

*This opinion is nonprecedential except as provided by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
A24-0880**

In the Marriage of:

Abdihafid Hariri Hassan Yusuf, petitioner,
Appellant,

vs.

Neama Omar Y Al Somali,
Respondent.

**Filed March 17, 2025
Affirmed; motion granted in part
Frisch, Chief Judge**

Ramsey County District Court
File No. 62-FA-22-1249

Abdihafid Hariri Yusuf, Roseville, Minnesota (pro se appellant)

Maria E. Maier, St. Paul & Ramsey County Domestic Abuse Intervention Project, St. Paul,
Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Frisch, Chief Judge; and
Schmidt, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

Following the district court's judgment and decree dissolving the parties' marriage, appellant argues that the district court abused its discretion by (1) declining to grant appellant's motions to dismiss, (2) improperly determining custody and parenting time,

(3) miscalculating child support, and (4) inequitably dividing the parties' marital property. Because the district court did not abuse its discretion in its judgment and decree, we affirm.

FACTS

On June 10, 2022, appellant Abdihafid Hariri Hassan Yusuf petitioned to dissolve his marriage to respondent Neama Omar Y Al Somali. The parties were married on October 15, 2019, and have one joint minor child. The child was three years old when the district court entered the judgment and decree (the J&D) dissolving the parties' marriage.

Order-for-Protection Proceeding

Before the dissolution proceedings, the parties were also involved in a separate case concerning petitions for orders for protection (OFP) filed by both Yusuf and Al Somali. Both parties also petitioned on behalf of the child. In January 2022, the district court issued an OFP on Al Somali's behalf determining that "acts of domestic abuse" had occurred, and finding that Yusuf pushed Al Somali "causing her to fall to the ground," hit her "leaving bruises and scratches," and slapped and pushed her during a different incident.

The district court granted Al Somali temporary sole legal and physical custody of the child, limited Yusuf's parenting time to supervised parenting time at a parenting supervision center, and ordered Yusuf pay \$546 per month in temporary basic child support. The district court did not issue an OFP on behalf of the child concluding that Al Somali failed to show that Yusuf committed domestic abuse against the child. The district court also dismissed Yusuf's OFP petitions.

During the OFP proceedings, the district court found Yusuf to be a frivolous litigant in this matter "due to his filing of multiple meritless motions."

Yusuf's Exercise of Supervised Parenting Time

Yusuf exercised his supervised parenting time at the parenting supervision center once, in May 2022. After that visit, the supervision center “inactivated” the parties’ case after Yusuf “failed to appear at the next scheduled visit and no more visits occurred.” The district court ordered the parties to participate in a custody and parenting-time evaluation, and the supervision center reactivated the case. But Yusuf did not thereafter schedule any visits.

On November 14, Yusuf’s then-attorney contacted Al Somali’s attorney about scheduling parenting time. The next morning, Al Somali’s attorney responded by email indicating Al Somali’s availability and slots that the supervision center had available. Neither Yusuf nor his attorney responded. In December, Yusuf saw the child during a visit at the library scheduled by the custody evaluator. During that visit, the evaluator noted that the child “did not show a proper recognition of [Yusuf] as a close and bonded adult,” that Yusuf was “encouraging and positive” in interacting with the child, and that Yusuf’s references reflected that he had “the ability and willingness to be a positive and active father if given the opportunity.”

Yusuf's Dismissal Correspondence

On June 26, 2023, Yusuf emailed the district court requesting that it “drop and dismiss” his “petition for the divorce case.” The district court returned Yusuf’s letter with a deficiency notice and explained that it was rejecting the letter because Yusuf was represented by an attorney when he sent the letter and therefore his attorney must present the request to move to dismiss.

On July 6, Yusuf's attorney withdrew from representation. That same day, Yusuf sent another letter to the district court, reiterating the dismissal request as set forth in his June 26 letter. The district court again returned the letter, stating that the "request to dismiss this case needs to be raised by filing and serving a motion requesting that relief."

On July 12 and October 22, Yusuf sent two additional letters again asking the district court to dismiss his petition under Minn. R. Civ. P. 41.01. The district court issued a written order denying the request, concluding that Minn. R. Civ. P. 41.01(a) did not entitle Yusuf to withdraw his petition because Al Somali "served an Answer before [Yusuf's] request to voluntarily dismiss this matter and the parties have not filed a stipulation to dismiss this matter."

