

*This opinion is nonprecedential except as provided by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
A24-1350**

In re the Marriage of:

Amanda Marie-Gladys Johnson, petitioner,
Respondent,

vs.

Joseph Lyle Johnson,
Appellant.

**Filed July 14, 2025
Affirmed
Reyes, Judge**

Becker County District Court
File No. 03-FA-23-1129

Amanda Marie-Gladys Johnson, St. Paul, Minnesota (self-represented respondent)

Isaiah P. Volk, Thorwaldsen & Malmstrom, PLLP, Detroit Lakes, Minnesota (for
appellant)

Considered and decided by Reyes, Presiding Judge; Cochran, Judge; and Schmidt,
Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

In this post judgment dispute, appellant-husband argues that the district court abused
its discretion by (1) denying his motion to reopen the dissolution judgment for excusable

neglect, fraud, and newly discovered evidence and (2) not granting him his requested relief from the spousal-maintenance award. We affirm.

FACTS

Appellant Joseph Lyle Johnson (husband) and respondent Amanda Marie-Gladys Johnson (wife) married in September 2000. In July 2023, wife filed a petition for dissolution of marriage. Throughout the duration of their marriage, the parties lived off husband's income while wife was primarily a stay-at-home mother and homemaker. On July 7, 2023, an officer personally served husband with a copy of the summons and petition for dissolution of marriage.¹ Husband did not file or serve an answer to wife's petition for dissolution. Having received no written response to her petition, wife filed a notice of intent to proceed by default and served husband with a copy of it via U.S. Mail and email.

On August 24, 2023, wife filed a motion for spousal support, requesting the district court to order husband to pay \$2,500 in spousal support per month and \$5,000 in need-based attorney fees. That same day, wife served husband with her motion via U.S. Mail and email. At the default hearing, wife's attorney stated that they had not "heard from [husband], he has not filed a response of any kind" and he did not appear for the hearing. The district court noted that husband did not appear at the default hearing.

The district court granted wife's motion, ordering in part that (1) husband pay wife \$3,850 per month in permanent spousal maintenance. The district court also awarded wife \$5,000 in need-based attorney fees. The district court entered judgment on September 19,

¹ Wife filed proof of service on July 14, 2023. The affidavit indicates that husband had been personally served on July 6, 2023.

2023. That same day, wife's attorney served husband via U.S. mail and email with file-stamped copies of the certificate of dissolution and judgment.

On October 24, 2023, wife's attorney served husband via U.S. mail and email with a notice of hearing for constructive civil contempt of court due to husband's failure to comply with the September judgment which ordered him to pay wife monthly spousal maintenance. One week later, wife filed a notice of motion and motion seeking an order from the district court finding husband in contempt for violating the September judgment and served husband with copies via U.S. Mail and email. The district court issued an order to show cause on November 9, 2023.

On November 27, 2023, husband emailed the district court, requesting a continuance of the contempt hearing so he could retain counsel. The next day, the parties, including husband for the first time, appeared at the order-to-show-cause hearing. Husband claimed that he had not been served any pleadings in the case because he lived in Elk River and asserted that wife and her attorney knew that it was his residence "for a few months." The district court continued the order-to-show-cause hearing to December 22, 2023, to allow husband to retain counsel.

At the contempt hearing, husband argued that he had not been served properly with the petition for dissolution and asked the district court to reopen the dissolution judgment because caselaw allows district courts to "liberally reopen the case." However, husband admitted that he personally contacted wife's attorney to discuss the case on July 13, 2023, several days after he received the summons and petition for dissolution. On cross-

examination, husband also admitted that he received the dissolution judgment and decree and had “read it in its entirety,” including the awards for financial relief to wife.

On the issue of failing to pay spousal maintenance, husband estimated his income to be \$70,000 a year from speaking engagements and contracts with various counties for parenting classes but claimed he did not have the ability to pay it because his income fluctuated based on the number of his speaking engagements. Husband admitted that the limited documents he submitted in support of his motion to modify the spousal-maintenance award did not include check receipts for the work he had done, he had not completed his taxes for 2022 or 2023, and that he had no other financial obligations.

