STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0330

In re the Marriage of:

Thomas Chazin, petitioner,
Respondent,

vs.

Kristin Chazin,
Appellant.

Filed September 5, 2023
Affirmed in part, reversed in part, and remanded; motion remanded
Smith, Tracy M., Judge

Hennepin County District Court
File No. 27-FA-000302134

Benjamin J. Court, Kacie Phillips Tawfic, Stinson LLP, Minneapolis, Minnesota (for respondent)

Phillip Gainsley, Minneapolis, Minnesota (for appellant)

Considered and decided by Bryan, Presiding Judge; Smith, Tracy M., Judge; and Florey, Judge.*

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

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant challenges the district court's order vacating a judgment arising from a 2006 marital-dissolution judgment and decree and denying her motion for need-based attorney fees. Because the district court did not err in ruling that appellant's judgment had expired under the ten-year statute of limitations, we affirm the district court's vacatur of the judgment. But, because the district court did not make findings related to appellant's motion for need-based attorney fees, we reverse its decision on that issue and remand to the district court. We also remand appellant's motion for need-based attorney fees on appeal.

FACTS

Appellant Kristin Briggs[1] and respondent Thomas Chazin's marriage was dissolved by judgment and decree entered on April 21, 2006. The decree included the following award:

> **Cash Property Equalizer.** The Petitioner [Chazin] shall pay to the Respondent [Briggs] $118,897.30 as full and final satisfaction of her interest in the parties' marital estate. This payment is in addition to the $43,500 Petitioner agreed to pay Respondent at the hearing of February 21, 2006. The cash property equalizer is due and payable within thirty (30) days after the entry of the Judgment and Decree. Interest at the judgment rate shall accrue on the balance due the Respondent if the amount is not paid in full when due.

[1] Kristin Briggs was formerly known as Kristin Chazin. This opinion refers to appellant as Briggs and respondent as Chazin, consistent with their briefings.

About 16 years later, on April 1, 2022, Briggs's attorney filed an affidavit of default, identification, and nonmilitary service in district court stating that Chazin failed to pay Briggs the $162,397.30 awarded in the 2006 judgment and decree. The district court administrator filed a notice of entry and docketing of judgment for $162,397.30 against Chazin. Briggs domesticated the judgment in Florida, where Chazin now resides.

In January 2023, Chazin moved to vacate the judgment under Minnesota Rule of Civil Procedure 60.02. He argued that Briggs's effort to docket the judgment was time-barred by the ten-year limitations period for bringing actions on judgments and thus the judgment was void under rule 60.02(d); he also argued that he had satisfied his obligations under the 2006 judgment and decree and thus was entitled to relief under rule 60.02(e). Briggs filed a motion to correct the judgment to $663,950.52—the original $162,397.30 plus interest since May 21, 2006, 30 days after entry of the dissolution judgment and decree—and a motion for need-based attorney fees.

The district court found that more than ten years had elapsed since the 2006 judgment was entered and thus the judgment was "void as a matter of law" under the statute of limitations. The district court granted Chazin's motion to vacate the judgment and denied all other motions.

Briggs appeals. Briggs also moves for attorney fees associated with this appeal.

DECISION

Briggs argues that the district court erred by granting Chazin's motion to vacate the judgment, denying her motion to correct the judgment, and denying her motion for need-

based attorney fees. We first address the parties' motions related to the judgment and then address Briggs's motion for need-based attorney fees.

I. The district court did not err by granting Chazin's motion to vacate the judgment.

Briggs argues that the statute of limitations did not bar enforcement of the judgment and thus the district court erred by vacating the judgment and denying her motion to add interest.

In Minnesota, an action to enforce a judgment must be "begun within ten years after the entry of such judgment." Minn. Stat. § 541.04 (2022). Entry of the judgment occurs when the judgment is entered and signed by the district court administrator in the judgment roll. Minn. R. Civ. P. 58.01. If a judgment creditor does not renew the judgment within ten years of entry, the judgment expires. *Dahlin v. Kroening*, 796 N.W.2d 503, 505 (Minn. 2011).

The district court found, and Briggs agrees, that far more than ten years had passed since the dissolution judgment and decree was entered on April 21, 2006. To avoid the operation of section 541.04, Briggs argues that the ten-year limit in section 541.04 did not begin until the judgment was docketed and that she could docket the judgment at any time. Appellate courts review "the interpretation and application of a statute of limitations" de novo. *Ford v. Minneapolis Pub. Schs.*, 874 N.W.2d 231, 232 (Minn. 2016).