Discovery Disputes

On June 21, 2023, Al Somali moved the district court to compel discovery, asserting that Yusuf had not fully responded to Al Somali's interrogatories and requests for production. After a hearing, the district court issued an order compelling Yusuf to complete answers to the interrogatories and produce requested documents. The district court stated that if Yusuf did not comply with the court's order, it "may issue an order imposing sanctions pursuant to Minn. R. Civ. P. 37.02." After the discovery order deadline passed, the district court determined that Yusuf had "not provided complete discovery responses as ordered" to 11 requests for production and 9 interrogatories. As a sanction, the district court precluded Yusuf from presenting at trial "any evidence (testimony or exhibits) about issues that he failed to respond to" in Al Somali's discovery requests.

Bench Trial

During a bench trial, the parties stipulated to the admission of the parties' joint tax returns for 2020 and 2022, and the district court admitted those exhibits and the custody evaluator's report. Yusuf testified on his own behalf including that he was working as an independent contractor and making \$1,540 per month. Yusuf also testified that he owed \$3,000 in child-support arrears and that he owed a debt to Bank of America that was sent to collections. Yusuf did not offer any additional exhibits at trial. During Al Somali's testimony, the district court received additional exhibits, including documents setting forth her public benefits, a medical bill and collections notice for that bill, and the OFP order.

On April 1, 2024, the district court entered the J&D dissolving Yusuf and Al Somali's marriage, granting Al Somali sole legal and physical custody of the child, granting Yusuf supervised parenting time, setting total child support at \$570 per month, awarding property to the parties, and dividing the parties' debts. The J&D also identified future parenting-time goals for Yusuf, which the court noted could support a future motion to modify his parenting time.

Yusuf appeals.

DECISION

Yusuf argues that the district court abused its discretion in issuing the J&D by (1) declining to grant his motions to dismiss, (2) granting Al Somali sole legal and physical custody of the parties' child and determining parenting time, (3) improperly calculating

child support, and (4) improperly dividing the parties' marital assets and debts. We address each asserted error in turn.¹

I. Even if the district court abused its discretion by declining to address Yusuf's dismissal correspondence, any error was harmless.

Yusuf argues that the district court abused its discretion by declining to consider or in denying his motions to dismiss. Al Somali maintains that this issue is not properly within our scope of review and that even if it were, the district court did not err in determining that Yusuf was not entitled to voluntarily dismiss his petition under Minn. R. Civ. P. 41.01(a).

¹ Al Somali moved to strike portions of Yusuf's addendum and to limit the scope of issues on appeal. We agree that pages 27 to 39 and 43 to 45 of Yusuf's addendum are not properly before us on appeal, as they were not presented to or considered by the district court. Minn. R. Civ. App. P. 110.01 (limiting the record on appeal to "[t]he documents filed in the trial court, the exhibits, and the transcript of the proceedings"); *Plowman v. Copeland, Buhl & Co.*, 261 N.W.2d 581, 583 (Minn. 1977) ("It is well settled that an appellate court may not base its decision on matters outside the record on appeal, and that matters not produced and received in evidence below may not be considered."). We therefore grant Al Somali's motion to strike these pages from the addendum. We deny Al Somali's motion to strike pages 40, 41, 42, 46, and 47 of the addendum because those pages are within the district court's record and therefore properly before us on appeal.

We also agree that Yusuf's asserted translation error is not properly before us. *See Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 917 (Minn. 2009) ("The scope of review refers to the matters that are properly before the appellate court for its consideration." (quotation omitted)). A party asserting "any difference" about "whether the record truly discloses what occurred in the [district] court" must submit that issue to the district court for its determination. Minn. R. Civ. App. P. 110.05. The record does not reflect that Yusuf made such a motion and thus we decline to consider this asserted error. But we do not agree that Yusuf's arguments about his dismissal correspondence are outside our scope of review because the district court's treatment of these correspondences affected the final judgment in this case and are not limited by Yusuf's statement of the case. *See Minn. R. Civ. App. P. 103.04; May v. May ex rel. May*, 713 N.W.2d 910, 913 (Minn. App. 2006).

