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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0258**

In re the Marriage of:

Linda Beth Krelitz, petitioner,
Respondent,

vs.

Michael James Krelitz,
Appellant.

**Filed September 9, 2024
Affirmed in part, reversed in part, and remanded
Reyes, Judge**

Hennepin County District Court
File No. 27-FA-19-1111

Linda Beth Krelitz, Minneapolis, Minnesota (self-represented respondent)

Michael J. Krelitz, St. Louis Park, Minnesota (self-represented appellant)

Considered and decided by Slieter, Presiding Judge; Reyes, Judge; and Wheelock,
Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

In this dissolution dispute, self-represented appellant-husband argues that the district court abused its discretion by (1) imposing a retroactive spousal-maintenance obligation and (2) miscalculating the property-equalization payment. We affirm in part, reverse in part, and remand.

FACTS

Appellant Michael James Krelitz (husband) and respondent Linda Beth Krelitz (wife) married in 1995 and have two adult children. After 24 years of marriage, wife filed a dissolution action in February 2019. Beginning in July 2019, the district court ordered husband to pay wife \$1,779 per month in temporary spousal maintenance until the parties' trial. Wife filed a motion to modify the temporary-maintenance award in July 2020, which the district court denied.

The parties proceeded to a two-day court trial in August and September 2020, primarily litigating the issues of marital-property division and spousal maintenance. Following trial, the district court entered a judgment and decree in February 2021 which dissolved the parties' marriage, allocated their assets and debts, and awarded wife permanent spousal maintenance. Although wife had not renewed her motion to modify the temporary maintenance award, the district court made husband's permanent-maintenance obligation retroactive to the date of trial. Husband appealed the judgment and decree to this court.

In December 2022, this court remanded the district court's judgment for further findings on the issues of, among other things, (1) whether money husband received from his mother during the parties' marriage constituted a gift or marital property; (2) the allocation of a marital debt the parties incurred on a credit card; and (3) the valuation of wife's Individual Retirement Account (IRA). *See Krelitz v. Krelitz*, No. A21-1203, 2022 WL 17747302, at *2-4 (Minn. App. Dec. 12, 2022).

The district court filed orders in June and October 2023 addressing the remanded issues. In its orders, the district court determined that (1) the money husband received from his mother constituted a gift and was therefore not marital property; (2) the marital credit-card debt should be allocated evenly between the parties; and (3) its initial valuation of wife’s IRA would not be altered from the initial decree. In December 2023, the district court filed an amended judgment and decree that included an equalizer-payment calculation that reflected its determinations on the remanded issues.

This appeal follows.¹

DECISION

I. The district court abused its discretion by retroactively modifying wife’s maintenance award to the parties’ trial date.²

Husband argues that, because wife did not have a pending motion to modify the temporary-maintenance award on the date of trial, the district court abused its discretion by awarding wife permanent spousal maintenance retroactive to the trial date rather than the date on which it entered its final judgment and decree. We agree.

A temporary order for spousal maintenance “shall continue in full force and effect until the earlier of its amendment or vacation, dismissal of the main action or *entry of a final decree* of dissolution or legal separation.” Minn. Stat. § 518.131, subd. 5 (2022) (emphasis added). District courts may retroactively modify spousal maintenance “only

¹ Wife did not file a brief, and we therefore decide this appeal on the merits. Minn. R. Civ. App. P. 142.03.

² Although appellant raised this issue in his prior appeal, our prior opinion did not address the retroactive maintenance award. *See Krelitz*, 2022 WL 17747302, at *6.

with respect to any period during which the petitioning party *has pending* a motion for modification.” Minn. Stat. § 518A.39, subd. 2(f) (Supp. 2023) (emphasis added). We review the district court’s decision to modify spousal maintenance retroactively for an abuse of discretion. *Sinda v. Sinda*, 949 N.W.2d 170, 181 (Minn. App. 2020). “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.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Here, the district court denied wife’s motion to modify the temporary-maintenance order a month before trial. Wife did not renew the motion before trial, did not raise the issue of retroactive maintenance in either her dissolution petition or the proposed order she submitted before trial, and the parties did not litigate retroactive maintenance at trial. Instead, wife first noticed her intent to seek retroactive maintenance in the proposed order she filed two months *after* trial in November 2020. The district court adopted wife’s proposal to require husband to pay \$8,396 in monthly spousal maintenance beginning on September 1, 2020, the date of the parties’ trial.

