This opinion is nonprecedential except as provided by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
A24-1354

In the Marriage of:

Aimee Lynn Speier, petitioner,
Respondent,

vs.

Gary Joseph Speier, Jr.,
Appellant.

Filed September 22, 2025
Affirmed
Smith, Tracy M., Judge

Hennepin County District Court
File No. 27-FA-21-6272

Ben M. Henschel, Susan A. Daudelin, Amy M. Yanik, Henschel Moberg, P.A., Minneapolis, Minnesota (for respondent)

Kathleen M. Newman, Barbara J. Seibel, DeWitt LLP, Minneapolis, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Ede, Judge; and Reilly, Judge.*

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Gary Joseph Speier Jr. challenges the district court's denial of his motion to modify his maintenance and child-support obligations to respondent Aimee Lynn Speier, arguing that the district court abused its discretion because Gary demonstrated substantial changes in circumstances that render the initial award unfair.[1] Gary additionally argues that the district court abused its discretion by awarding Aimee need-based attorney fees and conduct-based attorney fees. We affirm.

FACTS

Gary and Aimee married in 2003 and had three children, two of whom were minors at the time of the motion at issue here. In July 2023, following a trial on the matters not agreed upon by the parties, including spousal maintenance and child support, the district court entered a judgment and decree (J&D) dissolving their marriage.[2]

Initial Maintenance and Child-Support Awards

The J&D awarded Aimee $9,000 per month in permanent spousal maintenance. In explaining its decision, the district court found that Aimee had gross annual income of $87,360 per year. The parties agreed that Gary, a patent attorney and law-firm partner, received a gross yearly draw of $400,000. The district court also considered Gary's yearly bonus as part of his income. Although Gary's bonus varied by year, the district court

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[1] Because the parties share the same last name, we refer to them by their first names.

[2] The trial was conducted by a referee, and the district court countersigned the referee's recommended J&D.

calculated the average amount of his bonuses for the preceding six years, which was $200,000. Combining Gary's annual draw with his average bonus, the district court calculated his gross annual income to be $600,000.

In considering the amount of maintenance to award, the district court found that Aimee had $13,551 in monthly living expenses, excluding child-related expenses, compared with her $4,600 in monthly after-tax income. It additionally found that Gary had $9,446 in monthly expenses, compared with $23,551 in monthly after-tax income. Based on that information, and after considering the relevant statutory factors, the district court ordered Gary to pay Aimee $9,000 a month in what was then called permanent spousal maintenance.

The district court used the same income information to calculate child support and ordered Gary to pay Aimee $1,853 a month in child support. The district court additionally required that Gary pay for the minor children's private-school expenses, explaining that this upward deviation in Gary's support obligation was supported by statutory factors governing such deviations.

Motion to Modify

In January 2024, just over six months after the district court filed the J&D, Gary filed a motion to modify his spousal-maintenance and child-support obligations. In an accompanying affidavit, he asserted that in December 2023 he was informed that he would receive no bonus for 2023 and that his 2024 yearly draw would decrease from $400,000 to $380,000. He asserted that the only income he could "rely on" for 2024 was his $380,000 annual draw, which was 36.67% lower than the $600,000 annual income that served as the basis for the maintenance and support obligations. He explained that he had recently had less work at his firm and expected that trend to continue. He also included an affidavit from a colleague at the firm, echoing that concern.

Gary submitted a supplemental affidavit in which he said that he realized that the monthly budget that he submitted during dissolution proceedings had omitted his mortgage or rent expenses. He explained that, after the divorce, he did not have sufficient resources to purchase a home without a mortgage as he had planned to do and, as a result, he currently spends $3,627 in combined monthly rent, utilities, and parking. Gary added that he can no longer afford several expenses that he enjoyed during the marriage and that he pays $1,638 in monthly business-development expenses. Gary's affidavit additionally indicated that Aimee's 2023 monthly living expenses were $8,971, significantly reduced from the $13,551 amount that the district court found to be accurate in the dissolution proceedings.

Aimee filed a responsive motion in which she requested that the district court deny Gary's motion and award her conduct-based and need-based attorney fees. She included an affidavit in which she claimed that Gary did not attempt to mediate their dispute and, having not moved to amend or appeal the J&D, was essentially attempting to relitigate the dissolution proceedings. She contended that her budget remained unchanged, that she limited her spending in 2023 to account for trial expenses, that Gary's reduced draw was not substantially lower than previous years, that his bonus income always varied, and that Gary has historically received Schedule C income from small companies that he owns. Aimee added that Gary purchased a luxury vehicle and made other high-end purchases and that Gary's other expenses have decreased with one of their children now being enrolled in public school.