On January 8, 2024, the district court denied husband’s motion to vacate the judgment, reopen the dissolution, and modify spousal maintenance. The district court determined that husband “failed to meet his burden of proving excusable neglect under Minn. Stat. § 518.145 subd. 2(1) (2023),” because the evidence showed that he had been personally served and emailed all the documents in the proceeding. The district court further noted that husband’s email request to the district court to continue the order-to-show-cause hearing came from the same email address to which wife’s counsel sent all of the pleadings. The district court also determined that husband did not “ma[ke] the proper motion or the requisite showing to modify spousal support.” Husband filed a motion for reconsideration under Minn. R. Gen. Prac. 115.11.

In February 2024, the district court issued an order finding husband in contempt. The district court ordered husband to pay wife amounts due under the September dissolution judgment within ten days or, in the alternative, pay wife ten percent of the total

amount of the judgment and submit a proposed payment plan within ten days of the order. Husband made an initial payment of \$2,310 to wife and submitted a proposed payment plan to the district court. Husband did not make any other payments to wife.

In May 2024, the parties appeared before the district court on husband's motion to modify the spousal-maintenance award. Husband initially testified that his income for 2022 was \$17,763, but later admitted that that figure did not include \$14,836.56 for speaking engagements he earned that year and that he had only provided his federal income tax filing for 2023, which he claimed to be \$21,421. When questioned about his ability to earn additional income, husband explained that he had an opportunity to earn an annual salary of \$52,380 if he worked "one 10-hour day" for a year and that he had the potential to earn approximately \$105,000 a year if he worked the maximum amount of hours they offered him, but stated he did not work those hours.

Husband submitted additional tax information several months later. While still incomplete, the district court nevertheless decreased the permanent spousal-maintenance award from \$3,850 to \$2,128.50 per month after imputing \$1,200 monthly income to wife and imputing \$6,452 monthly income to husband. The district court also ordered husband to pay wife \$23,742.50 in arrears and found that husband has been working as a motivational speaker for nine years with an income of \$250 to \$2,500 per speaking engagement but is now voluntarily underemployed. Husband did not move for amended findings.

The district court later found husband in contempt of violating the September judgment because he did not make any required payments to wife. The district court also

found that husband's income demonstrated that he "had the ability to pay the court-ordered obligations," that he "significantly altered his financial circumstances by changing his employment status from a full-time benefitted employee to fully self-employed," and "acted in bad faith by representing (contrary to his own evidence) that the Court's [o]rder is impossible to fulfill."

After husband's continued failure to make spousal-maintenance payments after the spousal-maintenance award had been reduced, wife filed a second motion for contempt. In October 2024, the district court granted wife's second motion of contempt.

This appeal follows.

DECISION

As an initial matter, husband did not bring a motion for amended findings after the district court denied his motion to vacate judgment. *See* Minn. R. Civ. P. 52.02. Our review is therefore limited to whether the evidence supports the district court's findings of fact and whether the findings of fact support the conclusions of law. *Beasley v. Medin*, 479 N.W.2d 95, 98 (Minn. App. 1992) (stating that party's failure to seek amended findings is limited to whether evidence supports the findings).

I. The district court acted within its discretion by denying husband's request to vacate and reopen the dissolution judgment.

Husband contends that the district court abused its discretion by denying his request to vacate and reopen the dissolution judgment because (1) he proved excusable neglect;

(2) wife engaged in fraud; and (3) his tax information constitutes newly discovered evidence.² We disagree.

