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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1979**

In re the Marriage of:

Jacob Juta, petitioner,
Appellant,

vs.

Fte-Hudani Achinge,
Respondent.

**Filed August 26, 2024
Affirmed; motions granted
Frisch, Judge**

Olmsted County District Court
File No. 55-FA-21-4909

Gary A. Debele, Sydnie M. Peterson, Messerli & Kramer, P.A., Minneapolis, Minnesota
(for appellant)

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Considered and decided by Connolly, Presiding Judge; Cochran, Judge; and
Frisch, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

Following the district court's judgment and decree dissolving the parties' marriage, appellant argues that the district court abused its discretion by (1) awarding respondent temporary spousal maintenance, (2) determining that an asset was marital property, and

(3) awarding respondent need-based attorney fees. Respondent also moves for attorney fees incurred in this appeal. Because the district court did not abuse its discretion in its judgment and decree, we affirm. And we grant respondent's motions for attorney fees.

FACTS

Appellant Jacob Juta and respondent Fte-Hudani Achinge were married in Nigeria in October 2014. They have three minor children. In August 2021, Juta petitioned for dissolution of the marriage. In 2023, the dissolution case was tried before a referee over ten days. The parties agreed on custody and parenting time, and their agreement was approved by the district court. The disputed issues at trial included spousal maintenance, division of property, and attorney fees. At trial, both parties testified and submitted documentary evidence about their marriage, assets, income, and living expenses.

In 2014, shortly after the parties married, Achinge moved to the United States from Nigeria on an F1 student visa. The parties lived in Iowa where Juta was a surgical fellow. Achinge had a bachelor's degree from an institution in Nigeria. She testified that upon moving to Iowa, she was largely dependent on Juta to meet her needs as she could not work full-time while on a student visa, and she did not have independent income or transportation. While in Iowa, Achinge pursued prerequisite courses to enter a nursing program. But when the parties moved to Minnesota, she enrolled in a new program. In 2017, Achinge began a licensed practical nurse (LPN) program. Juta did not support Achinge's educational pursuits and did not pay her tuition after he learned that she enrolled in the LPN program. Achinge did not attend school during the spring 2017 semester after

the parties' first child was born. She returned to school that fall and graduated from her LPN program in June 2018.

In summer 2020, Achinge began a bachelor of science in nursing (BSN) program. The program was virtual at the time due to the COVID-19 pandemic, and she attended classes from home while also caring for the parties' children. Achinge received her BSN degree in summer 2021. At the time of trial, Achinge was enrolled in a postgraduate program to pursue either a doctor of nursing practice or family nurse practitioner degree. Achinge was financing her education through student loans, including \$27,334 in loans during the two years of enrollment in the postgraduate program. The district court found that Achinge's student-loan debt will increase as she completes her postgraduate program. Achinge will likely graduate in summer 2025.

Aching was intermittently employed during the parties' marriage. Achinge testified that she missed work on several occasions to care for the parties' children. Because of these attendance issues, Achinge resigned from one position and was terminated from another. Much of Achinge's employment history was in pursuit of clinical requirements for degree programs or to gain admission into other programs. Achinge testified that one of her positions was "PRN" or "casual" and that she would work primarily overnight to accommodate the children's schedules. While working as a registered nurse (RN), her highest level of education at the time of the trial, Achinge earned an hourly wage between \$32 and \$52.

On August 7, 2023, the referee issued a 57-page recommended judgment and decree, which was approved by a district court judge. The judgment and decree includes

findings regarding spousal maintenance, property division, and attorney fees. Relevant to this appeal, the district court ordered that Juta pay Achinge (1) temporary spousal maintenance of \$8,000 per month for two years, (2) \$503,298.30 as an equalization payment reflecting property and asset division, and (3) attorney fees of \$120,765.51.

On August 22, Juta moved to correct clerical mistakes and miscalculations in the August 7 order. On September 6, Juta moved for amended findings or, in the alternative, a new trial. Juta's pertinent requests include to correct a bank-account valuation affecting the equalizer payment, to vacate its findings and award for spousal maintenance, and to vacate its award of attorney fees. Following a motion hearing, the district court denied Juta's motion to correct clerical mistakes, granted in part his motion for amended findings, and denied his request for a new trial. The district court amended its findings regarding the bank-account valuation and reduced the equalizer payment accordingly. The district court declined to amend its findings regarding Achinge's need for spousal maintenance and attorney fees.