Yusuf argues that he moved the district court to voluntarily dismiss his petition in his June 26 and July 6 letters. *See* Minn. R. Civ. P. 41.01(a) (providing the criteria and procedure for a party to voluntarily dismiss an action). Both letters were returned to Yusuf with deficiency notices.

Even if Yusuf properly moved to dismiss his petition under Minn. R. Civ. P. 41.01(a) and the district court abused its discretion by declining to consider these motions, we conclude that any such error is harmless.² *See* Minn. R. Civ. P. 61 (requiring that harmless error be ignored). The district court ultimately considered and denied Yusuf’s motion to dismiss under rule 41.01(a), concluding that voluntary dismissal under this rule was unavailable to Yusuf because Al Somali had answered his petition and had not stipulated to dismissal. The district court’s rejection of Yusuf’s earlier dismissal requests as procedurally defective was therefore harmless because the requests were properly denied on the merits.

And we discern no abuse of discretion in the district court’s ultimate determination that Yusuf did not meet the requirements to dismiss under rule 41.01(a). *See Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (noting that a district court abuses its discretion if it improperly applies the law or resolves an issue in a manner that is contrary

² We note that the district court retains “discretion to manage [its] own docket” and authority to reject correspondence from a party particularly when a party personally files a document in district court while represented by counsel. *See Modrow v. JP Foodservice, Inc.*, 656 N.W.2d 389, 395 (Minn. 2003) (noting that the district court balances this discretion in dismissing a case for failure to prosecute); Minn. R. Civ. P. 11.01 (requiring that documents filed in the district court be “signed by at least one attorney of record” or, in the case of a self-represented party, by the party).

to logic and the facts on record). The district court correctly applied that rule, which provides that voluntary dismissal without the other party's stipulation is only authorized under the rule "before service by the adverse party of an answer or of a motion for summary judgment." Minn. R. Civ. P. 41.01(a). Al Somali answered Yusuf's dissolution petition on August 26, 2022, long before Yusuf sent the 2024 letters seeking to dismiss his petition. The district court therefore denied Yusuf's motion in accordance with the governing rule.

II. The district court did not abuse its discretion in determining custody and parenting time.

Yusuf challenges the district court's grant of sole physical and legal custody to Al Somali and the restrictions the district court placed on his parenting time. District courts have broad discretion on matters of custody and parenting time. *Goldman v. Greenwood*, 748 N.W.2d 279, 281-82 (Minn. 2008). A district court abuses its discretion if it makes findings of fact that lack evidentiary support, misapplies the law, or its decision is contrary to logic and the facts in the record. *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022).

"The guiding principle in all custody cases is the best interests of child." *Pikula v. Pikula*, 374 N.W.2d 705, 711 (Minn. 1985). "[When] considering the child's best-interests, a district court must consider and evaluate all relevant factors," including the 12 statutory factors in Minn. Stat. § 518.17, subd. 1(a)(1)-(12) (2024). *Thornton v. Bosquez*, 933 N.W.2d 781, 789 (Minn. 2019) (quotation omitted). In so doing, a district court must provide "detailed findings" on each factor and explain how each "led to its conclusions and to the determination of custody and parenting time." *Id.* (quotations omitted).

In issuing the J&D, the district court thoroughly considered each best-interests factor. Yusuf does not challenge any of the district court's findings as clearly erroneous, nor does he argue that the district court made inadequate findings. Instead, Yusuf argues that the district court failed to afford sufficient consideration to his "completion of a parenting course, active interest in parenting, and the complications posed by [supervision center] scheduling conflicts." We construe this argument as a challenge to the district court's weighing of the best-interests factors. And weighing of these factors lies squarely within the district court's discretion. *See Bender*, 971 N.W.2d at 262; *see also In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (noting that, in reviewing a district court's factual findings, we do not reweigh evidence, reconcile conflicting facts, or make credibility determinations).

