

*This opinion is nonprecedential except as provided by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
A24-1360**

Eric Michael Kroiss,
Respondent,

vs.

Allisia Timm n/k/a Allisia Spring Wild,
Appellant,

County of Chisago,
Intervenor.

**Filed August 25, 2025
Affirmed
Reyes, Judge**

Chisago County District Court
File No. 13-FA-17-132

Patrick A. Doran, Austin J. White, Miller & Stevens, PA, Forest Lake, Minnesota (for respondent)

Allisia S. Wild, Lindstrom, Minnesota (self-represented appellant)

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

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant-mother challenges the district court's denial of her motion to vacate a prior child-support order because it (1) violated her due-process rights by deciding her motion on the pleadings without an evidentiary hearing; (2) abuses its discretion by failing

to compel respondent-father to comply with her discovery requests; and (3) abused its discretion by failing to find that respondent committed fraud on the court in procuring the child-support order. We affirm.

FACTS

Appellant Allisia Timm (mother), n/k/a Allisia Spring Wild, and respondent Eric Michael Kroiss (father), while never married, were in a relationship and share a daughter. The parties initiated a custody and child-support action in Montana, which was later certified in Minnesota. In June 2019, in Minnesota, the parties attended a mediation to modify the parenting schedule because daughter began living with mother full-time after father had voluntarily reduced his parenting time. After the mediation, mother agreed to draft the stipulation and file it with the district court following father's approval. Mother later repudiated the parties' stipulation and declined to submit it to the district court because she believed that father had been voluntarily unemployed, and she learned that he had sold a home he owned in Tennessee. Two months later, in August 2019, mother filed a motion for an order for temporary physical custody of daughter and requested that the district court increase father's monthly child-support obligation from \$318 to \$759, based on her belief that he had been voluntarily underemployed and the sale of his Tennessee home. Mother also served father with discovery, requesting that he produce his tax returns, current pay stubs, and financial information relating to the sale of his Tennessee home.

The district court heard her motion in December 2019. In response to mother's refusal to file the stipulation, father filed a letter requesting the district court enforce the stipulation. The district court adopted the stipulation in an order in February 2020. Several

weeks later, mother filed a motion to modify child support. Based on a May 2020 stipulation between the parties following mother's request for increased child support due to her increased parenting time, the district court issued an order in June 2020 requiring father to pay mother \$738 per month in child support.

In March 2022, mother sought "an upward deviation" of the child-support order because she believed that father had committed fraud on the court by failing to disclose both an increase in his income and the sale of his Tennessee home when they agreed to modify child support in June 2020. A child support magistrate issued an order on August 18, 2022, which the district court adopted, that (1) increased father's monthly child-support obligation from \$738 to \$1,208.00 based on a 63.6% increase in his income from the date of the original child-support order; (2) found that father's income increased after the June 2020 order had been entered because he began working overtime; and (3) mother did not present any evidence showing that father intentionally excluded his income at the time the parties signed the stipulation. The magistrate also declined to address mother's claims that father committed fraud on the court or hid income from the sale of his home and stated that those issues would be best addressed by bringing a motion under Minn. R. Civ. P. 60.02.

In March 2023 mother filed another motion seeking an order from the child support magistrate finding that father committed fraud on the court. The magistrate denied that motion in an order issued on May 5, 2023, noting that the issue had already been decided and was not properly before the court.

Mother filed another motion in October 2023, requesting relief from judgment pursuant to Minn. R. Civ. P. 60.02, Minn. Stat. § 548.14 (2024), or Minn. Stat. § 518A.28

(2024), based on her allegations that father committed fraud upon the court by failing to disclose his income and the sale of his home in Tennessee. Mother claimed that she learned during a conversation with father's counsel in 2022 that he began working shortly after they executed the May 2020 stipulation setting his child support. While that motion was pending, mother also filed a motion requesting that the district court take judicial notice of various documents and a motion to compel father to produce documents. The documents included: affidavits of the parties, father's unanswered requests for admissions, correspondence to the district court, and two nonprecedential opinions issued by this court.