In the judgment and decree, the district court made multiple findings of fact concerning both parties' income and expenses. The district court found that Juta's monthly gross income is \$76,607.70 and his reasonable monthly living expenses are \$13,520.39. The district court found that Achinge was unemployed at the time of trial, had an ability to earn a gross monthly income of approximately \$1,375.64, and had reasonable monthly living expenses of approximately \$6,887. Achinge's approximate monthly living expenses exceed her approximate imputed income by \$5,511.36.

Juta appeals.

DECISION

On appeal, Jutta argues that the district court abused its discretion by (1) awarding Achinge temporary spousal maintenance, (2) determining that Jutta failed to meet his burden to show that certain monies are nonmarital, and (3) awarding Achinge need-based attorney fees. We address each argument in turn.

I. The district court did not abuse its discretion by awarding Achinge temporary spousal maintenance.

Jutta argues that the district court abused its discretion by granting Achinge's request for spousal maintenance for three reasons. He argues that (1) Achinge did not demonstrate that she needed spousal maintenance, (2) the district court did not make the findings required by Minn. Stat. § 518.552, subd. 2 (2022),¹ to support the amount and duration of the maintenance award and that the findings the district court did make are not supported by the record, and (3) the district court improperly based the maintenance award on marital misconduct. We disagree and address each issue in turn.

We review the district court's award of spousal maintenance for an abuse of its broad discretion. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997). A district court abuses its discretion regarding maintenance if it "makes findings unsupported by the

¹ Minn. Stat. § 518.552 was amended effective August 1, 2024. 2024 Minn. Laws. ch. 101, art. 2, §§ 1-8; *see* Minn. Stat. § 645.02 (2022) (providing that each act "takes effect on August 1 next following its final enactment, unless a different date is specified in the act"). We cite to the 2022 version of the statute because it is the version of the statute that was in effect at the time of the district court's judgment and decree and order amending the judgment and decree.

evidence,” or “it improperly applies the law.” *Honke v. Honke*, 960 N.W.2d 261, 265 (Minn. 2021) (quotation omitted).

A. The district court did not abuse its discretion by determining that Achinge needed spousal maintenance under Minn. Stat. § 518.552, subd. 1.

The district court did not abuse its discretion by determining that Achinge needed spousal maintenance. “A party has a need for spousal maintenance if, considering the standard of living during the marriage, the party is unable to provide for his or her reasonable expenses through employment income or investment income or a combination of both.” *Backman v. Backman*, 990 N.W.2d 478, 484 (Minn. App. 2023) (citing Minn. Stat. § 518.552, subd. 1, and *Curtis v. Curtis*, 887 N.W.2d 249, 251-52 (Minn. 2016)). “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). And we review the district court’s choice of income-imputation method for an abuse of discretion. *See Butt v. Schmidt*, 747 N.W.2d 566, 577 (Minn. 2008) (analyzing the predecessor statute to Minn. Stat. § 518A.32 (2022)).

Juta argues that the district court abused its discretion by determining that Achinge was, as Juta summarizes, “incapable of self-support considering her marital property settlement and ability to become gainfully employed.” We are not persuaded for two reasons.

First, the district court’s findings regarding Achinge’s need for spousal maintenance are supported by the record. The district court found that Achinge was unemployed, had an ability to earn a monthly income of approximately \$1,375.64, and had reasonable

monthly living expenses of approximately \$6,887. It appears that the district court determined Achinge's potential income based on the method set forth in Minn. Stat. § 518A.32, subd. 2(3), which authorizes a district court to calculate potential income based on the amount the party "could earn working 30 hours per week at 100 percent of the current federal or state minimum wage, whichever is higher." A district court may also calculate potential income using "employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community." Minn. Stat. § 518A.32, subd. 2(1). We do not agree with Juta that the district court abused its discretion in choosing to calculate Achinge's potential income without considering her employment potential and history. A district court calculates potential income using a method "as appropriate." *Id.*, subd. 2. Although the district court had information related to Achinge's prior work history and wages, the district court also had information about the temporary and uncertain nature of that prior work history. For example, the record shows that Achinge's childcare responsibilities significantly affected her ability to maintain consistent employment, that Achinge's past employment income was related to program requirements, and that she was engaged in educational pursuits at the time of trial. We therefore discern no abuse of discretion by the district court in its exercise of discretion to choose the appropriate method to calculate Achinge's potential income.