A. Excusable Neglect

Under Minn. Stat. § 518.145, subd. 2(1) (2024), a district court may relieve a party from a dissolution judgment and order a new trial or other just relief for “excusable neglect.” This language is identical to the language in Minn. R. Civ. P. 60.02(a), and this court has “addressed both the statute and the rule in appeals from district court orders denying motions to vacate dissolution judgments.” *Knapp v. Knapp*, 883 N.W.2d 833, 836 (Minn. App. 2016). To obtain relief from a dissolution judgment, the moving party must show: “(1) a debatably meritorious claim; (2) a reasonable excuse for the movant’s failure or neglect to act; (3) the movant acted with due diligence after learning of the error or omission; and (4) no substantial prejudice will result to the other party if relief is granted. *Gams v. Houghton*, 884 N.W.2d 611, 620 (Minn. 2016) (quotation omitted). These are known as the *Finden* factors. *Id.*; see *Finden v. Klaas*, 128 N.W.2d 748, 750 (Minn. 1964).

We will not reverse a district court’s decision to enter default judgment absent an abuse of discretion. *Black v. Rimmer*, 700 N.W.2d 521, 525 (Minn. App. 2005), *rev. dismissed* (Minn. Sept. 28, 2005). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or rendering a decision

² Husband also argues that the district court failed to hold an evidentiary hearing on whether he properly received service. However, husband did not request an evidentiary hearing, but instead, stated that he “would be willing to have an evidentiary hearing on credibility” to have the officer who served him testify as to whether he was personally served or not.

that is against logic and the facts on the record.” *Knapp*, 883 N.W.2d at 835 (quotation omitted).

Husband argues that he meets the first *Finden* factor because the district court’s findings that the parties’ modest lifestyle and financial difficulties during their marriage are inconsistent with the spousal-maintenance award and that the district court’s subsequent modification of the award demonstrates that it “believed his claim was meritorious.” But the district court based its initial award of spousal maintenance on wife’s evidence, the only evidence available to it at the time because husband had not appeared or submitted any documentation of his financial position. The district court’s reduction of the award nearly a year after the initial judgment does not support husband’s argument that he had a meritorious claim. Rather, the district court’s subsequent modification of the spousal-maintenance award resulted from husband’s submission of evidence of his financial status. The reduction of the spousal-maintenance award does not indicate that the district court erred by awarding wife a higher spousal-maintenance award, but instead shows that appellant demonstrated a substantial change in circumstances since the district court entered the judgement awarding spousal maintenance, which justified lowering the monthly payment amount for spousal maintenance.

Husband contends that he meets the second *Finden* factor because he contacted counsel as soon as he received notice of the order to show cause. However, the record, including husband’s own testimony, shows that he had been served the summons and petition for dissolution before the order-to-show-cause hearing had been scheduled. Husband is not relieved of his obligation to file written responses to the petition for

dissolution or any of the other filings by calling wife's attorney's office to discuss the case days after being served. More importantly, husband's admission shows that he knew of the dissolution petition and that his failure to file responses and participate in the proceedings was not the result of excusable neglect.

Husband's failure to meet any one of the *Finden* factors precludes him from relief. *Gams*, 884 N.W.2d at 619 (concluding that all four factors must be met to grant relief from judgment under Minn. Civ. R. P. 60.02). The district court therefore acted within its discretion by declining to vacate the dissolution and reopen the judgment.

B. Fraud

Husband contends that wife committed fraud upon the court because she claimed that husband earned a "six-figure income" and by representing to the district court during the default hearing that neither wife nor her attorney had heard from husband, but later stated in a subsequent hearing that husband contacted her attorney several days after he had been served with the initial pleadings. We disagree.

A district court may relieve a party from a dissolution judgment and "order a new trial or grant other relief as may be just" if the other party committed fraud. Minn. Stat. § 518.145, subd. 2(3). A district court may summarily dispose of a fraud claim "only when there is no genuine issue of material fact in dispute and [when] a determination of the applicable law will resolve the controversy." *Doering v. Doering*, 629 N.W.2d 124, 130 (Minn. App. 2001), *rev. denied* (Sept. 11, 2001). Under section 518.145, subdivision 2(3), the moving party need only show ordinary fraud, not fraud upon the court. *Id.* at 129. In a dissolution proceeding, ordinary fraud does not require an affirmative

misrepresentation or an intentional course of concealment, unlike fraud upon the court, because parties to a marriage dissolution have a duty to disclose all assets and liabilities completely and accurately. *Bollenbach v. Bollenbach*, 175 N.W.2d 148, 155 (1970).