Because wife did not have a pending motion to modify on the date of trial, we conclude that the district court abused its discretion by misapplying the law when it used the parties’ trial date as the effective date for the modified maintenance award. Minn. Stat. § 518A.39, subd. 2(f); *Christenson v. Christenson*, 490 N.W.2d 447, 449 (Minn. App. 1992) (noting that, because appellant did not renew his motion for modification after district court denied his initial motion, his support obligation could not be modified retroactive to date of his original motion), *rev. granted* (Minn. Jan 15, 1993), *and appeal*

dismissed (Minn. Feb. 16, 1993). Although wife requested retroactive modification in the proposed order she filed after trial, raising the issue in a posttrial filing was insufficient to revive her prior motion. We therefore reverse the district court on this point and remand with instructions to change the effective date of wife’s maintenance award to February 16, 2021, the date on which the district court entered the judgment and decree. Minn. Stat. § 518.131, subd. 5.

II. The district court did not abuse its discretion with its calculation of the parties’ property-equalization payment.

Husband contends that the district court abused its discretion with its calculation of the equalizer payment because it made clearly erroneous factual findings regarding (1) the purported loan the parties’ received from husband’s mother during the parties’ marriage; (2) the allocation of the parties’ credit-card debt; and (3) the valuation of wife’s IRA. We address each issue in turn.

District courts have “broad discretion” to evaluate marital assets and debts, and appellate courts will not overturn a district court’s distribution absent an abuse of that discretion. *Dahlberg v. Dahlberg*, 358 N.W.2d 76, 80 (Minn. App. 1984). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence” *Woolsey*, 975 N.W.2d at 506 (quotation omitted). District courts should be “guided by equitable considerations in distributing rights and liabilities.” *Kreidler v. Kreidler*, 348 N.W.2d 780, 784 (Minn. App. 1984).

A. The record supports the district court’s finding that husband’s mother gifted him \$100,000 during the parties’ marriage.

Husband asserts that the district court clearly erred by finding that the \$100,000 mother transferred to him during the parties’ marriage constituted a gift and was therefore nonmarital property omitted from the equalization payment. Husband’s argument is unavailing.

Whether property is marital or nonmarital is a question of law, but reviewing courts defer to the district court’s underlying factual findings. *Baker v. Baker*, 753 N.W.2d 644, 649 (Minn. 2008). “[P]roperty acquired by either spouse during the marriage is presumptively marital, but a spouse may defeat the presumption” by showing that the property is nonmarital by a preponderance of the evidence. *Id.* at 649-50 (citing Minn. Stat. § 518.003, subd. 3b (2006)). Nonmarital property includes property “acquired by either spouse . . . as a gift . . . made by a third party to one but not to the other spouse.” Minn. Stat. § 518.003, subd. 3b(a) (2022).

A valid gift requires that (1) the donor intend to make a gift; (2) the property be delivered; and (3) the donor absolutely dispose of the property. *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). The party asserting a valid gift must prove the elements of a gift by clear and convincing evidence. *Muschik v. Conner-Muschik*, 920 N.W.2d 215, 223 (Minn. App. 2018). Whether donative intent exists is a question of fact that is evaluated under the circumstances of the transfer. *Id.* We review a district court’s factual findings for clear error. *Manor v. Gales*, 649 N.W.2d 892, 894 (Minn. App. 2002). It appears that husband disputes only the first element of the gift analysis.

Here, the district court provided a detailed explanation supporting its finding that the circumstances showed that husband's mother intended to transfer the \$100,000 as a gift, not as a loan. These circumstances included that (1) neither husband nor his mother could provide documentation of the purported loan or describe its basic terms; (2) there were no penalties for nonpayment; (3) neither husband nor his mother were tracking loan payments; (4) wife had no input on the purported loan; and (5) husband testified that the parties still owed the entire principal of the purported loan despite husband supposedly making payments for several years.