Second, we reject Juta's argument that the district court abused its discretion by concluding that the property resulting from the parties' equalization payment eliminated Achinge's need for spousal maintenance. We are unaware of any Minnesota authority

suggesting that a district court abuses its discretion in declining to consider the principal of an equalization payment in the determination of need for spousal maintenance. *See Honke*, 960 N.W.2d at 268 (stating that “a district court cannot require a maintenance-seeking spouse to invade the principal of their marital property for self-support” (citing *Curtis*, 887 N.W.2d at 254)).

Aching’s imputed monthly income as determined by the district court is more than \$5,000 less than her reasonable monthly living expenses. As such, the district court did not abuse its discretion by concluding that Aching made a “sufficient showing of need” for spousal maintenance. *Curtis*, 887 N.W.2d at 252.

B. The district court did not abuse its discretion in determining the amount and duration of spousal maintenance under Minn. Stat. § 518.552, subd. 2.

Juta argues that even if Aching demonstrated a need for spousal maintenance, the district court abused its discretion in determining the amount and duration of the maintenance award because it failed to make findings regarding the statutory factors set forth in Minn. Stat. § 518.552, subd. 2, and because the findings it made were not supported by the record.

If the party seeking spousal maintenance has “made a sufficient showing of need,” a district court will consider “the amount and duration of a maintenance award.” *Id.* The award “shall be in amounts and for periods of time, either temporary or permanent, as the court deems just . . . after considering all relevant factors.” Minn. Stat. § 518.552, subd. 2. The legislature has identified eight nonexclusive factors for a district court to consider when setting the amount and duration of spousal maintenance. *See id.*

As a threshold matter, Jutta failed to raise this argument before the district court and it is therefore forfeited. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (“A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court” (quotation omitted)). In his posttrial motions, Jutta raised no concerns regarding the manner in which the district court considered, or failed to consider, the subdivision 2 statutory factors. On appeal, Jutta argues that his argument related to the absence of itemized subdivision 2 findings is a “more refined version” of his posttrial argument. We are not persuaded. While Jutta made a broad assignment of error in his posttrial motions, he may not “obtain review by raising the same general issue litigated below but under a different theory.” *Id.*

But even if we were to consider Jutta’s argument regarding the quality of the district court’s findings related to the subdivision 2 factors, we discern no abuse of discretion by the district court in setting the amount and duration of spousal maintenance. The eight nonexclusive factors a district court considers in setting the amount and duration of spousal maintenance are:

- (a) the financial resources of the party seeking maintenance, including marital property apportioned to the party, and the party’s ability to meet needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
- (b) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and the probability, given the party’s age and skills, of completing education or training and becoming fully or partially self-supporting;
- (c) the standard of living established during the marriage;
- (d) the duration of the marriage and, in the case of a homemaker, the length of absence from employment and the

extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished;

(e) the loss of earnings, seniority, retirement benefits, and other employment opportunities forgone by the spouse seeking spousal maintenance;

(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 needs while meeting those of the 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 contribution of a spouse as a homemaker or in furtherance of the other party's employment or business.

Minn. Stat. § 518.552, subd. 2.

As Jutta argues, we may remand a spousal-maintenance award when a district court fails to make “[p]articularized findings” that “show that the relevant statutory considerations have been considered.” *Kroening v. Kroening*, 390 N.W.2d 851, 854 (Minn. App. 1986). We agree that such findings are necessary for our review, but we conclude that the district court’s copious factual findings sufficiently demonstrate that it considered the relevant factors under subdivision 2.² And to the extent that the district court’s findings lack particularity, any such error is harmless because Jutta has not satisfied his burden to demonstrate prejudice. Minn. R. Civ. P. 61 (requiring a reviewing court to disregard

