stated that “[t]his Order supersedes prior Orders with respect to [the neutral financial expert’s] appointment in this matter and the tasks she [is] asked to perform.” This order, functionally, bifurcated the proceedings into (1) the April 2021 evidentiary hearing, at which both parties had the opportunity to enter their financial evidence, and (2) a separate process by which the neutral financial expert analyzed the financial evidence and submitted recommendations to the district court based on her analysis of the evidence.

Husband then, after retaining counsel and his own expert, sought discovery of wife’s income and expenses. Wife did not comply with husband’s requests and the district court denied husband’s request to hold a discovery hearing, stating that its April 22, 2021, order was a final order relative to wife’s motions.

In August 2021, the neutral financial expert issued a report informing the parties’ attorneys of her recommendations and wife then submitted a proposed order based on those recommendations. In response, husband filed a memorandum objecting to the expert’s recommendations and wife’s proposed order and requested a hearing.

In September 2021, the district court adopted the neutral financial expert’s recommendations and issued an order setting the amount of husband’s spousal maintenance obligation. The district court increased husband’s spousal maintenance obligation to

\$4,900 per month and decreased his child support obligation to \$1,534 per month.⁴ The district court set the amount of spousal maintenance to equalize the parties' post-tax cash flow. In the order, the district court also rejected husband's post-hearing submissions.

Husband appeals.

DECISION

I. The district court did not abuse its discretion by denying husband's requests for post-hearing discovery, to cross-examine the neutral financial expert, or to offer post-hearing evidence from his expert.

Husband primarily argues that the district court improperly disregarded his requests for discovery from wife and to cross-examine the neutral financial expert. Husband argues that the May 14, 2021, order appointing the neutral financial expert—which supersedes the May 11, 2021, order—*also* supersedes all portions of the April 22, 2021, order addressing the neutral financial expert's appointment. We disagree.

Generally, we review de novo the interpretation of court orders. *Jensen v. Jensen*, 440 N.W.2d 152, 154 (Minn. App. 1989). But we defer to a district court's interpretation of its own orders. *See Potter v. Potter*, 471 N.W.2d 113, 114 (Minn. App. 1991) (reviewing trial court's implementation of judgment under an abuse of discretion standard). A district court abuses its discretion "by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is 'against logic and the facts on record.'" *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quoting *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997)).

⁴ The district court also ordered husband to pay \$5,189 in conduct-based attorney fees. The attorney fee award is not at issue on appeal.

Husband's entire argument hinges on us agreeing with him that the May 14, 2021, order superseded the portions of the April 22, 2021, order related to the appointment of the neutral financial expert. But we do not agree. Instead, the district court's interpretation of its orders conflicts with husband's interpretation and the district court's interpretation of its orders is reasonable. *Potter*, 471 N.W.2d at 114.

Husband mistakenly focuses solely on paragraph eight of the May 14, 2021, order. That paragraph reads: "This Order [supersedes] prior Orders with respect to [the neutral financial expert's] appointment in this matter and the tasks she [is] asked to perform." The plain text of that paragraph states that the May 14, 2021, order supersedes prior orders *appointing* the neutral financial expert and the expert's task to make recommendations on the parties' spousal maintenance obligations. The April 22, 2021, order is related to neither appointment of the neutral financial expert nor that expert's duties. Instead, the April 22, 2021, order states that the neutral financial expert "shall be appointed . . . *by a separate Order to follow*." The April 22, 2021, order then outlines the parties' obligation to cooperate with the neutral financial expert. Thus, the April 22, 2021, order was not an order "with respect to [the neutral financial expert's] appointment" but an order related to the parties' obligations to comply with the neutral financial expert's requests. The May 14, 2021, order supersedes only the May 11, 2021, order appointing the neutral financial expert. To say that the May 14, 2021, order also superseded the April 22, 2021, order would be to say that the district court appointed a financial expert but—because the May 14, 2021, order superseded the April 22, 2021, order requiring cooperation with the financial expert—the district court did not require the parties to cooperate with the expert

it appointed. This reading of the district court's orders is counterintuitive (at best), and we decline to read the district court's orders in this manner.

We further note that husband's challenge here is the amount of his and wife's incomes as dictated by the district court in its April 22, 2021, order and therefore the *amounts* used by the neutral financial expert in her calculation. But the district court's April 22, 2021, order decided this issue. After granting wife's motion to increase husband's spousal maintenance obligation, all the district court needed to determine was how to divide the parties' collective income equally as required by the J&D, a determination that husband does not contest. To that end, the district court appointed a neutral financial expert. Husband does not contest the neutral financial expert's appointment or calculations, but the amounts as found by the district court and utilized in the neutral financial expert's calculations. However, the time to contest those amounts was during the initial motion hearing, not after the district court appointed the neutral financial expert to analyze the data submitted to the court at that hearing.⁵

⁵ Husband also argued that the district court erred by classifying its April 22, 2021, order as a "final order" or improperly entered a default sanction thereby foreclosing his ability to seek discovery from wife regarding the financial gifts she received from her family and cross examine the neutral financial expert. We decline to address the merits of husband's argument. Because of the district court's interpretation of the April 22, 2021, and subsequent orders, it is irrelevant whether the April 22, 2021, order is final. The district court's April 22, 2021, order called for the appointment a neutral financial expert and provided the parties no opportunity to reopen discovery. Further, as we explain, the purpose of the district court's subsequent orders was to implement the April 22, 2021, order.

II. The district court did not abuse its discretion by failing to explicitly adopt a paragraph related to the parties' mutual annual reporting requirement from the referee's recommendation.

Husband also argues that the district court committed reversible error by failing to explicitly adopt a paragraph recommended by the referee related to the parties' mutual annual income reporting requirement. Appellate courts are error-correcting courts, *see Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988), and, while the district court's failure to adopt a paragraph related to the parties' mutual requirement is a mistake, husband fails to demonstrate in his brief how this mistake prejudices him, *see* Minn. R. Civ. P. 61 (requiring harmless error to be ignored); *see Goldman v. Greenwood*, 748 N.W.2d 279, 285 (Minn. 2008) (citing this aspect of Minn. R. Civ. P. 61). And, on this record, we conclude that the mistake husband complains of is, at most, a de minimis, technical error. Therefore, it does not require relief on appeal. *See Wibbens v. Wibbens*, 379 N.W.2d 225, 227 (Minn. App. 1985) (denying appellate relief for de minimis error).

Affirmed.