The record supports the district court's finding. Husband appears to argue that the district court should have determined that his mother loaned the money based on his and his mother's testimony as well as his bank records that he claimed reflected loan payments.³ However, as noted by the district court, they provided equivocal testimony regarding the terms of the purported loan. Additionally, we "defer to the district court's credibility determinations and do not reconcile conflicting evidence" with respect to factual determinations. *Butler v. Jakes*, 977 N.W.2d 867, 871 (Minn. App. 2022) (quotation omitted).⁴ Furthermore, the amorphous nature of the alleged intra-family "loan" supports

³ Although there appears to be some evidence of "transfers" to husband's mother, this evidence alone is insufficient to conclude that the district court's finding on donative intent for the \$100,000 transfer is clearly erroneous.

⁴ Husband also cites the nonprecedential decision in *Dunham v. Dunham*, No. A06-2195, 2007 WL 4563949, at *4 (Minn. App. Dec. 31, 2007) for the proposition that "testimony may be enough to establish that transfers of money between family members were loans." However, unlike *Dunham*, the district court did not credit husband's or his mother's testimony about the loan. *Varner v. Varner*, 400 N.W.2d 117, 121 (Minn. App. 1987) ("The finder of fact is not required to accept even uncontradicted testimony if the surrounding facts and circumstances afford reasonable grounds for doubting its credibility.").

the district court's finding on donative intent. *See Novick v. Novick*, 366 N.W.2d 330, 332 (Minn. App. 1985) (affirming district court's conclusion that "undocumented, unsecured" intra-family "loans" were gifts); *In re Estate of Lobe*, 348 N.W.2d 413, 415 (Minn. App. 1984) (concluding that, when evidence regarding transfer consists almost entirely of oral testimony, we can disturb district court's determinations in only "the most unusual circumstances"). We therefore discern no error by the district court.

B. The record supports the district court's findings regarding the parties' credit-card debt.

Husband next contends that, because he testified that he paid the parties' credit-card debt using nonmarital funds, the district court clearly erred by crediting both parties for paying half of the debt in its equalization-payment calculation. We disagree.

Here, the district court reasoned that it would be "fair and equitable" to value the credit-card debt at \$15,611.16 to prevent father from receiving a windfall because the parties' creditor forgave \$9,921.10 of the debt. The district court then allocated half of the remaining debt to each party after finding that there was no evidence in the record that husband paid the debt with nonmarital assets.

Husband appears to argue that, because he had to pay individual income taxes on the forgiven debt, he would not receive a windfall if the district court valued the debt at its full, unpaid balance. However, husband would still have received a windfall if the district court credited him with paying the original balance because, although he had to report the forgiven debt on his income taxes, he did not have to pay the entire balance of the forgiven debt. Considering the potential for husband to receive a significant windfall, along with

the district court's finding that husband's net monthly income was over four times greater than wife's, the district court did not abuse its "broad discretion" by valuing the debt at the reduced total after accounting for equitable considerations. *Dahlberg*, 358 N.W.2d at 80; *Kreidler*, 348 N.W.2d at 784.

Husband also argues that the district court disregarded the documentary evidence showing that he paid the credit-card debt with nonmarital funds. The record does appear to show that husband made three payments⁵ totaling \$8,954.30 on the debt from his personal bank account following the valuation date. However, there is no evidence accounting for how the remaining \$6,656.86 of the reduced debt balance was paid. To the extent husband did not carry his burden to show that he paid the marital debt with his nonmarital funds, caselaw supports the idea that the district court should treat the remaining \$6,656.86 as paid with marital funds. *Baker*, 753 N.W.2d at 649-50. District courts are permitted to factor equitable considerations when allocating debts and are not required to divide marital debts evenly, and the district court therefore acted within its "broad discretion" by crediting each party with \$7,805.58 towards the debt. *Kreidler*, 348 N.W.2d at 784; *see Dahlberg*, 358 N.W.2d at 80 (noting that district courts are not required to credit party for debts voluntarily paid before trial); *Justis v. Justis*, 384 N.W.2d 885, 889 (Minn. App. 1986) (reasoning that district courts are not required to apportion marital debts to both parties and that "[a] party to a dissolution may be held liable for marital debts even though

⁵ Husband claims that the record also shows a fourth payment towards this debt. Our review of the record shows evidence of only three payments. Notably, husband declined the district court's offer to request an evidentiary hearing to supplement the record on the alleged payments.

the other party receives the benefit of payment” (quotation omitted)), *rev. denied* (Minn. May 29, 1986); *Johnson v. Johnson*, 277 N.W.2d 208, 211 (Minn. 1979) (stating that, for district court valuations, “it is only necessary that the value arrived at lies within a reasonable range of figures”).

