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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1102**

In re the Marriage of:
Diane Faye Meyer, petitioner,
Respondent,

vs.

Chad Allen Meyer,
Appellant.

**Filed April 10, 2023
Affirmed
Reyes, Judge**

Itasca County District Court
File No. 31-FA-20-1450

Christina C. Huson, Huson Law Firm, P.L.LC., Maplewood, Minnesota (for respondent)

Andrew J. Laufers, Laufers Legal Services, Lake Elmo, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Reyes, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

In this marriage-dissolution dispute, husband argues that the district court (1) abused its discretion by determining that the nonmarital tax liens on a marital home in Minnesota were paid and satisfied with marital assets; (2) erred in determining that husband did not have a nonmarital interest in a 2006 Ski-Doo snowmobile; and (3) abused its discretion by

determining spousal maintenance without making a finding on husband's net income. We affirm.

FACTS

Appellant-husband Chad Allen Meyer and respondent-wife Diane Faye Meyer were married on October 22, 2011, and have lived separately since April 2020. Wife petitioned for dissolution of marriage in June 2020. The district court held a court trial on August 24, 2021, August 25, 2021, and February 15, 2022, on husband's nonmarital-interest claim to the homestead in Grand Rapids, Minnesota, and spousal maintenance for wife.

At trial, husband claimed a nonmarital interest in the homestead in Grand Rapids after being awarded that homestead as part of his divorce decree in 2009 to his previous wife. The district court found that husband came into this marriage with a tax-lien debt which encumbered the homestead at the time of the marriage. It also found that the parties used marital funds to pay the nonmarital debt. Ultimately, the district court determined that each party was entitled to one-half equity in the homestead.

As for spousal maintenance, wife requested \$3,000 per month for ten years from husband, while husband requested that the district court not award either party spousal maintenance. At the time of trial, husband was 50 years old and worked as a self-employed truck driver, and wife was 48 years old and worked as an employment-support supervisor. Considering the marital standard of living, the district court found that "wife lack[ed] sufficient property . . . to provide for her reasonable needs" and meet her monthly budget shortfall of \$2,904. It also found that wife was "unable to provide adequate self-support through appropriate employment." The district court therefore determined that wife had

established a need for maintenance and that wife was entitled to temporary spousal maintenance for a period of three years. It ordered husband to pay wife \$2,300 per month until she received her \$75,000 lump-sum payment and then \$1,450 per month for the remainder of the three years. This appeal follows.

DECISION

I. The district court did not abuse its discretion when it determined that the nonmarital tax liens on the marital home in Grand Rapids were paid and satisfied with marital assets.

Husband argues that the district court abused its discretion by determining that he did not have a nonmarital interest in the marital home. We are not convinced.

“We do not overturn a district court’s evaluation and division of property unless the court abuses its discretion.” *Gill v. Gill*, 919 N.W.2d 297, 301 (Minn. 2018). It 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). “Whether property is marital or nonmarital is a question of law, but a reviewing court must defer to the [district] court’s underlying findings of fact.” *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). A finding of fact is clearly erroneous if an appellate court is “left with the definite and firm conviction that a mistake has been made.” *Id.* (quotation omitted).

Marital property is property, real or personal, acquired by the parties or either party at any time during the marriage. Minn. Stat. § 518.003, subd. 3b (2022). “Nonmarital property includes property acquired by either spouse before the marriage.” *Reed v. Albaaj*, 723 N.W.2d 50, 58 (Minn. App. 2006) (citing § 518.003, subd. 3b). “All property acquired

by either spouse during the marriage is presumed to be marital property, without regard to the form of ownership.” *Antone v. Antone*, 645 N.W.2d 96, 100-01 (Minn. 2002). “To overcome the presumption that property is marital, a party must demonstrate by a preponderance of the evidence that the property is nonmarital.” *Id.*

When identifying the amounts of marital and nonmarital equity in assets, in which the parties have both marital and nonmarital interests, courts use the formula adopted in *Schmitz v. Schmitz*, 309 N.W.2d 748 (Minn. 1981). The formula provides the following:

The present value of a nonmarital asset used in the acquisition of marital property is the proportion the net equity of contribution at the time of acquisition bore to the value of the property at the time of purchase multiplied by the value of the property at the time of separation. The remainder of equity increase is characterized as marital property.

Antone, 645 N.W.2d at 102 (quotation omitted).

