This opinion is nonprecedential except as provided by Minn.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
A23-0436

In re the Marriage of: Deborah Kay Schadewald,
n/k/a Deborah Kay DeJong, petitioner,
Respondent,

vs.

Gregory John Schadewald,
Appellant.

Filed February 12, 2024
Reversed
Smith, John, Judge*

Anoka County District Court
File No. 02-F5-98-008027

Lindsay K. Fischbach, Barna, Guzy & Steffen, Ltd., Minneapolis, Minnesota (for respondent)

Kenneth M. Wasche, Kenneth M. Wasche, P.C., Blaine, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Larson, Judge; and Smith, John, Judge.

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

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We reverse because the district court's order modifying the parties' January 2000 domestic-relations order specifying how the respondent's retirement plan would be divided affected the substantial rights of the appellant.

FACTS

Appellant Gregory John Schadewald (husband) and respondent Deborah Kay Schadewald, n/k/a Deborah Kay DeJong (wife), dissolved their marriage in December 1999 pursuant to a stipulated judgment and decree. At that time, wife worked for the State of Minnesota and had a Minnesota State Retirement System (MSRS) account. Regarding the division of wife's retirement "accounts and plans,"[1] the decree stated:

> [Husband] shall be awarded 50% of the value as of May 12th, 1999[,] in and to any and all retirement accounts and plans of [wife], including [wife's] deferred compensation plan and defined benefit pension plan. Upon entry of the judgment and decree, [husband's] counsel shall draft and submit a Qualified Domestic Relations Order to effectuate this division from [wife's] retirement plans as recited herein. [Wife] shall cooperate in providing information and execution of necessary documents to effectuate this award. [Husband] shall be responsible for any income tax consequences of the retirement plans awarded to him herein.

[1] While the decree referenced all of wife's retirement accounts and plans, the primary issue in this appeal is wife's pension plan.

On January 26, 2000, the district court filed a domestic-relations order (DRO)[2] stating in relevant part:

- [T]he parties have mutually agreed upon May 12th, 1999[,] as the end date of the marriage for dividing the participant's defined benefit pension plan.
- The Alternate Payee of the Alternate Payee's estate shall receive from the [MSRS] a portion of [wife's] Defined Benefit pension benefit. The portion payable to the Alternated Payee is equal to the number of married years that [wife] was covered by MSRS, divided by the total years of service credit earned, multiplied by 50% of any annuity, refund, or other benefit payable by the Plan.
- The retirement Plan Administrator shall commence with the standard distribution procedures immediately, directing all correspondence to the payee . . . .

Wife retired from employment with the State of Minnesota in 2022. In January 2023, more than 20 years after the DRO, wife filed a motion to amend the DRO to limit husband's share of her pension. At the time of their dissolution, wife earned around $45,000 yearly, but at the time of her retirement, she earned around $145,000 yearly. Wife acknowledged in an affidavit that the 2000 DRO allowed husband to take advantage of her "high five salary calculation," meaning that husband's share of her pension would be calculated based on her salary during the last five years of her employment, her highest earning years. She requested that husband's share be calculated on a marital-high-five basis, meaning his share would be calculated based on her salary during the marriage.

[2] We recognize that the decree referenced a Qualified Domestic Relations Order, not a DRO. However, the parties have not raised an issue regarding this discrepancy, and we therefore do not discuss it further.

According to wife's affidavit, "MSRS did not administer a marital high-five years of salary calculation, but they now do administer such DROs."

In March 2023, following a motion hearing, the district court granted wife's motion and amended the DRO so that husband's share of the pension would be calculated using wife's "high-five average monthly salary during the marital period." The court concluded that reforming the DRO to adopt a marital-high-five calculation best reflected the parties' intent. The court deemed its reformation a clarification of the decree and DRO rather than a substantive modification of the property division.

DECISION

Husband argues that the district court erred by modifying the DRO and awarding wife additional assets. We agree. The district court impermissibly modified the marital-property division by increasing wife's share and decreasing husband's share of wife's pension.