The district court denied Gary's motion to modify, finding that there had not been a substantial change of circumstances that render the existing maintenance and child-support awards unfair. It awarded Aimee $21,412.50 in need-based attorney fees and $2,500 in conduct-based attorney fees.

Gary appeals.

DECISION

I. The district court acted within its discretion by denying Gary's motion to modify maintenance and child support.

Appellate courts review a district court's decision regarding whether to modify a maintenance award for an abuse of discretion. *Hecker v. Hecker*, 568 N.W.2d 705, 709 (Minn. 1997). The same standard applies to appellate review of a decision regarding whether to modify child support. *Frank-Bretwisch v. Ryan*, 741 N.W.2d 910, 914 (Minn. App. 2007). A district court abuses its discretion by misapplying the law, making clearly erroneous findings of fact, or ruling in a manner that is contrary to logic and the facts in the record. *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019). A finding of fact is clearly erroneous if it is "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).

A district court may modify a spousal-maintenance award upon a showing by the movant of "substantially increased or decreased gross income of an obligor or obligee" or "substantially increased or decreased need of an obligor or obligee" if either scenario makes the award prior to modification "unreasonable and unfair." Minn. Stat. § 518.552, subd. 5b(b) (2024).[3] Likewise, a district court may modify a child-support award upon a showing of "substantially increased or decreased gross income of an obligor or obligee" or "substantially increased or decreased need of an obligor or obligee or the child or children" if either makes the previous award "unreasonable and unfair." Minn. Stat. § 518A.39, subd. 2(a) (2024).[4]

Gary raises three primary arguments in challenging the district court's denial of his motion to modify maintenance and child support. First, he argues that the district court erred by finding that his income had not substantially decreased. Second, he argues that the district court erred by finding that his living expenses had not increased. Third, he argues that the district court erred by finding that Aimee's expenses have not decreased. Gary also contends that, because of his decreased income in particular, the district court abused its discretion by denying modification of maintenance and child support. We address each argument in turn.

[3] The district court's order denying Gary's motion to modify spousal maintenance was signed August 1, 2024, and cites Minn. Stat. § 518A.39, subd. 2(a), when discussing the standards for modifying maintenance. Although these standards appear in section 518A.39 of the 2022 Minnesota Statutes, a 2024 amendment moved the relevant standards for modifying maintenance to Minn. Stat. § 518.522, subd. 5b(b). *See* 2024 Minn. Laws ch. 101, art. 2, § 5, at 871; *see also* Minn. Stat. § 645.02 (2024) (providing that statutory amendments become effect on the next August 1 absent the amendment listing a different effective date). Because these relevant portions of these standards are identical, the discrepancy is not material.

[4] Similarly, the Minnesota Legislature amended Minn. Stat. § 518A.39, subd. 2, in 2024. *See* 2024 Minn. Laws ch. 101, art. 2, § 10, at 873. The amendment did not modify the language governing child-support modifications.

A. The district court did not clearly err by finding that Gary's income did not substantially decrease.

In arguing that the district court erred by finding that his income did not substantially decrease, Gary contends that his income substantially decreased because (1) the district court should have calculated his income using the same method as in the J&D by basing it on his now-reduced actual annual draw rather than his average annual draw over five years; and (2) bonus income should not be considered income for maintenance purposes until it is received, and the district court should therefore not have included the average of his recent bonuses as income.

We begin by addressing Gary's argument that the district court was required to calculate his income using the same method as in the J&D. In its order on the motion to modify, the district court averaged Gary's annual draws for 2020 to 2024 and found that average to be $348,350. It explained that Gary's $380,000 draw for 2024 is higher than this average amount. The district court then averaged the same five years of bonus income and found that amount to be $157,000. It then combined the average annual draw with the average bonus and determined Gary's five-year average income to be $505,350.[5]

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[5] Gary relatedly argues that, in any event, the district court improperly calculated his five-year average income because the expert who had calculated Gary's average income had "corrected" his average five-year income from $505,350 to $492,350. But the difference in the expert's two numbers is not a "correction." The $505,350 income comes from calculating the average annual draw and bonuses from 2020 to 2024 whereas the $492,350 income amount comes from calculating the average annual draw and bonuses from 2019 to 2023. We do not discern any error in the district court's decision to average income from 2020 to 2024 rather than 2019 to 2023.