Husband claims a nonmarital interest in the homestead property based on equity he had at the time of marriage. The dissolution judgment contained findings that: (1) at the time of the marriage, the homestead had a fair market value of \$183,000, and was subject to a \$148,800 mortgage, and two tax liens totaling \$37,889.62 and (2) at the time of the dissolution, the homestead had a fair market value of value of \$218,000, and was subject to total encumbrances of \$97,747. Based on these findings, the district court first calculated husband’s nonmarital interest at the time of the marriage without including the two tax liens. It computed husband’s nonmarital interest to be \$34,200 ($\$183,000 - \$148,800 = \$34,200$). The district court then used the \$34,200 to calculate his nonmarital interest in the homestead at the time of the dissolution using the *Schmitz* formula. Based on its

Schmitz calculations, the district court found that, at the time of dissolution, the homestead had \$79,704 of marital equity, and that husband's \$37,889.62 in nonmarital tax liens on the property at the time of the marriage exceeded husband's then-existing nonmarital equity in the homestead. The district court also found that the parties paid off the liens with marital funds.

Husband argues that he satisfied the tax liens with a second mortgage in 2009 before the parties' marriage. The district considered his testimony but found him not credible because: (1) the tax liens were released in September 2012, approximately a year after their marriage; (2) the second mortgage existed three years before the debt was satisfied and the liens were released; (3) the balance of the second mortgage was \$50,300, which was significantly more than the amount of the tax liens; and (4) husband did not provide any documentation to support his claim that he used nonmarital funds to satisfy the two tax liens. Conversely, the district court found wife's testimony and evidence that the tax liens were satisfied and released on September 21, 2012, to be credible. We defer to the district court's credibility determinations. *See Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). The district court properly found that the testimony husband provided did not overcome the presumption of marital property.

Given that husband's nonmarital tax debt exceeded husband's nonmarital interest in the homestead at the time of marriage and that the parties used marital funds to pay the nonmarital debt, the district court determined that each party was entitled to one-half of the equity in the homestead. The district court's determination is therefore not against "logic and the facts on the record." *Rutten*, 347 N.W.2d at 50.

II. The district court did not err by determining that husband did not have a nonmarital interest in a 2006 snowmobile.

Husband argues that the district court erred by failing to make findings on whether a 2006 snowmobile was marital or nonmarital property. But the record shows that husband did not raise this issue before the district court, and we “generally consider only those issues that the record shows were presented and considered by the [district] court.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (internal quotes omitted). Because there is no decision by the district court to review, we decline to do so for the first time on appeal. *Id.*

III. The district court did not abuse its discretion by determining spousal maintenance without finding husband’s net income.

Husband argues that the district court abused its discretion because it never made a finding on husband’s net income. We are not persuaded.

This court reviews a district court’s decision on spousal maintenance for an abuse of discretion. *Honke v. Honke*, 960 N.W.2d 261, 265 (Minn. 2021). Further, “our legal system gives broad discretion to district courts, who are called upon to scrutinize financial exhibits such as paychecks, bills, investment returns, expenses, and evaluate often-disputed testimony to determine the propriety of a maintenance award.” *Id.* at 269.

Spousal maintenance is an “award made in a dissolution or legal separation proceeding of payments from the future income or earnings of one spouse for the support and maintenance of the other.” Minn. Stat. § 518.003, subd. 3a (2022). A party requesting spousal maintenance must establish a need. Minn. Stat. § 518.552, subd. 1 (2022). *See Lyon v. Lyon*, 439 N.W.2d 18, 22 (Minn. 1989) (stating that an award of spousal

maintenance requires a showing of need). Once a spouse establishes need, the district court may determine the amount and period of time based on all relevant factors, including

- (a) financial resources of the party seeking maintenance;
- (b) the time necessary to acquire sufficient education or training to enable the party seeking maintenance;
- (c) the standard of living established during the marriage;
- (d) the duration of marriage;
- (e) the loss of earnings;
- (f) the age, and the physical and emotional condition of the spouse seeking maintenance;
- (g) the ability of the spouse from whom maintenance is sought to meet [their] needs while meeting those of spouse seeking maintenance; and
- (h) the contribution of each party in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the . . . furtherance of the other party's employment or business.

Minn. Stat. § 518.552, subd. 2 (2022).

“But no single factor . . . is dispositive.” *Schmidt v. Schmidt*, 964 N.W.2d 221, 226 (Minn. App. 2021). “A district court’s determination of income for maintenance purposes is a finding of fact and is not set aside unless clearly erroneous.” *Peterka v. Peterka*, 675 N.W.2d 353, 357 (Minn. App. 2004). “[I]ncome from self-employment or operation of a business . . . is defined as gross receipts minus costs of goods sold minus ordinary and necessary expenses required for self-employment or business operation.” Minn. Stat. § 518A.30 (2022).