In February 2024, the parties appeared for a hearing before the district court on mother's motions, including her (1) motion to vacate the June 2020 child-support order based on "new[ly] discovered evidence" that father, with the help of his attorney, concealed and "significantly underreported" his income at the time of that order; (2) request that the district court "take judicial notice" of various documents; and (3) motion to compel father to produce his pay stubs and documentation regarding the sale of his Tennessee home.

During the hearing, mother stated that she "[didn't have] any issues" with the current child-support amount and clarified that she was seeking retroactive payments for the period when she discovered that father had misrepresented his income from August 2019 to June 2020 in the amount of \$4,851 based on his potential income. Mother also explained that she asked the district court to decide whether an evidentiary hearing was needed to determine the motion to vacate the child-support order "on the pleadings" because it was "all in the pleadings." Mother also admitted that she did not need the documents which were the subject of her motion to compel because she had "enough

documents to prove that [father] committed fraud on the court.” Father argued that the district court heard her claim at least four or five different times and that, even if mother’s allegations were true, his failure to disclose his updated income amounted to simple fraud rather than intentional fraud on the court.

The district court denied mother’s motion in an order issued on June 14, 2024, finding in part that she presented no evidence to show that father had committed fraud on the court. The district court also found that mother knew of father’s full-time employment as early as March 10, 2020, and knew of the sale of the Tennessee home as early as June 2019, before she entered into the May 2020 stipulation.

This appeal follows.

DECISION

I. The district court acted within its discretion by declining to hold an evidentiary hearing and by declining to take judicial notice of certain documents.

Mother argues that the district court violated her due-process rights by (1) failing to provide her an evidentiary hearing and (2) failing to consider evidence and take judicial notice of certain documents in support of her claims. We disagree.

A. Mother waived her right to an evidentiary hearing.

The district court generally has discretion on whether to hold an evidentiary hearing on a family court motion. *Thompson v. Thompson*, 739 N.W.2d 424, 430 (Minn. App. 2007). Generally, a party in a family law case is entitled to an evidentiary hearing only if they request one. Minn. R. Gen. Prac. 303.03(d)(1),(2). But when a party requests that the district court consider the evidence based on the pleadings, the party has waived their right

to an evidentiary hearing. *See McKinnon v. McKinnon*, 352 N.W.2d 530, 531 (Minn. App. 1984).

At the outset, we note mother's arguments that her due-process rights were violated by the district court are actually challenges to the district court's evidentiary rulings. We review a district court's evidentiary decisions for an abuse of discretion. *Braith v. Fischer*, 632 N.W.2d 716, 721 (Minn. App. 2001), *rev. denied* (Minn. Oct. 24, 2001).

Here, the record shows that mother specifically asked the district court to determine whether it was necessary to have an evidentiary hearing based on the pleadings, "because it's all in the pleadings." Notably, even in her principal brief to this court, mother "maintains that a conclusion of fraud on the court could have been reached through pleadings, the existing record, and arguments," and that if the court "couldn't reach qualified findings through the pleadings and argument, an evidentiary hearing should have been scheduled." Mother did not request an evidentiary hearing, but instead afforded the district court the discretion to determine whether an evidentiary hearing was necessary. As a result, mother waived her right to demand an evidentiary hearing.

B. The district court acted within its discretion by declining to take judicial notice of certain documents submitted by mother and fully considered the evidence mother submitted in support of her motion to vacate.

Mother next argues that the district court abused its discretion by not considering evidence and not taking judicial notice of certain documents that she submitted. We are not convinced.

Appellate courts review a district court's denial of a request for relief in which a party has alleged that the other party committed fraud upon the court under rule 60.02(c)

for an abuse of discretion. *Turner v. Suggs*, 653 N.W.2d 458, 465 (Minn. App. 2002). A district court abuses its discretion when it resolves a matter in a manner that is against logic and the facts on the record. *O'Donnell v. O'Donnell*, 678 N.W.2d 471, 474 (Minn. App. 2004).

