

*This opinion is nonprecedential except as provided by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
A24-0779**

In the Marriage of:
Sarah Elizabeth Lavins, petitioner,
Appellant,

vs.

Brock Laverne Lavins,
Respondent.

**Filed April 14, 2025
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-FA-17-4764

Sarah Elizabeth Lavins, Bloomington, Minnesota (pro se appellant)

Brock Laverne Lavins, Minneapolis, Minnesota (pro se respondent)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant-mother challenges the district court's child-support modification order, arguing that the district court (1) clearly erred in determining that mother is voluntarily unemployed, (2) abused its discretion by denying her request to apply the modification

retroactively, (3) erred in including ambiguous language in the order, and (4) abused its discretion by denying her request for need-based attorney fees. We affirm.

FACTS

The marriage between appellant-mother Sarah Elizabeth Lavins and respondent-father Brock Laverne Lavins was dissolved by judgment and decree in July 2017. Father was ordered to pay child support for the parties' two minor children.

Sometime in 2023, mother accepted an offer to attend law school starting in the fall semester. In June, mother quit her job as a dental hygienist. In August, she filed a motion to increase father's child-support obligation, citing her unemployment and decrease in her gross monthly income. Mother also filed a certificate of settlement efforts and a request to subpoena father's financial documents. The subpoena request was denied. A hearing on mother's motion was scheduled for November.

In October, mother requested a continuance of the November hearing, stating that "some additional exchange of documentation may help the parties to resolve the issues raised in the pending motion."

In January 2024, mother amended her modification motion. Mother asserted that, due to a medical condition, she was forced to quit her job in June and was physically unable to engage in full-time work. She stated that she enrolled in law school in order to pursue a career that would not conflict with the physical limitations imposed by her condition. To support her claim, mother provided the district court with a list of previously scheduled medical appointments and two letters from a physician. One of the letters stated, among other things, that mother "cannot work more than 20 hours per week."

For the purpose of determining the parties' incomes and calculating the increase in father's child-support obligation, mother requested that the district court impute income to her at a rate consistent with the 20-hour work-week restriction. Mother also asked the district court to set the effective date of the modification retroactive to August 2023, when father received notice of her original motion. Finally, mother asked the district court to award her need-based attorney fees.

The district court held a hearing and issued an order in April 2024. The district court increased father's child-support obligation but also determined that mother's unemployment was voluntary and that she was capable of full-time work. The district court imputed income to mother based on a 40-hour work week, which resulted in an increase in father's child-support obligation that was less than she requested. The district court denied mother's requests to apply the modification retroactively and for attorney fees. Finally, the district court ordered mother to "promptly provide [f]ather with updated information regarding any new employment, income, or other sources of funds as soon as it occurs."

This appeal followed.

DECISION

Mother challenges the district court's order modifying child support. We review a district court's decision to modify child support for an abuse of discretion. *Haefele v. Haefele*, 837 N.W.2d 703, 708 (Minn. 2013). A district court abuses its discretion when it misapplies the law, its decision is against logic and the facts on record, or its factual findings are clearly erroneous. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997).

Voluntary unemployment and imputation of income

Mother first argues that the district court clearly erred in finding that she was voluntarily unemployed. A district court's determination that a parent is voluntarily unemployed is a question of fact that we review for clear error. *Welsh v. Welsh*, 775 N.W.2d 364, 370 (Minn. App. 2009). A district court's findings are clearly erroneous when they are "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). When applying the clear-error standard of review, this court (1) "view[s] the evidence in a light favorable to the findings"; (2) does not "reweigh the evidence"; (3) does not find facts anew; and (4) does not "reconcile conflicting evidence." *Id.* at 221-22 (quotations omitted).

When modifying a child-support obligation on the basis of a party's change in income, a district court must determine each party's gross income. *See* Minn. Stat. § 518A.39, subd. 2(a)(1) (2024). Gross income includes potential income. Minn. Stat. § 518A.29(a) (2024). A district court must calculate child support based on potential income if a parent is "voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income." Minn. Stat. § 518A.32, subd. 1 (2024). When addressing whether a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, "it is rebuttably presumed that a parent can be gainfully employed on a full-time basis." *Id.* But a parent is not considered voluntarily unemployed if "the unemployment . . . is because a parent is physically or

mentally incapacitated.” *Id.*, subd. 3(3) (2024). Accordingly, it was mother’s burden to rebut the presumption that she was capable of gainful, full-time employment.