We find unpersuasive Gary's argument that the district court erred by using a different method for calculating Gary's income in the underlying order than the method used in the dissolution proceedings. In the J&D, the district court calculated Gary's $600,000 income using his $400,000 draw as a fixed annual amount and added $200,000 based on his average bonuses for the six preceding years. In the district court's order on Gary's motion to modify, as we explained above, the district court averaged both his recent annual draws and his bonuses. Gary does not point to statutory authority or to a requirement in the J&D for the proposition that the district court was required to employ the same method used in the J&D to determine whether, on a motion to modify, Gary made a showing of "substantially increased or decreased gross income" under Minnesota Statutes section 518.552, subdivision 5b(b).[6] Because we do not presume error on appeal, *White v. Minn. Dep't of Nat. Res.*, 567 N.W.2d 724, 734 (Minn. App. 1997), *rev. denied* (Minn. Oct. 31, 1997), and given the absence of a statutory or other requirement, we conclude that the district court was not required to calculate Gary's income using the same method as in the J&D.[7]

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[6] In support of the district court's ruling, Aimee cites our nonprecedential decision *Kilgore v. Brockman*, an appeal from a denial of a motion to modify spousal maintenance. No. A22-1696, 2024 WL 220407, at *1 (Minn. App. Jan. 22, 2024). In *Kilgore*, we rejected an argument that the district court improperly used a different method for calculating a party's income. *Id.* at *1, *3. In so doing, we concluded that appellant's argument that the statute contained such a requirement was unavailing. *Id.* at *3. Although nonprecedential and thus merely persuasive, *see* Minn. R. Civ. App. P. 136.01, subd. 1(c), our decision in *Kilgore* is consistent with our decision in this appeal.

[7] Gary additionally suggests that the district court adopted an incorrect income listed in Aimee's proposed order and thereby raised a question as to whether it conducted an independent analysis. However, adopting a party's proposed findings of fact and conclusions of law "almost verbatim" is "by itself . . . not improper if the record supports

We next address Gary's argument that the bonus income should be included as income for maintenance purposes only after receipt of a bonus rather than including his averaged recent bonuses as income. As an initial point, we recognize that this average income of $505,350, which includes Gary's averaged recent bonuses, is more than the $400,000 in income he received in 2023 and the $380,000 annual draw for 2024, not including any bonus for 2024, which had not yet been determined at the time of the district court's order. However, the district court, relying on *Veit v. Veit*, 413 N.W.2d 601 (Minn. App. 1987), explained that it was proper to rely on Gary's average income because his income fluctuates. In *Veit*, we held that it was proper to consider a party's average income because that party's income fluctuates given the nature of the party's real-estate business, meaning that "[a]n average takes into account fluctuations and more accurately measures income." 413 N.W.2d at 606. Similarly, here, the record indicates significant fluctuation in Gary's income, as evidenced by a $440,000 variation in his bonuses over the relevant five-year period.

And our nonprecedential decision in *Olson v. Olson*, which Gary relies on for the proposition that the maintenance award should be contingent upon actual receipt of the bonuses, is distinguishable. No. A04-1148, 2005 WL 894709 (Minn. App. Apr. 19, 2005). In *Olson*, we considered an appeal from an initial maintenance award, which resulted in a monthly budget shortfall that the obligor would cover through annual bonuses. *Id.* at *1. In contrast, the present appeal is an appeal from a modification motion rather than an initial

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the findings and shows the [district] court conscientiously considered all the issues." *Bersie v. Zycad Corp.*, 417 N.W.2d 288, 292 (Minn. App. 1987), *rev. denied* (May 5, 1988). As we explain throughout this opinion, the record provides such support.

award, and Gary did not appeal the initial maintenance award that calculated the bonuses based on average income. *See Dieseth v. Calder Mfg. Co.*, 147 N.W.2d 100, 103 (Minn. 1966) (explaining that a district court's decision is final after the time for appeal has expired).

The district court therefore did not clearly err by finding that Gary's income did not substantially decrease since the J&D because (1) it was not improper to adopt a different method for calculating his income and (2) averaging his bonuses is appropriate given their historic fluctuation.[8]

B. The district court did not clearly err by finding that Gary's living expenses have not substantially increased.

Gary next argues that the district court erred and abused its discretion by finding that his monthly living expenses have not increased because (1) his housing expenses are significantly higher than in the budget listed in the J&D and (2) he incurs substantial business-development expenses.