Contrary to mother's argument, the record shows that the district court, on more than one occasion, considered the evidence mother submitted in support of her claims against father. For example, when mother filed her first motion in March 2022 claiming that father committed fraud on the court, the district court reviewed the evidence, and at mother's request, determined on the pleadings that father had not committed fraud on the court. Mother did not appeal that decision. The district court again considered the evidence mother submitted in support of her motion, and again, at her request, determined on the pleadings that father had not committed fraud on the court.

Mother also contends that the district court abused its discretion by failing to take judicial notice of the documents she submitted, which included father's unanswered requests for admissions, two nonprecedential decisions from this court, affidavits of the parties, and correspondence with the district court. However, the district court may only take judicial notice of facts "not subject to reasonable dispute when the fact is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *In re Welfare of T.D.*, 731 N.W.2d 548, 553 (Minn. App. 2007) (quotation omitted); Minn. R. Evid. 201(b). While nonprecedential decisions from this court are readily available to the district court, *see* Minn. Stat. § 480A.08, subd. 2(a) (2024), the other documents mother asked the district court to take judicial notice of, such as father's

unanswered requests for admissions and the parties' affidavits, directly pertain to contested matters, and are therefore not appropriate subjects for judicial notice under Minn. R. Evid. 201. And although father's unanswered requests for admissions are deemed admitted under Minn. R. Civ. P. 36.01, mother did not move for summary judgment to have the admissions enforced. Accordingly, we conclude that the district court did not abuse its discretion by failing to consider or take judicial notice of certain documents as mother requested.

II. The record supports the district court's determination that father did not commit fraud on the court.

Mother argues that the district court abused its discretion by failing to determine that father and his counsel committed fraud on the court. We are not persuaded.

Fraud on the court is distinct from fraud, and involves "an intentional course of material misrepresentation or non-disclosure, having the result of misleading the court and opposing counsel and making the property settlement grossly unfair." *Maranda v. Maranda*, 449 N.W.2d 158, 165 (Minn. 1989). The moving party bears the burden of establishing a basis to modify a child-support order. *Bormann v. Bormann*, 644 N.W.2d 478, 481 (Minn. App. 2002). A district court's decision whether to modify an order based on fraud on the court will be affirmed absent an abuse of discretion. *Kornberg v. Kornberg*, 542 N.W.2d 379, 386 (Minn. 1996). A district court does not abuse its discretion if evidence in the record supports its decision. *Prahl v. Prahl*, 627 N.W.2d 698, 702 (Minn. App. 2001).

The district court determined that, based on the evidence mother submitted, which included father's pay stubs, documents from the sale of his home, and emails between the parties, father had not committed fraud on the court. Contrary to mother's arguments, the district court has, at least three times, determined that father did not commit fraud on the court because there was no evidence to support that he "engaged in an intentional course of misrepresentation or non-disclosure." Furthermore, the evidence shows that father disclosed his updated income when mother contacted him to modify child support after she obtained new employment. Although father should have promptly disclosed his change in employment status before mother contacted him to modify the child support, the district court found that there is no evidence in the record to suggest that he attempted to hide his income when he provided it or that he engaged in a pattern of conduct to conceal or hide his income. *Maranda*, 449 N.W.2d at 165. Mother has not pointed to any specific conduct or evidence to show that father engaged in any intentional conduct to conceal his income that would constitute fraud on the court.

Mother's claim that father committed fraud on the court is also based in part on his failure to disclose the sale of his Tennessee home. However, mother admitted during the February 2024 hearing, contrary to her pleadings, that she "never ask[ed] for the sale of the home to be included as [father's] income," while also claiming that father committed fraud on the court by failing to disclose the sale of the home because he "had plenty of money to pay child support." Mother's inconsistent statements, first claiming that the sale of the home was immaterial to her argument and then claiming it showed that father committed fraud, further undermine her claim that father committed fraud on the court.

We conclude that the record supports the district court's determination that father did not commit fraud upon the court. In sum, we discern no error by the district court by denying mother's motion to vacate the prior child-support order.

Affirmed.