We disagree with any characterization by Yusuf that evidence that may be favorable to him was not considered by the district court. In the J&D, the district court explicitly considered Yusuf's stated interest in and desire to care for the child. But the district court concluded that Yusuf only wished to do so "on his terms." The district court highlighted that Yusuf's unwillingness to exercise supervised parenting time led to his failure to see the child more than once over two years. These findings are supported by the record. Though Yusuf testified at trial and informed the custody evaluator that Al Somali did not cooperate with his attempts to exercise his parenting time, the district court discredited this testimony noting that there was no documentary evidence of Yusuf's attempts to schedule supervised visits. And the district court noted that Yusuf's testimony that his work schedule conflicted with the available times at the supervision center was not consistent

with his testimony that he is an independent contractor with a flexible schedule. The district court also credited Al Somali's testimony that she provided day-time availability for scheduling visits and did not want to schedule an appointment at the parenting supervision center after dark. We defer to these credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). The district court's determination that Yusuf did not meaningfully attempt to exercise his parenting time during the pendency of the dissolution proceeding is supported by the record, does not misapply the law, and is not contrary to logic and the facts in the record. *Bender*, 971 N.W.2d at 262.

Yusuf also appears to argue that the district court's custody determination conflicts with Minn. Stat. § 518.17 (2024) because the district court neglected to consider (1) that it is generally in a child's best interests to promote a relationship with both parents as outlined in subdivision 1(b)(2), and (2) that there is a rebuttable presumption that joint legal custody is in a child's best interests pursuant to subdivision 1(b)(9). We disagree.

As to Minn Stat. § 518.17, subd. 1(b)(2), the district court considered Yusuf's relationship with the child and sought to promote a relationship with him despite awarding custody to Al Somali and requiring supervised parenting time. In considering the effect of the custody and parenting time award on the relationships between Yusuf and the child, the district court concluded that the award provided the child "the opportunity to reestablish and grow his relationship with [Yusuf] in a safe setting." And the district court set forth specific requirements for Yusuf to seek future unsupervised parenting time, tailoring those benchmarks to successful supervised parenting time and completion of a domestic abuse

and parenting programming. We discern no abuse of discretion in the district court's approach.

And Yusuf's argument that the district court erroneously neglected to consider the rebuttable presumption for joint legal custody misapplies the statute. This presumption applies only when domestic abuse has not occurred between the parents. Minn. Stat. § 518.17, subd. 1(b)(9). Where, as here, the district court finds that domestic abuse has occurred between parents, "the court shall use a rebuttable presumption that joint legal custody or joint physical custody is *not* in the best interests of the child." *Id.* (emphasis added). And to determine whether this presumption is rebutted, the district court must consider "the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs." *Id.* The district court's conclusion that this presumption had not been rebutted is not an abuse of its discretion and Yusuf's argument that the opposite presumption should have applied is unsupported by the law.

In sum, the district court did not abuse its discretion in granting Al Somali sole legal and physical custody and in granting Yusuf supervised parenting time.

III. The district court properly calculated child support by imputing Yusuf's income.

Yusuf argues that the district court erred in determining his child-support obligation alleging that the district court used an incorrect value for his income. The district court concluded that Yusuf was voluntarily underemployed and used the parties 2020 and 2022 tax returns to impute his income to \$2,783 per month.

In determining a parent’s child-support obligation, the district court must determine that parent’s gross income. Minn. Stat. § 518A.34(a)(1) (2024). And where the district court finds that a parent is “voluntarily unemployed, underemployed, or employed on a less than full-time basis,” it must calculate that parent’s child-support obligation based on its determination of that parent’s potential income. Minn. Stat. § 518A.32, subd. 1 (2024). Minnesota law provides three methods for determining a parent’s potential income, including determining the value according to “the parent’s probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community.” *Id.*, subd. 2 (2024).

Both a district court’s determination of whether a parent is voluntarily underemployed and its “determination of income” are findings of fact reviewed for clear error. *Newstrand v. Arend*, 869 N.W.2d 681, 685 (Minn. App. 2015), *rev. denied* (Minn. Dec. 15, 2015). A finding is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *See Kenney*, 963 N.W.2d at 221 (quotation omitted).