² Jutta cites to *Stevens v. Stevens*, in which we remanded a spousal-maintenance award because the district court “failed to make any of the findings required to support an award.” 501 N.W.2d 634, 637 (Minn. App. 1993). In that case, the district court made none of the required findings and we concluded that “[e]ven where the record supports the trial court’s decision, the failure to make specific findings compels a remand.” *Id.* Unlike the circumstances in *Stevens*, here the district court made findings related to each statutory factor.

harmless error); *Sinda v. Sinda*, 949 N.W.2d 170, 175-77 (Minn. App. 2020) (affirming the district court’s denial of a motion for amended findings on an order modifying spousal support where the district court made two clearly erroneous findings, but the obligor spouse did not show that the error was prejudicial).

The district court found that Achinge needed spousal maintenance under Minn. Stat. § 518.552, subd. 1, and made significant findings regarding her need of “temporary financial support” to meet her monthly budget. Minn. Stat. § 518.552, subd. 2(a). The district court also discussed Achinge’s educational pursuits, student-loan debt, and her inability to support herself at the time of trial, finding that Achinge was likely to graduate from her program in 2025, and limited the temporary maintenance award to that time period. *See id.*, subd. 2(b).

The district court also considered the standard of living during the marriage, finding that “[t]he standard of living during the marriage was comfortable consistent with the parties’ significant income.” The district court discredited Jutta’s characterization of the parties’ standard of living as “modest working class,” specifically noting that the parties purchased land, built, and then lived in a custom home with high-end finishes. The district court found that the parties’ standard of living was “comfortable,” consistent with their significant income. *See id.*, subd. 2(c). The district court also considered Achinge’s employment and education history, finding that she faced significant setbacks to accommodate Jutta’s career and provide childcare to the parties’ children. *See id.*, subd. 2(e). The district court found that “[Achinge] is in good health.” *See id.*, subd. 2(f). And the district court considered Jutta’s ability to pay the maintenance award, noting that

Juta “continued to enjoy a high standard of living during the proceedings” and made “numerous and significant purchases” upwards of \$80,000 on a new drone hobby. *See id.*, subd. 2(g). Finally, the district court considered Achinge’s contribution as a homemaker and in furtherance of Juta’s employment, discussing Achinge’s role as “the primary caretaker for the children” and that she “car[ed] for [Juta] and [Juta’s] needs.” *See id.*, subd. 2(h). And, as previously mentioned, the district court noted that these responsibilities often interfered with Achinge’s education and employment pursuits. *See id.*

The district court’s findings are supported by the record and sufficient to demonstrate that it considered each factor set forth in Minn. Stat. § 518.552, subd. 2. Thus, the district court did not abuse its discretion in determining the amount and duration of the maintenance award.

C. The district court did not improperly base its maintenance award on Juta’s marital misconduct.

Juta also argues that the district court abused its discretion by improperly basing its maintenance award on findings reflecting his marital misconduct in contravention of Minn. Stat. § 518.552, subd. 2 (stating that the district court must determine the amount and duration of a maintenance award “without regard to marital misconduct”). We do not agree that the district court’s findings regarding the history of the parties’ relationship relate to the maintenance award. We instead read the district court’s findings regarding Achinge being left alone, not having access to marital funds, Juta’s view of marital funds as belonging to him, the effect of Juta’s decisions and actions, the parties’ relocation, and the need for childcare on Achinge’s educational pursuits and employment, and the finding

related to Juta's purchase of drones as relating to his ability to pay maintenance as relevant under Minn. Stat. § 518.552, subd. 2(a), (e), (g), (h). None of the district court's findings regarding marital discord or the relationship resulted in a punitive consideration of maintenance.³

II. The district court did not err by determining that Juta failed to meet his burden to show that certain monies are nonmarital.

Juta next argues that the district court abused its discretion in determining he failed to meet his burden to trace monies that he claims are nonmarital.