Husband does not dispute the district court’s findings that wife established an inability to provide for her reasonable needs. Instead, husband argues that the district court did not “provide a sufficient record to determine whether [he] can pay spousal

maintenance.” The record shows the contrary. At trial, husband claimed his monthly expenses to be \$6,717. However, husband did not testify to his monthly income and only provided his federal income-tax returns for the years 2018, 2019, and 2020, which showed his highest reported gross annual income as \$23,149. The district court found that his “tax documents present[ed] a particularly skewed picture of his income.”

Wife testified that husband is sometimes paid in cash that he did not report on his tax returns. Wife hired a certified public accountant (CPA) to calculate “how much income Meyer Trucking and [husband] make each year” and to prepare a report of husband’s income from self-employment. The CPA testified at trial that, before preparing the report, she requested certain documents from husband to help prepare the report but did not receive them. This included business accounts payable and receivable, a detailed list of the fair market value of the fixed assets for the business, a balance sheet for 2020, all 1099’s that the business received or issued, and husband’s work hours and job duties. Because the CPA did not receive all the information requested, the CPA could only analyze husband’s income for 2020.

The CPA calculated husband’s 2020 pretax income per month to be \$16,014, which equates to \$192,168 per year. Husband did not refute the CPA’s testimony or explain how he could maintain his lifestyle while reporting a significantly lower amount in his tax returns. The district court found the CPA’s testimony and calculations credible. It further found that “the amount of [husband’s] annual reported income is insufficient to pay living expenses, . . . establishing that living expenses are being deducted as business expenses, inaccurately reducing the income of the business.” It also found that the “credit card

statements show that numerous personal expenses were incurred on those business credit accounts then deducted as a business expense.”

Husband specifically argues that the district court failed to make a finding on his net income. In a recent spousal-maintenance case, the wife in that case argued that the district court erred by making findings on her gross income but not her net income. *See Schmidt*, 964 N.W.2d at 226. Unlike our case, there was sufficient evidence provided on wife’s income-tax obligations. The wife had a gross monthly income of \$7,917, monthly expenses of \$7,624, and an income-tax obligation of \$1,386. *Id.* at 227-28. We noted that “subtracting income taxes from her gross income would, by itself, make the difference between a slight monthly surplus and a significant monthly deficit.” *Id.* at 228. We therefore held that “a district court must consider the spouse’s net or after-tax income . . . if there is evidence in the record of the spouse’s anticipated income-tax obligations and if the difference between the spouse’s gross income and net income may be determinative of the spouse’s need for spousal maintenance.” *Id.* at 224.

The difference is not determinative here. Husband’s undisputed gross monthly income is \$16,014. The only evidence husband provided of his anticipated income-tax obligation were three years of federal tax returns showing a monthly federal-tax obligation of \$379.75. This provides husband approximately \$15,643.25 of net monthly income, which is more than enough to cover his monthly expenses of \$6,717 and wife’s monthly temporary-spousal-maintenance award of \$2,300. Subtracting the income taxes, monthly expenses, and temporary spousal maintenance would still leave husband with approximately \$6,617.25 of net monthly income. This is factually dissimilar to *Schmidt* in

which the wife was left with a “monthly deficit of more than \$1,000.” *Id.* at 228. Moreover, the Minnesota Supreme Court has stated that “consideration of tax consequences depend[s] significantly on the evidentiary record including evidence as to whether a taxable event is sufficiently likely to occur.” *Id.* at 229 (citing *Maurer v. Maurer*, 623 N.W.2d 604 (Minn. 2001)).

As the record shows, husband failed to provide more evidence of his income-tax obligations. He cannot complain now that the district court failed to make a more detailed analysis when “he has failed to present a complete picture of his assets and debts.” *See Tuthill v. Tuthill*, 399 N.W.2d 230, 232 (Minn. App. 1987); *see also Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that “[o]n appeal, a party cannot complain about a district court’s failure to rule in her 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”), *rev. denied* (Minn. Nov. 25, 2003); *Hesse v. Hesse*, 778 N.W.2d 98, 104 (Minn. App. 2009) (citing this aspect of *Eisenschenk*). Finally, the district court not only considered husband’s income but also seven other statutory factors to determine spousal maintenance. *Schmidt*, 964 N.W.2d at 224. On this record, we conclude that the district court did not abuse its discretion when it determined wife’s spousal-maintenance award.

Affirmed.