The district court’s determination that Yusuf was underemployed and its income determination are not clearly erroneous. The record reflects that Yusuf was employed as a personal care assistant before the dissolution proceedings and earned significantly more in that role than he did in his employment at the time of the trial. And the record does not reflect any explanation for why Yusuf cannot find comparable employment. The district court’s determination that Yusuf was underemployed is not “manifestly contrary to the weight of the evidence” and is supported by the evidence as a whole and therefore not

clearly erroneous. *See id.* Similarly, the district court’s computation of Yusuf’s potential income based on his 2020 and 2022 earnings appears to adequately capture his “probable earnings level based on employment potential [and] recent work history,” and is supported by the record. *See* Minn. Stat. § 518A.32, subd. 2.

IV. The district court did not abuse its discretion in dividing the parties’ marital assets and debts.

Yusuf contends that the district court abused its discretion by improperly dividing the parties’ marital property, by improperly apportioning debt between the parties, and overlooking marital assets held by Al Somali.³

District courts have “broad discretion in evaluating and dividing property in a marital dissolution” and such a determination “will not be overturned except for abuse of discretion.” *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002) (explaining that a reviewing court “will affirm [a district] court’s division of property if it had an acceptable basis in fact and principle” even if the reviewing court “might have taken a different approach”); *see also Berenberg v. Berenberg*, 474 N.W.2d 843, 848 (Minn. App. 1991) (“A [district] court’s apportionment of marital debt is treated as a property division and reviewed under an abuse of discretion standard.”), *rev. denied* (Minn. Nov. 13, 1991).

³ Yusuf also asserts that the district court overlooked nonmarital gold in dividing the parties’ marital property. But the district court’s order does not address any gold in assessing the parties’ nonmarital property. During trial, the district court precluded Yusuf from testifying about gold concluding that “[i]nformation about gold was not produced in response to discovery.” Yusuf does not appear to challenge this evidentiary ruling on appeal but asks us to consider the information expressly excluded from consideration by the district court. We decline to do so.

Yusuf appears to assert that the district court abused its discretion in assigning him the entire balance of a Bank of America credit card debt in his name. The district court found that the parties incurred this debt in Yusuf's name at an unknown date with an unknown balance. The district court determined that this debt was marital and acknowledged that "normally, each party would be responsible for payment of one-half," but concluded that because there was no evidence about why and when the debt was incurred or the balance of the debt, it was "fair and equitable" for Yusuf to be solely responsible.

The record reflects that Yusuf testified that he owed a credit card debt to Bank of America and that this debt was sent to collections but provided the district court with no further information. Thus, the district court's findings about this debt were not clearly erroneous. And the district court did not abuse its discretion by determining that it was "fair and equitable" for Yusuf to be solely responsible given that he was the only party earning income during the parties' marriage, the debt was solely in his name, and Yusuf did not testify that the debt was incurred to provide for household expenses.

In contrast, Al Somali provided significantly more information related to the medical debt the district court divided between the parties than Yusuf did about the credit card debt. Al Somali testified about the debt being incurred in relation to her pregnancy for the parties' child, offered a document reflecting the amount of the original debt and the date the debt was incurred, and a document reflecting that the debt remained outstanding

on her credit report.⁴ Thus, the district court’s decision to divide this debt, but not the credit card debt between the parties, is not contrary to logic or the facts in the record and is therefore not an abuse of discretion.

Finally, Yusuf asserts that the district court “overlooked” the value of a tax refund and an apartment deposit in allocating marital property. The record does not reflect the existence of an apartment deposit—Yusuf neither testified about a deposit nor offered evidence to that effect. As for the tax refund, the record reflects that the parties’ filed jointly and received a \$7,110 tax refund in 2020. But Yusuf offered no testimony or other evidence that this refund was ever solely held by Al Somali. Instead, the record reflects that Al Somali testified that she did not take any of Yusuf’s cash or property after the parties separated, that she did not have a bank account before the separation, and that she had no access to Yusuf’s bank accounts during the marriage. The district court therefore did not abuse its discretion in allocating marital property because Yusuf did not demonstrate that Al Somali had possession of any undivided marital property.

Affirmed; motion granted in part.

⁴ Yusuf appears to challenge the authenticity of these documents and the district court’s resulting apportionment of this debt equally between the parties. And while Yusuf made similar objections about the exhibit during trial, he does not state an argument for why the documents were not properly authenticated through Al Somali’s testimony. *See* Minn. R. Evid. 901(b)(1) (providing for authentication of evidence by a witness’s knowledge and testimony that “a matter is what it is claimed to be”).