The decree in this case required the creation of an order to effectuate the division of wife's retirement plans, and we therefore view the DRO as an extension of the decree. Wife does not dispute that the appeal periods for the decree and DRO have expired. District courts have limited authority to modify a division of marital property in a judgment and decree after the appeal period has expired. *Mikkelsen v. Mikkelsen*, 174 N.W.2d 241, 243 (Minn. 1970); *Stevens v. Stevens*, 501 N.W.2d 634, 637 (Minn. App. 1993); *see also* Minn. Stat. § 518.145, subd. 2 (2022) (setting forth limited grounds for reopening a judgment and decree); *Shirk v. Shirk*, 561 N.W.2d 519, 522 (Minn. 1997) ("The sole relief from the judgment and decree lies in meeting the requirements of Minn. Stat. § 518.145, subd. 2.").

While a district court generally may not modify a final property division, it may clarify provisions of a decree so long as it does not alter the parties' substantive rights. *Nelson v. Nelson*, 806 N.W.2d 870, 871 (Minn. App. 2011); *Redmond v. Redmond*, 594 N.W.2d 272, 275 (Minn. App. 1999). An order clarifying a dissolution decree does not affect the parties' substantive rights when it does not increase or decrease the original division of marital property. *Nelson*, 806 N.W.2d at 871; *Hanson v. Hanson*, 379 N.W.2d 230, 233 (Minn. App. 1985). This court will not disturb an appropriate order clarifying the terms of a decree unless the district court abused its discretion. *Potter v. Potter*, 471 N.W.2d 113, 114 (Minn. App. 1991). A district court abuses its discretion by resolving the matter in a manner that is contrary to logic and the facts on record. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997).

Here, the district court altered the parties' substantive rights. The record shows that (1) at the time of the original DRO, MSRS did not provide for a marital-high-five calculation method; and (2) "the MSRS plan administrator would interpret the [original] DRO" so that husband's benefit "would be approximately $1,065 monthly," and under wife's requested amendment to the DRO, husband's benefit "would be approximately $295 monthly."

By amending the DRO to include a marital-high-five method for calculating husband's share of the pension, the district court increased wife's share and decreased husband's share of the pension and thereby impermissibly altered the parties' substantive rights. *See Erickson v. Erickson*, 452 N.W.2d 253, 255-56 (Minn. App. 1990) (noting that a district court cannot implement or enforce a dissolution judgment in a manner that alters the terms of that judgment or otherwise alters the parties' substantive rights).

Wife argues that the decree and DRO, considered in tandem, are ambiguous because the decree awarded husband half of the pension as of a specific date, May 12, 1999, and the DRO does not specify whether MSRS is to use a marital-high-five or a salary-high-five method for calculating husband's share. The district court effectively relied on wife's argument in determining that it could modify the DRO. The district court deemed the May 1999 "valuation date" to be a "bright line" and declined to award husband asset gains after that date "which were the result of [wife's] significant effort and achievement after the dissolution."

We appreciate wife's career dedication, which undoubtedly played a role in her advancement following the dissolution. Nonetheless, the DRO contained a clear method for calculating husband's share, and the record indicates that the MSRS plan administrator was able to implement the DRO as originally written. Therefore, the parties' DRO was not ambiguous when it was filed in January 2000. *See Halverson v. Halverson*, 381 N.W.2d 69, 71 (Minn. App. 1986) (stating that whether a decree is ambiguous is a legal question, which we review de novo). As wife noted in her affidavit, "The *current* DRO allows [husband] to take advantage of my high five salary calculation." (Emphasis added.) We conclude that the parties could not have originally intended a marital-high-five calculation method because the record indicates that such a method did not exist at the time of the dissolution. *See Bone v. Bone*, 438 N.W.2d 448, 451 (Minn. App. 1989) (stating that a decree should be interpreted so that the original intent is accurately expressed). Regardless, the modified DRO clearly alters the parties' substantive rights by increasing wife's share and decreasing husband's share of the pension. As such, the district court abused its discretion in modifying the DRO.

Reversed.