

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1878**

In the Marriage of:

Svaar David Vinje, petitioner,
Appellant,

vs.

Deborah Lynn Hunsley Vinje,
Respondent.

**Filed October 5, 2026
Affirmed in part, reversed in part, and remanded
Rasmusson, Judge**

Olmsted County District Court
File No. 55-FA-23-4565

Carole A. Pasternak, Klampe Law Firm LLC, Rochester, Minnesota (for appellant)

Thomas R. Braun, Bruce K. Piotrowski, Restovich Braun & Associates, Rochester,
Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Ede, Judge; and Rasmusson,
Judge.

SYLLABUS

1. In a dissolution proceeding, a district court must address whether to award need-based attorney fees under Minnesota Statutes section 518.14, subdivision 1 (2024), and whether to award spousal maintenance under Minnesota Statutes section 518.552 (2024).

2. Particularized findings are required to support a district court's award of spousal maintenance in excess of the recipient's demonstrated need.

OPINION

RASMUSSEN, Judge

In this appeal from an amended dissolution judgment and decree, appellant husband argues that the district court abused its discretion in awarding spousal maintenance because it (1) understated respondent wife's income, (2) included an award for attorney fees in wife's monthly expenses, (3) awarded spousal maintenance in excess of wife's need, and (4) awarded spousal maintenance in an amount exceeding his ability to pay. Because the district court did not clearly err in finding wife's gross income or husband's ability to pay, we affirm in part. However, the district court abused its discretion when it functionally included an award of need-based attorney fees in wife's maintenance award without performing the need-based attorney-fee analysis set forth in Minnesota Statutes section 518.14, subdivision 1. The district court also abused its discretion by failing to determine wife's net income in addition to her gross income, failing to offset wife's monthly expenses by her monthly income, and failing to make particularized findings to explain its award of spousal maintenance in an amount that exceeds wife's need. Accordingly, we reverse in part and remand.

FACTS

Appellant Svaar David Vinje (husband) married respondent Deborah Lynn Hunsley Vinje (wife) in February 2009.¹ The parties have one joint child who turned 18 and graduated high school during the proceedings at issue on appeal.

¹ These undisputed facts are drawn primarily from the decree of dissolution.

During their 15-year marriage, husband solely owned and operated two men's clothing stores. Wife worked in radiology at a hospital. Wife was diagnosed with fibromyalgia in 2012.

Wife's nonjoint, now-adult son, C.H., lived with the parties throughout their marriage. C.H. has disabilities for which he "has required constant care, support, and medical attention his entire life." In 2018 and 2019, C.H. was hospitalized on multiple occasions.

Around that time, the parties began to consider a reduction in wife's work schedule due to her worsening physical health and C.H.'s need for additional care. When part-time work at the hospital did not materialize, the parties began discussing wife's retirement. Husband "encouraged and persuaded" wife to retire from her 22-year career, "requiring her to rely on [his] income as the sole source of money in the marriage."

After retiring in February 2022, wife worked part-time at one of husband's stores, earning an annual salary of \$30,000. In July 2023, husband petitioned the district court for dissolution of the parties' marriage. In April 2024, he asked wife to stop coming into the store and in June, he stopped paying her salary.

After husband filed his petition for dissolution, the parties participated in mediation, after which they stipulated to division of their marital property. The remaining unresolved issues included spousal maintenance, child custody and support, and the payment of attorney fees. A court trial occurred over three days in November 2024.

The district court entered a judgment dissolving the marriage in May 2025. Husband then moved for amended findings, after which the district court entered an

amended judgment and decree (amended J&D). Relevant here, the district court awarded wife \$10,000 in monthly transitional spousal maintenance for seven years.

Husband appeals.

ISSUE

Did the district court abuse its discretion in setting the amount of spousal maintenance?

ANALYSIS

Husband argues that the district court abused its discretion in setting the amount of spousal maintenance because it (1) understated wife’s monthly income, (2) overstated wife’s monthly expenses by including dissolution-related attorney fees, (3) awarded spousal maintenance in excess of wife’s need, and (4) awarded spousal maintenance in an amount exceeding his ability to pay. After summarizing the relevant law, we address each issue in turn.