In contending that the ten-year statute of limitations does not begin until the judgment is docketed, Briggs relies on the judgment-lien statute, Minnesota Statutes section 548.09 (2022). That statute provides:

> [E]very judgment requiring the payment of money *shall be entered by the court administrator when ordered by the court* and *will be docketed by the court administrator upon the filing of an affidavit* as provided in subdivision 2. . . . From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor, but it is not a lien upon registered land unless it is also recorded pursuant to sections 508.63 and 508A.63. *The judgment survives, and the lien continues, for ten years after its entry.*

Minn. Stat. § 548.09, subd. 1 (emphasis added).

We are unpersuaded that section 548.09's reference to a judgment's survival means that the statute of limitations commences upon docketing the judgment instead of upon entry of the judgment and decree. Under section 548.09, docketing a judgment is an action distinct from entering the judgment; it is the docketing of the judgment that allows the judgment creditor to obtain a lien on the judgment debtor's real property in the county. *See id.* And section 548.09 states that the judgment survives for ten years "after its entry." *Id.* Plainly, "its entry" refers to the judgment's entry. This interpretation is consistent with section 541.04, which provides that the statute of limitations runs from when the judgment was entered and makes no distinction between judgments that are docketed and judgments that are not. *See* Minn. Stat. § 541.04 ("No action shall be maintained upon a judgment or decree . . . unless begun within ten years after the entry of such judgment."); *see also Dahlin*, 796 N.W.2d at 505 ("Under Minnesota law, a civil judgment survives for a period of ten years after entry of judgment.").[2]

[2] In a nonprecedential opinion, we recently rejected the same argument that Briggs advances. *See Klingelhutz Judgment, LLC v. Klingelhutz*, A19-1894, 2021 WL 957289 (Minn. App. Mar. 15, 2021), *rev. denied* (Minn. May 26, 2021). In *Klingelhutz*, the plaintiff

Briggs also asserts that she was not barred from *docketing* the judgment by the ten-year statute of limitations. She contends that her effort to docket the judgment "is an ancillary proceeding" and not an "action" barred by section 541.04, and thus there is no time limit to docket a judgment. *See* Minn. Stat. § 541.04 ("No *action* shall be maintained upon a judgment or decree . . . unless begun within ten years after the entry of such judgment." (emphasis added)). But, under Minnesota law, an ancillary proceeding is brought to satisfy an existing judgment and cannot extend the life of that judgment. *Amica Mut. Ins. Co. v. Wartman*, 841 N.W.2d 637, 641-643 (Minn. App. 2014) (citing *Newell v. Dart*, 9 N.W. 732, 734 (Minn. 1881)), *rev. denied* (Minn. Mar. 18, 2014). As a result, Briggs's contention that docketing is an "ancillary proceeding" does not allow her to extend or evade the statute of limitations.

---

relied on the judgment-lien statute to argue that its judgment-renewal action was timely when it was commenced within ten years of docketing, but not entry, of the judgment. *Id.* at *2. We rejected the plaintiff's argument that the judgment-lien statute was relevant to the statute of limitations, explaining that "'entry' and 'docketing' serve distinct purposes and occur in different ways." *Id.* We also explained that the judgment-lien statute "plainly means that the judgment lien created by docketing exists for a period of time equal to ten years from the date the judgment was initially entered." *Id.* at *3. Although *Klingelhutz* is not binding, its reasoning is consistent with our analysis of the statutory language and thus we cite it for its persuasive authority. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) ("Nonprecedential opinions and order opinions are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority.").

The district court did not err by vacating the judgment.[3] As a result, we do not address Briggs's argument that the district court should have granted her motion to add interest to the judgment.

II. The district court abused its discretion by denying Briggs's motion for need-based attorney fees without making the statutory findings.

Briggs argues that the district court abused its discretion by denying her motion for need-based attorney fees under Minnesota Statutes section 518.14, subdivision 1 (2022).