First, mother argues that the district court clearly erred in finding that she was voluntarily unemployed because it failed to consider the medical evidence of her physical inability to work.

Mother’s evidence consisted primarily of two letters from a physician.¹ The first letter, from June 2023, stated that mother quit her job due to unmanageable chronic pain. The second letter, from January 2024, stated that mother had several occupational restrictions, that another clinic diagnosed her with an autoimmune disease, and that mother would require medication.

The district court “place[d] little weight” on the physician’s letters, finding that the January letter “offer[ed] practically no details or explanation of [m]other’s alleged health issues,” “appear[ed] to have been provided by someone other than [m]other’s primary treating physician or chronic pain specialist,” and “appear[ed] to have been dictated by [m]other.”

¹ Mother argues that the district court failed to consider a third letter. Mother submitted that letter to this court, but she did not present it to the district court or mention it at the modification hearing. Because the letter was not before the district court, it could not have failed to consider it. Furthermore, because mother did not provide the letter to the district court, it is not a part of the record on appeal. Minn. R. Civ. App. P. 110.01 (“The documents filed in the [district] court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases.”). And we “may not base [our] decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence below.” *Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988).

The district court's findings are not contradicted by the record. Although the January letter stated that mother received a diagnosis and would require treatment, it stated that the diagnosis was made at another clinic and provided no indication that the physician who wrote the letters was responsible for the diagnosis or was participating in mother's treatment. Mother declined to provide any records from the clinic or physicians who provided her diagnosis. The only additional evidence that mother provided was a list of appointments at Mayo Clinic, scheduled for July and August 2023, but mother did not provide the results of those appointments or proof that she even attended them.

Mother argues that disclosing additional records would unnecessarily invade her privacy and that, in any event, father failed to timely request them. But mother bears the burden of rebutting the presumption that she is capable of full-time employment. *See* Minn. Stat. § 518A.32, subd. 1. The district court determined that mother failed to meet her burden, and its findings are supported by the record. We therefore conclude that the district court did not clearly err in finding that mother is voluntarily unemployed.

Next, mother argues that the district court erred by imputing income to her at a rate inconsistent with her medical limitations and by failing to make specific findings regarding her medical condition. Because the district court did not err in finding that mother was capable of full-time employment, and because section 518A.32 does not require specific findings, mother's arguments are unfounded. *See Hansen v. Todnem*, 908 N.W.2d 592, 597 n.2 (Minn. 2018) (stating that absent statutory requirement for specific findings, district court need only make findings sufficient to enable appellate review).

Retroactive application of the child-support modification

Mother argues that the district court committed legal and factual error when it declined to apply the child-support modification retroactively.

First, mother contends that Minn. Stat. § 518A.39, subd. 2(f), establishes a presumption that child-support modifications are retroactive to the date of a party's original motion. But mother misinterprets the statute. Minn. Stat. § 518A.39, subd. 2(f), is permissive, providing that "[a] modification of support . . . *may* be made retroactive." (Emphasis added.) See Minn. Stat. § 645.44, subd. 15 (2024) (stating that "[m]ay" is permissive").

Mother also relies on *Bormann v. Bormann*, in which we noted that "modification of support is generally retroactive to the date the moving party served notice of the motion on the responding party." 644 N.W.2d 478, 482 (Minn. App. 2002). But as explained in *Bormann*, retroactive modification is appropriate when no exceptions to the general rule apply, and "there is no indication that the district court otherwise exercised its discretion to make the modification effective as of a different date." *Id.* at 482-83. Here, the district court did exercise its discretion when it declined to make the modification retroactive "[i]n the interests of allowing [f]ather to make timely payments going forward."

Next, mother argues that she made "significant efforts to settle" with father and that the record is "replete with instances of [father] delaying the production of financial documentation." Mother contends that, by failing to consider these factors, the district court's denial of her request was unjust.