Regarding the housing expenses, Gary contends that he did not include rent or mortgage expenses in his monthly expenses during the dissolution trial because the marital standard was a home without a mortgage—thus, he included only amounts for expected real estate taxes and homeowner's insurance. He adds that, because of his financial obligations following the dissolution proceedings, he has been unable to purchase a home and consequently rents an apartment. Gary acknowledges that he was living in this

[8] Nor do the affidavits that Gary submitted to the district court, which raise concerns about Gary's future compensation given various market factors, compel a different result. *See* Minn. Stat. § 518.552, subd 5b(c) (2024) (explaining that appellate courts consider the relevant factors as they "exist at the time of the motion").

apartment at the time of trial but asserts that he intended to purchase a home after the divorce was final.

We see no error by the district court. Gary's housing expense was known to him during the dissolution proceedings. Although his obligations following the dissolution proceedings may have been more significant than anticipated, the inquiry during modification proceedings concerns whether he carried his burden of showing a substantial change of circumstances. *See id.*, subd. 5b(b). Because his living situation has not changed since the dissolution proceedings, he failed to carry this burden.

Turning to his business-development expenses, in the dissolution proceedings, Gary sought to include $1,854 in his monthly budget related to business expenses. The district court rejected this argument, explaining that it did "not find it credible that [he] would have [had] out of pocket business expenses for which he [was] not reimbursed and decline[d] to include this amount in his budget." Later, to justify modification of maintenance, Gary asserted that his monthly living expenses have increased because he has $1,638 in unreimbursed business-development expenses. The district court rejected this claim, and we see no error in this ruling. In the J&D, the district court excluded business-development expenses from Gary's budget, and Gary did not appeal the J&D or move for amended findings. *See Dieseth*, 147 N.W.2d at 103. As the district court observed in denying Gary's motion to modify, Gary is essentially trying to relitigate this issue.[9] In addition, because

[9] Additionally, in *Tuthill v. Tuthill*, we explained that the finding that the movant's lifestyle had not changed "despite his claims of financial adversity" was sufficient "to indicate that the initial award continues to be fair and reasonable." 399 N.W.2d 230, 232 (Minn. App. 1987). Similarly, here, the district court found, and Gary does not dispute, that Gary

the expenses he claims now are less than what he sought in the dissolution proceedings, there is no basis for determining that the district court clearly erred in finding that there is not a substantial increase in Gary's monthly living expenses.

C. The district court did not clearly err by finding that Aimee's monthly living expenses have not substantially decreased.

Gary, relying on a spending analysis of Aimee's 2023 expenses, argues that Aimee's expenses have substantially decreased since the dissolution proceedings. He contends that the district court's order lacks particularized findings regarding Aimee's expenses at the time of the modification motion and requests that this court remand for further findings consistent with the record. Gary points to several areas in which Aimee's expenses decreased or are otherwise less than her proposed 2023 budget, including a lack of swimming-pool expenses, lower property taxes, and lower insurance expenses since she moved out of the marital home.

We have explained that, "in marital cases, it is especially important that the basis for the court's decision be set forth with a high degree of particularity if appellate court review is to be meaningful." *Hemmingsen v. Hemmingsen*, 767 N.W.2d 711, 718 (Minn. App. 2009) (quotations omitted), *rev. granted* (Minn. Sept. 29, 2009) *and appeal dismissed* (Minn. Feb. 1, 2010). Applying that standard, we conclude that the district court made adequate findings to support its ultimate finding that Aimee's expenses had not substantially decreased and that the record supports these findings.

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purchased a luxury vehicle and made other expensive purchases. *Tuthill* therefore provides additional support for the district court's decision.

The district court's order demonstrates that the district court considered an analysis of Aimee's budget that was performed by Gary's expert. But the district court placed limited weight in that analysis, agreeing with Aimee's contention that she "limited her spending in 2023 due to the attorney fees and expert fees that she incurred relative to the parties' February 2023 trial." From that information, the district court found that Aimee's $13,551 trial budget "remains reasonable to date, considering the parties' standard of living and her needs," adding that "[t]he evidence demonstrates that there has not been a decrease in [Aimee's] needs since 2023."

In making its finding that Aimee's expenses have not decreased, the district court considered relevant information in the record and adequately explained its reasoning. We therefore conclude that the district court's finding that Aimee's expenses have not decreased is not "manifestly contrary to the weight of the evidence" so as to be clearly erroneous. *Kampf v. Kampf*, 732 N.W.2d 630, 633 (Minn. App. 2007), *rev. denied* (Minn. Aug. 21, 2007).