C. The record supports the district court’s valuation of wife’s IRA.

Husband argues that the district court impermissibly allowed wife to liquidate her IRA to pay a portion of her attorney fees and that it clearly erred by valuing the account at its May 2020 balance of \$858, when the balance on the valuation date was \$42,762.95. We are not persuaded.

A district court’s valuation of an item of property is a finding of fact that appellate courts will not set aside unless it is clearly erroneous. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001). Additionally, the district court has discretion to adjust the value of an asset after its valuation date “[i]f there is a substantial change in value of an asset between the date of valuation and the final distribution” and adjusting the valuation is necessary “to effect an equitable distribution.” Minn. Stat. § 518.58, subd. 1 (2022); *see Gill v. Gill*, 919 N.W.2d 297, 311 (Minn. 2018) (Anderson, J. dissenting). However, a party generally may not use marital assets to pay their attorney fees. *See Baker*, 753 N.W.2d at 653-54.

Husband raised an identical argument in his first appeal to this court. *See Krelitz*, 2022 WL 17747302 at *4. This court noted that, in its original order, the district court supported its valuation of wife’s IRA by finding that (1) “[i]t is equitable to have the account reflect the [then-current] balance in the account-[w]ife’s attorney[] fees needed to come from some source, and this was the account [w]ife chose”; (2) husband “has the

potential to earn significantly more income” than wife; and (3) the valuation “recognize[d] this basic reality of the parties’ financial situations.” *Id.*

We previously concluded that the district court made insufficient findings regarding wife’s IRA to allow for meaningful appellate review. *Id.* We noted that the district court’s first reason constituted an impermissible justification to adjust a valuation under Minnesota Statute section 518.58 (2020). *Id.* However, our prior opinion indicated that, while the district court’s rationale concerning the parties’ relative income and financial situations may have been sufficient, the district court needed to make further findings addressing “whether [it] would have adjusted the valuation of the IRA for those reasons alone.” *Id.*

On remand, the district court stated that, regardless of the reason for the diminished funds, it was “fair and equitable” to value the IRA at its current balance because (1) wife “will likely never earn more in her career than her spousal maintenance award,” while husband “is capable of earning significantly more income,” (2) it “recognize[d] this basic reality of the parties’ financial situations in agreeing to reduce [w]ife’s account balance,” and (3) “the temporary spousal maintenance [w]ife was awarded pending the outcome of the trial was significantly less than what [w]ife was awarded in permanent spousal maintenance after trial, leaving her with a significant deficiency for many months.”

Considering that the district court followed our remand instructions regarding the IRA valuation, and that the record supports its findings on the parties’ finances, the district court did not abuse its “broad discretion” to distribute the parties’ marital property equitably. *See Kreidler*, 348 N.W.2d at 784; *Dahlberg*, 358 N.W.2d at 80; *Gill*, 919 N.W.2d at 311. Because the district court articulated a permissible basis to adjust the valuation of

wife's IRA under Minn. Stat. § 518.58, subd. 1, it did not clearly err by valuing her IRA at \$858 even though that resulted in an unequal distribution. *Ruzic v. Ruzic*, 281 N.W.2d 502, 505 (Minn. 1979) (noting that district court may consider parties' "earning ability" and capacity to generate income when making distributions under section 518.58); *Sirek v. Sirek*, 693 N.W.2d 896, 900 (Minn. App. 2005) ("[A]n equitable division of marital property is not necessarily an equal division." (Quotation omitted.)).

Because each of husband's challenges to the district court's findings regarding the equalizer payment are unpersuasive, his argument that the district court abused its discretion by miscalculating the equalizer payment fails.

Affirmed in part, reversed in part, and remanded.