Whether property is marital or nonmarital is a question of law which we review de novo, but we defer to the district court's underlying findings of fact unless they are clearly erroneous. *Gill v. Gill*, 919 N.W.2d 297, 301 (Minn. 2018). "All property acquired by either spouse during the marriage is presumed to be marital property" *Id.* at 302 (quotation omitted). To overcome this presumption, Juta bore the burden of proving by a

³ The caselaw Juta cites regarding improper maintenance awards based on spousal misconduct does not support his argument that the district court abused its discretion. In *Gales v. Gales*, the supreme court reversed a permanent maintenance award that appeared to be based in part on the district court's finding that one spouse "suffered emotional distress since the time of the separation." 553 N.W.2d 416, 421 (Minn. 1996). The *Gales* court determined that such a finding should not be sufficient "by itself [to] provide the foundation for a permanent maintenance award." *Id.* Here, the court did not discuss any emotional distress and made significant other findings related to a temporary spousal-maintenance award. In *Martini v. Martini*, we affirmed the district court's denial of a spousal-maintenance award where the spouse seeking maintenance argued they "experienced a severe hardship" due to the marriage. No. A14-0500, 2014 WL 7011260, at *2-3 (Minn. App. Dec. 15, 2014). We concluded that this hardship argument was unavailing in part because marital misconduct "is not a proper basis for a maintenance award." *Id.* at *2. Neither of these cases are apposite because we do not read the district court's order as awarding maintenance based upon stress or hardship associated with the parties' separation or misconduct.

preponderance of the evidence that the property is nonmarital. *Id.* “For nonmarital property to maintain its nonmarital status, it must either be kept separate from marital property or, if commingled with marital property, be readily traceable.” *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). “A spouse seeking to trace an asset to a nonmarital source is not held to a strict tracing standard, but need only show by a preponderance of the evidence that the asset was acquired in exchange for nonmarital property.” *Doering v. Doering*, 385 N.W.2d 387, 390 (Minn. App. 1986) (quotation omitted).

Juta claimed that \$72,000 held in a Bank of America savings account is his nonmarital property. He argued that the funds were from the sale of his home before the parties’ marriage and thus nonmarital. The record reflects a balance of \$181,393.97 in another one of Juta’s bank accounts, a Bank of the West account, before the parties were married. The record also reflects two transfers totaling \$72,000 from the Bank of the West account to a Bank of America checking account in August and September 2015. The record shows that \$77,000 was then transferred from that checking account to a Bank of America savings account. The Bank of America accounts were the parties’ operating accounts, had deposits and withdrawals throughout the parties’ marriage, and were used to pay bills. The record reflects that the balance of the Bank of America savings account balance did not fall below \$72,000 from December 25, 2019, until the day after the initial case management conference (ICMC) valuation date. The record does not include statements for the Bank of America savings account between the transfer from the Bank of America checking account and December 25, 2019. Juta testified that the balance held in the Bank of America checking account did not drop below \$72,000 during the parties’ marriage.

Juta asserts that, on appeal, we can review documentary evidence in tracing nonmarital claims without deference to the district court's findings. But the district court's "findings of fact, whether based on *oral or documentary* evidence, shall not be set aside unless clearly erroneous." Minn. R. Civ. P. 52.01 (emphasis added). Regardless of the type of evidence, we decline to set aside the district court's findings of fact with regard to nonmarital assets because they are not clearly erroneous. The documentary evidence in the record does not demonstrate that the balance of the Bank of America savings account was always above \$72,000. And the only other evidence in support of Juta's nonmarital claim was his testimony, which the district court expressly discredited.⁴ We defer to the district court's credibility determination. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Because the evidence did not establish by a preponderance of the evidence that the \$72,000 was nonmarital property, the district court did not err by concluding that Juta failed to meet his burden and thus denying his nonmarital claim.

⁴ To the extent that Juta relies on caselaw affirming a district court's nonmarital property determination where the award was based only or substantially on a party asserting a nonmarital claim's testimony, these cases do not support his argument. *See, e.g., Danielson v. Danielson*, 392 N.W.2d 570, 572 (Minn. App. 1986) (*affirming* an award of nonmarital property based largely on testimony); *Kottke v. Kottke*, 353 N.W.2d 633, 636 (Minn. App. 1984) (same), *rev. denied* (Minn. Dec. 20, 1984); *Chamberlain v. Chamberlain*, 615 N.W.2d 405, 414 (Minn. App. 2000) (same), *rev. denied* (Minn. Oct. 25, 2000). These cases demonstrate that an award can be supported by the record where it is based only or substantially on such testimony but do not support Juta's argument that the district court erred by declining to reach the same conclusion where it discredited his testimony.