In sum, because the district court did not clearly err by finding that Gary's income did not substantially decrease, that Gary's expenses did not substantially increase, and that Aimee's expenses did not substantially decrease, it acted within its discretion by denying Gary's motion to modify maintenance. Likewise, because Gary does not separately argue that the district court abused its discretion by denying his motion to modify child support, we similarly conclude that the district court acted within its discretion by denying Gary's motion to modify child support.

II. The district court acted within its discretion by awarding Aimee need-based and conduct-based attorney fees.

A. Need-Based Attorney Fees

In challenging the district court's award of need-based attorney fees to Aimee, Gary argues that the district court failed to consider that there is not an income disparity between the parties after Gary makes the monthly maintenance and support payments, did not address Aimee's award of marital assets when considering her ability to pay attorney fees, and did not consider his current income when determining his financial ability to pay. We are unpersuaded that the district court abused its discretion by awarding need-based attorney fees.

In maintenance- and support-modification proceedings, a district court

> shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided 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). We review a district court's award of need-based attorney fees for an abuse of discretion. *Backman v. Backman*, 990 N.W.2d 478, 489 (Minn. App. 2023). The appropriateness of need-based attorney fees does not depend on the merits of the underlying claims. *Phillips v. LaPlante*, 823 N.W.2d 903, 907 (Minn. App. 2012), *rev. denied* (Minn. Aug. 6, 2013).

In awarding $21,412.50 in need-based attorney fees, the district court explained that Gary has the means to pay the attorney fees because he "continues to live at or above the marital standard of living" and that "[h]e continues to earn a substantial income far greater than [Aimee]." It additionally explained that Aimee "is unable to pay the full amount of her attorney's fees—demonstrated, in part, by her need for ongoing spousal maintenance and her current income." "Given the parties' significant disparity in income," the district court concluded that it was "reasonable" for Gary to pay need-based attorney fees.

As an initial matter, we address Gary's argument that the district court failed to consider that there is not an income disparity between the parties after Gary makes his monthly maintenance and child-support payments to Aimee. It is true that the district court found a disparity in income between the parties. But a disparity in income is not a factor in the three-part test for need-based attorney fees. Instead, the factors are that (1) the fees are necessary, (2) the payor has the means to pay the fees, and (3) the payee does not have the means to pay the fees. Minn. Stat. § 518.14, subd. 1; *see also Geske v. Marcolina*, 624 N.W.2d 813, 816, 817 n.2 (Minn. App. 2001) (noting that the attorney-fee statute—Minn. Stat. § 518.14, subd. 1—was amended in 1990 to its three-part statutory test and noting that cases decided under the pre-1990 version of the statute basing fee awards on a disparity in income appear to have been superseded by statute to extent they are inconsistent with the amended version of the statute). Gary does not appear to challenge the first factor. We therefore analyze Gary's arguments as they relate to the district court's findings on the second and third factors.

1. Aimee's Means to Pay Fees

Gary suggests that the district court should have considered Aimee's receipt of spousal maintenance in determining whether she has the means to pay the fees. *See* Minn. Stat. § 518.14, subd. 1(3). "The purpose of a maintenance award is to allow the recipient and the obligor to have a standard of living that approximates the marital standard of living, as closely as is equitable under the circumstances." *Schmidt v. Schmidt*, 964 N.W.2d 221, 226 (Minn. App. 2021) (quotation omitted). An award of maintenance allows the spouse receiving maintenance to meet their existing financial needs. *See McConnell v. McConnell*, 710 N.W.2d 583, 585 (Minn. App. 2006) ("The basic consideration [in determining a maintenance award] is the financial need of the spouse receiving the maintenance . . . ."). Aimee's receipt of $9,000 in monthly maintenance allows her to meet her existing financial needs when considering her income and monthly budget. *See* Minn. Stat. § 518.552, subds. 1, 2 (2024) (explaining the bases for awarding maintenance and determining the amount of maintenance). The district court did not err by not considering Aimee's receipt of maintenance in determining her ability to pay *additional* litigation expenses.

For a similar reason, Gary's argument that the district court erred by not considering Aimee's receipt of child support when determining whether she has the means to pay attorney fees is also unavailing. Child support is meant to provide for such things as a child's housing, food, clothing, education, medical support, and other expenses related to the child's care. *See* Minn. Stat. § 518A.26, subds. 4, 20 (2024). The district court did not err by not considering Aimee's receipt of child support in determining her ability to pay litigation expenses.