Section 518.14, subdivision 1, provides:

> [I]n a proceeding under [chapter 518] or chapter 518A, the court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided it finds:
>
> (1) that the fees are necessary for the good faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;
>
> (2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and
>
> (3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

A party need not prevail on the merits to obtain an award of need-based attorney fees. *Phillips v. LaPlante*, 823 N.W.2d 903, 907 (Minn. App. 2012), *rev. denied* (Minn. Aug. 6,

[3] The district court vacated the judgment as "void as a matter of law." "A void judgment is one rendered in the absence of jurisdiction over the subject matter or the parties." *Matson v. Matson*, 310 N.W.2d 502, 506 (Minn. 1981). And "[a] judgment entered after the statute of limitations has expired is erroneous, but an erroneous judgment is not void." *Majestic Inc. v. Berry*, 593 N.W.2d 251, 257 (Minn. App. 1999), *rev. denied* (Minn. Aug. 18, 1999). Nonetheless, because Briggs does not challenge the district court's authority to vacate an expired judgment and because a motion to vacate a judgment for failing to comply with the statute of limitations may be brought under rule 60.02(f), *see id.* at 256, any error is harmless.

2013). An appellate court reviews a district court's award of attorney fees for an abuse of discretion. *Gully v. Gully*, 599 N.W.2d 814, 825 (Minn. 1999).

As an initial matter, we address Chazin's argument that section 518.14, subdivision 1, does not authorize attorney fees for an effort to docket a judgment for money awarded in a dissolution judgment and decree. Chazin contends that docketing a money judgment is a creditor-debtor matter—not a "proceeding under [chapter 518] or 518A," Minn. Stat. § 518.14, subd. 1—and thus a court may not award Briggs need-based attorney fees. We are unpersuaded. Chazin does not identify caselaw limiting a court's authority to award need-based attorney fees that arise from docketing a judgment obtained in a proceeding under chapter 518 or 518A.[4] And this court has recognized that conduct-based attorney fees—which are also authorized by section 518.14, subdivision 1—may be awarded based on conduct in an "ancillary proceeding" if (1) the ancillary proceeding is "sufficiently related to the martial dissolution," (2) the fees are "necessary to protect some interest awarded to the fee-seeking party in the dissolution," and (3) "the potential obligor's conduct . . . would satisfy the requirements for a conduct-based fee award." *Brodsky v.*

[4] Chazin relies on two cases, *Nelson v. Quade*, 413 N.W.2d 824 (Minn. App. 1987), *rev. denied* (Dec. 22, 1987), and *Riley v. Riley*, 385 N.W.2d 883 (Minn. App. 1986), to support his argument that Briggs is not entitled to attorney fees arising from this proceeding. But neither *Nelson* nor *Riley* involved the availability of need-based attorney fees. In *Nelson*, we held that ex-spouses could enter into agreements solely related to property division, which we distinguished from issues that require continuing family court jurisdiction, such as custody, child support, and spousal maintenance. 413 N.W.2d at 828. And in *Riley*, we held that the postjudgment interest statute applies to unpaid awards of money arising from a dissolution action. 385 N.W.2d at 888. As a result, *Nelson* and *Riley* do not limit the availability of need-based attorney fees here.

Brodsky, 733 N.W.2d 471, 477 (Minn. App. 2007). As a result, we decline to affirm the district court's denial of need-based attorney fees on this basis.

We now consider Briggs's contention that the district court abused its discretion by failing to make findings when it denied her motion for need-based attorney fees. In her motion and a supporting affidavit, Briggs asserted the elements for a need-based award: that the fees were incurred in a good-faith assertion of her rights, that she does not have the means to pay them, and that Chazin has the means to pay them. Without findings, we cannot discern whether the district court determined that Briggs was not engaged in a good-faith assertion of her rights[5] or that she could afford to pay the attorney fees or that Chazin could not. Although we recognize that the district court has broad discretion, the statute could be read to require the award of need-based attorney fees if the statutory standard has been met. *See* Minn. Stat. § 518.14 (providing the court "shall award attorney fees . . . provided it finds" the statutory elements); *see* Minn. Stat. § 645.44, subd. 16 (2022) (stating that "'[s]hall' is mandatory"). Accordingly, we reverse the denial of Briggs's motion for need-based attorney fees and remand for further proceedings to determine whether the need-based standard has been met. The district court has discretion to reopen the record to the extent necessary to make findings on whether Briggs has met the statutory elements.

[5] Chazin contends that the district court's determination that the judgment was void "implies that the district court did not consider [Briggs's] claim to have been made in good faith." We are unpersuaded that the district court's decision on the merits of the motion to vacate—absent a specific finding that she did not act in good faith—allows such an inference.

Briggs also moves this court for need-based attorney fees associated with this appeal. *See* Minn. R. Civ. App. P. 139.05 (describing procedure for seeking appellate attorney fees). Because we are remanding the issue of attorney fees for additional findings, we also remand the motion for appellate attorney fees and direct the district court to consider and decide that motion.

Affirmed in part, reversed in part, and remanded; motion remanded.