III. The district court did not abuse its discretion by granting Achinge's request for need-based attorney fees.

Juta argues that the district court abused its discretion by concluding that Achinge's fees were necessary for the good-faith assertion of her rights and that she did not have the means to pay the fees. The district court awarded Achinge need-based attorney fees under Minn. Stat. § 518.14, subd. 1 (2022), which states that the court "shall award attorney fees" if 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.

We review a district court's award of attorney fees for an abuse of discretion. *Gully v. Gully*, 599 N.W.2d 814, 825 (Minn. 1999). Juta does not dispute his ability to pay the attorney-fee award.

As for Achinge's need for the fee award in asserting of her rights in good faith under Minn. Stat. § 518.14, subd. 1(1), the district court noted the "lengthy and litigious" nature of the dissolution proceeding. And the district court determined that multiple motion hearings in the case led to high fees for the parties. These findings are supported by the record and are not clearly erroneous. Achinge testified that she unsuccessfully sought to use alternative methods of resolution and that Juta contributed to the length of the

proceeding through changes in counsel and changes in positions during negotiations. And the record reflects that Juta sought several continuances throughout the proceedings.

The district court also found that Juta used and paid for several experts and that he acknowledged that Achinge could not afford to hire her own expert witnesses based on her earnings alone. These findings are not clearly erroneous. And Achinge testified that she could not defend herself in the dissolution matter without Juta's contribution and could not hire expert witnesses because she could not afford them.

In considering Achinge's ability to pay her attorney fees, the district court determined that Achinge could not pay her fees because her income alone did not cover her fees. Juta argues that the district court clearly erred in determining that Achinge could not pay her attorney fees because it erred in calculating her income. As discussed, the district court did not err in calculating Achinge's income and resulting need regarding spousal maintenance. The same is true here. And Juta's argument that the district court abused its discretion by not considering the equalization payment in assessing Achinge's ability to pay her attorney fees is similarly unavailing because the district court was not compelled to require Achinge to invade the principal of the payment to pay her attorney. *See Beck v. Kaplan*, 566 N.W.2d 723, 727 (Minn. 1997) (affirming award of need-based attorney fees on the ground that obligee otherwise "would be required to deplete the limited capital assets available to her" and noting the parties' "disparate financial circumstances" supported affirming the maintenance award (quotation omitted)).

In sum, the district court did not abuse its discretion by awarding Achinge need-based attorney fees.

IV. Achinge’s motions for attorney fees on appeal are granted.

By two separate motions, Achinge seeks \$33,532.50 and \$7,125, totaling \$40,647.50, in appellate attorney fees. The procedure for motions for appellate attorney fees is governed by Minn. R. Civ. App. P. 139.05, which provides for applications for awards of fees “[w]here allowed by law.” Minn. R. Civ. App. P. 139.05, subd. 3. Generally, when a statute provides for attorney fees to the prevailing party in district court, additional fees may be available on appeal for time spent defending the favorable judgment to avoid dilution of the district court’s award. *Hughes v. Sinclair Mktg., Inc.*, 375 N.W.2d 875, 879 (Minn. App. 1985), *aff’d in part, rev’d in part on other grounds*, 389 N.W.2d 194, 200 (Minn. 1986). Achinge—the prevailing party in district court—spent time defending the favorable judgment, which we now affirm. An award of appellate attorney fees is necessary to avoid dilution of the district court’s award.

Juta argues that Achinge’s fees should be reduced by nearly half because she is claiming “unnecessary fees.” We have scrutinized the itemized request for fees and conclude that \$2,605.50 of the request relate to matters arising in district court or otherwise unrelated to the appeal. Juta’s arguments regarding the necessity of the remaining fees lack merit.⁵ We therefore grant Achinge’s motion and award appellate attorney fees of \$38,052.

Affirmed; motions granted.

⁵ As for Juta’s argument that Achinge’s fees represent an unreasonable hourly rate for her attorney and her attorney’s paralegal, this argument is not well-taken given that Juta’s counsel stated at oral argument that his hourly rate is nearly \$200 greater than the rate charged by Achinge’s counsel.