We will uphold factual findings that resolve whether a dissolution judgment was the product of fraud unless they are clearly erroneous. *Haefele v. Haefele*, 621 N.W.2d 758, 763 (Minn. App. 2001). When “evidence relevant to a factual issue consists of conflicting testimony, the district court’s decision is necessarily based on the credibility of the witnesses.” *Id.* We afford district courts broad discretion “because they are in the best position to determine which witnesses are credible and to weigh the evidence.” *Id.* “If there is evidence to support the district court’s decision, an abuse of discretion will not be found.” *Thompson v. Thompson*, 739 N.W.2d 424, 428 (Minn. 2007).

At the outset, we note that neither of husband’s fraud arguments were raised to the district court. These arguments are therefore forfeited. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (concluding that appellate courts only consider issues presented to and considered by district court). Nevertheless, husband’s arguments fail when considered on the merits. Wife’s affidavit, which states that husband is “financially secure and earns a six-figure income,” is consistent with husband’s testimony that he has the potential to earn \$105,000.

In addition, after husband filed his motion to vacate the judgment and reopen the dissolution judgment, the district court held several hearings, during which both parties testified and presented evidence about husband’s financial status, wife’s need for spousal support, and his ability to comply with the district court’s spousal-maintenance award. The

district court stated that it had “serious concerns regarding [husband’s] candor to the court,” indicating that it did not find husband’s testimony credible. Because the record supports the district court’s findings, including its credibility determinations, we conclude that it did not abuse its discretion by denying father’s motion to reopen the dissolution judgment.

C. Newly Discovered Evidence

Husband’s eventual submission of his tax returns after the district court issued its orders do not constitute newly discovered evidence to warrant relief from judgment because he chose not to disclose information that accurately reflected his income. *See Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003), (“[A] party cannot complain about a district court’s failure to rule in [the party’s] favor when one of the reasons it did not do so is because that party failed to provide the district court with the evidence that would allow the district court to fully address the question.”), *rev. denied* (Minn. Nov. 25, 2003). We therefore discern no error by the district court in denying husband’s motion to reopen the dissolution judgment.

II. The district court acted within its discretion by its modification of the spousal-maintenance awarded to wife.

Husband argues that the district court abused its discretion by its limited modification of the spousal-maintenance award because the findings were “contrary to a support amount of \$2,128.50 in spousal maintenance.” We are not persuaded.

District courts generally have broad discretion in decisions regarding spousal maintenance. *Erlandson v. Erlandson*, 318 N.W.2d 36, 38 (Minn. 1982). A district court abuses its discretion when it makes findings that are unsupported by the evidence or when

it improperly applies the law. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997). “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). Appellate courts review questions of law related to spousal maintenance de novo. *Melius v. Melius*, 765 N.W.2d 411, 414 (Minn. App. 2009).

To support his argument, husband points to the district court’s findings that the parties did not live a lavish lifestyle and bought many things second-hand, that husband paid for each of the parties’ vehicles with money he obtained from his retirement account, and that wife received a “large cash portion” of his retirement account.

However, the district court also found that the information husband provided the court, although incomplete, demonstrated that he had the ability to pay the court-ordered obligations and that, based on husband’s testimony, he does not pay rent, does not own a home, and his annual income is estimated to be approximately \$70,000. The district court did not abuse its discretion by modifying the spousal-maintenance award because the award is based on wife’s uncontroverted testimony about her monthly expenses, employment history, and the information husband disclosed regarding his income and employment status.

Affirmed.