Gary also argues that the district court, when determining Aimee's ability to pay attorney fees, erred by failing to consider the $1,986,392 in marital assets she received following the dissolution proceedings. In *Beck v. Kaplan*, the supreme court affirmed a district court's decision that a fee recipient did not have means to pay attorney fees because the party "would be required to deplete the limited capital assets available to her for her retirement." 566 N.W.2d 723, 727 (Minn. 1997) (quotation omitted). Similarly, here, given the district court's "considerable discretion" in awarding need-based attorney fees, *id.*, any failure by the district court to consider the assets that Aimee received in the dissolution proceedings does not present a basis for relief, particularly when considering the district court's detailed findings regarding the parties' economic resources and need.

2. Gary's Means to Pay Fees

Gary's argues that the district court erred by not considering his current income in determining whether he had the financial means to pay attorney fees. *See* Minn. Stat. § 518.14, subd. 1(2). This argument repeats his modification argument regarding his purported decreased income. And as we explained above, the district court did not clearly err in determining Gary's income. This argument therefore fails to demonstrate error in awarding Aimee need-based attorney fees.

B. Conduct-Based Attorney Fees

In challenging the district court's award of conduct-based attorney fees, Gary argues that the district court erroneously found that he did not propose mediation and that he brought his motion to modify maintenance and child support "in good faith."

Minnesota Statutes section 518.14, subdivision 1a (2024), allows a district court to award conduct-based attorney fees in proceedings involving the modification of maintenance and child support. The court may award these fees "against a party who unreasonably contributes to the length or expense of the proceeding." Minn. Stat. § 518.14, subd. 1a.[10] These fees may be warranted, for example, if a party takes positions that are "duplicitous and disingenuous." *Redmond v. Redmond*, 594 N.W.2d 272, 276 (Minn. App. 1999). A party need not act with bad faith for conduct-based fees to be appropriate. *Geske*, 624 N.W.2d at 818-19. The party requesting such fees "has the burden to show that the conduct of the other party unreasonably contributed to the length or expense of the proceeding." *Baertsch v. Baertsch*, 886 N.W.2d 235, 238 (Minn. App. 2016).

In awarding conduct-based attorney fees, the district court explained that Gary "unreasonably contributed to the length and expense of the proceeding by not proposing to mediate his request to modify spousal maintenance and child support prior to the hearing," adding that he failed to file a certificate of settlement efforts. The order additionally

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[10] In 2024, the Minnesota Legislature amended this section to affirmatively state that the district court has authority to award conduct-based attorney fees—rather than stating that the district court is not precluded from doing so—and to move the language regarding conduct-based attorney fees from subdivision 1 to the newly created subdivision 1a. *See* 2024 Minn. Laws ch. 101, art. 1, § 5, at 862-63. The amendment also added language requiring the district court to "consider the circumstances and any other factors that contributed to the length or expense of the proceeding." *Id.* at 862. The district court filed its order on August 1, 2024. 2024 Minn. Laws. ch. 101, art 1, § 10, at 868, indicates that this amendment under this article becomes effective on that same date "and applies to proceedings commenced on or after that date." Because the parties commenced the proceedings prior to August 1, 2024, the 2024 amendment was not in effect. In any event, even though the amended statute contains more requirements than the 2022 version, this discrepancy, by itself, is not material because the district court's order demonstrates that it considered the factors required by the 2024 amendments.

indicated that "many of [Gary's] arguments made in his current motion are the same or similar to those argued at the parties' dissolution trial," meaning that his motion was "an attempted inappropriate second bite at the apple"—behavior that was "particularly concerning" to the district court.

Gary's argument that the district court clearly erred by finding that he did not propose mediation has merit when considering the time logs submitted by counsel for Aimee that reference mediation. But, irrespective of any error in this finding, Gary's argument does not present a basis for relief because reversal is not required when an erroneous finding is harmless. *State by Burnquist v. Bollenbach*, 63 N.W.2d 278, 283 (Minn. 1954); *see* Minn. R. Civ. P. 61 (requiring courts to ignore harmless error). We have no reason to doubt that the district court would have awarded the same $2,500 in conduct-based fees even without finding that Gary did not propose mediation. The district court noted its concern that Gary did not seek amended findings or appellate review of the J&D but instead brought a motion to modify that raised many of the same arguments already addressed in the dissolution trial. The record supports the district court's concern. We see no abuse of discretion in the district court's award of conduct-based attorney fees.

Affirmed.