The extent of mother's efforts, and of father's delays, is unclear from the record.² Mother requested a subpoena for father's financial records in August 2023, but the district court denied the request and instructed mother to serve father with a request for production of documents. There is no evidence that mother served such a request.

Mother filed a certificate of settlement efforts, but she was required to make that filing under Minn. R. Gen. Prac. 303.03(c). And the assertions contained in the certificate are supported by only two emails that contain additional, unsupported assertions. In fact, other than mother's request for a continuance of the November hearing, the record contains no evidence of an attempt by mother to obtain father's documents, to settle, or to engage in mediation between September 2023 and the January modification hearing. We decline to construe the request for a continuance as support for mother's claims because the request indicated that both parties agreed to the delay.

Finally, mother argues that the district court failed to make specific findings regarding her financial need. Again, because section 518A.39 does not require specific findings, the district court was only required to make findings sufficient to enable appellate review. The district court found that, during the period of time for which mother sought retroactive modification, mother was voluntarily unemployed and collecting

² Mother's appellate addendum included additional information regarding her attempt to settle, but because mother did not provide that information to the district court, it is not a part of the appellate record and will not be considered by this court. *See* Minn. R. Civ. App. P. 110.01; *Thiele*, 425 N.W.2d at 582-83.

unemployment benefits. These findings are supported by the record and are sufficient to conclude that the district court considered mother's financial need.

Inclusion of ambiguous language

Mother argues that the district court erred by ordering her to “promptly provide [f]ather with updated information regarding any new employment, income, or other sources of funds as soon as it occurs.” Mother contends that the term “other sources of funds” is ambiguous, leaves her “vulnerable to future disputes over what qualifies as a reportable financial change,” and suggests that father could challenge her if she failed to report “irrelevant or minimal financial events.”

A district court's order is ambiguous if reasonable minds can differ as to its meaning. *Suleski v. Rupe*, 855 N.W.2d 330, 339 (Minn. App. 2014).

In its order, the district court noted that mother's initial modification motion “only stated that she was unemployed and did not disclose she was expected to imminently commence law school,” and the district court explained that it expected mother to “promptly disclos[e] any changes in income or *additional sources of funds* . . . to prevent unnecessary confusion or disputes between the parties going forward.” (Emphasis added.) This language is synonymous with the district court ordering mother to “promptly provide [f]ather with updated information regarding any new employment, income, or *other sources of funds*.” (Emphasis added.) In light of the district court's stated rationale, and in the context of a child-support modification order, we conclude that the order can only be reasonably interpreted as requiring mother to notify father of other sources of funds to allow father to ask a court to address whether those other sources of funds constitute

“earnings, income, circumstances, and resources” sufficient to justify a modification of her child-support obligation. Minn. Stat. § 518A.43, subd. 1(1) (2024).

Denial of need-based attorney fees

Finally, mother argues that the district court abused its discretion by denying her request for need-based attorney fees. This court reviews a district court’s attorney-fee determination for an abuse of discretion. *Gully v. Gully*, 599 N.W.2d 814, 825 (Minn. 1999). In a child-support modification proceeding, the district court shall award attorney fees when 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.

Minn. Stat. § 518.14, subd. 1 (2024).

Mother argues that, by denying her attorney-fee request, the district court incorrectly cited her lack of settlement efforts, improperly relied on father’s attorney’s statements, and failed to make specific findings regarding her need for fees and father’s ability to pay them. These claims are inaccurate.

The district court made findings regarding the parties’ incomes and the nature of mother’s unemployment. The district court specified that it denied mother’s request because mother (1) “has been less than forthcoming about her potential sources of income,” (2) “has a demonstrated ability to work full time,” and (3) “is capable of paying her own fees.” These reasons are consistent with the district court’s findings of fact and do not

reference settlement efforts or father's attorney's statements. Absent a clear picture of mother's ability to earn income, mother has not shown that she lacks the ability to pay the fees she seeks. Thus, we conclude that the district court did not abuse its discretion by denying mother's request for attorney fees.

Affirmed.