Spousal maintenance is an award of “payments from the future income or earnings of one spouse for the support and maintenance of the other.” Minn. Stat. § 518.003, subd. 3a (2024). “An award of maintenance depends on a showing of need.” *Honke v. Honke*, 960 N.W.2d 261, 266 (Minn. 2021) (quotations omitted). Spousal maintenance “may” be appropriate when, “considering the standard of living established during the marriage,” a spouse “lacks sufficient property . . . to provide for [their] reasonable needs” or “is unable to provide adequate self-support,” or “is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.” Minn. Stat. § 518.552, subd. 1(a)-(c).

The district court has “‘broad discretion regarding . . . spousal maintenance’ and an award ‘will only be reversed on appeal if the court abused its discretion.’” *Honke*, 960 N.W.2d at 265 (quoting *Lee v. Lee*, 775 N.W.2d 631, 637 (Minn. 2009)). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted). Factual findings concerning spousal maintenance are reviewed for clear error and “are clearly erroneous when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *Hemmingsen v. Hemmingsen*, 767 N.W.2d 711, 716 (Minn. App. 2009) (quotation omitted).

A. The district court did not clearly err in finding wife’s gross income for spousal-maintenance purposes.

Husband challenges the district court’s findings regarding wife’s income and argues that the district court “should have found wife is underemployed and imputed additional income to her.” We discern no clear error by the district court.

Here, the district court considered wife’s employment income and found that she earned \$17.50/hour and worked, on average, 18 to 20 hours per week. The district court further found that wife earned a gross monthly income of \$1,473, which it based on a rate of pay of “approximately \$17/hr” and “approximately 20/hrs” worked each week. Husband argues in a footnote that this number was erroneously low due to the district court’s calculation that wife earned \$17 per hour instead of \$17.50 per hour. However, the district court’s finding accounts for the fluctuation in wife’s weekly hours worked and, on this

record, is not clearly erroneous. *See Hemmingsen*, 767 N.W.2d 716 (“Findings of fact concerning spousal maintenance must be upheld unless they are clearly erroneous.” (quotation omitted)). Furthermore, even if the district court had calculated wife’s income using a rate of pay of \$17.50 instead of \$17, as husband argues was appropriate, given 18 to 20 hours worked per week, wife’s gross income would only increase by up to \$43.30 per month. Given the significant sums of money at issue in this appeal, in which wife’s monthly budget exceeds the district court’s award of \$10,000 in monthly spousal maintenance, such error is de minimis and is therefore not reversible. *See Hesse v. Hesse*, 778 N.W.2d 98, 105 (Minn. App. 2009) (noting appellate courts ignore prejudicial error when prejudice is de minimis).²

Husband also argues that the district court “should have found Wife is underemployed and imputed additional income to her.” He contends that the reason that wife is working fewer hours is so that she can care for her now-adult child, C.H., so the spousal-maintenance award effectively subsidizes C.H.’s care.

Whether a parent is voluntarily unemployed or underemployed is a finding of fact, which we review for clear error. *See Welsh v. Welsh*, 775 N.W.2d 364, 370 (Minn. App. 2009) (holding that voluntary unemployment is a finding of fact reviewed for clear error).

² Husband did not argue that the district court erred by failing to calculate wife’s net income in addition to her gross income. That said, we observe that a district court abuses its discretion when it calculates spousal income based only on gross income when there is evidence in the record that there is a difference between net and gross income that may be determinative of the spouse’s need for maintenance. *Schmidt v. Schmidt*, 964 N.W.2d 221, 224 (Minn. App. 2021). Therefore, as discussed below, on remand the district court must calculate wife’s net income.

The district court found husband's argument that wife is underemployed unpersuasive. It determined instead that wife had retired in 2022 due to health issues that prohibited her from performing the duties of her position. The district court further determined that wife's retirement decision was "a joint decision of the parties," "was in good faith," and "was largely due to [wife's] anticipated reliance on [husband's] income and revenue generated from his two businesses and her ability to play a supporting role in those businesses." In addition, "because of the amount of time that has passed" since wife's retirement, the district court noted that wife has "lost her seniority" and would not be able to return to work at the same position for the same pay, even if her health permitted.

The district court considered whether wife was able to provide adequate self-support and determined that, "[g]iven [wife's] age and health issues, her duties to provide care for [C.H.], and the parties' joint decision for her to leave the workforce, the Court finds [wife] cannot support her reasonable living expenses based on her current employment and marital resources." The district court further stated, when evaluating Minnesota Statutes section 518.552, subdivision 1(c), that the fact that C.H. is not a minor child, "does not alter the Court's view that [C.H.] is a dependent child and has relied on his mother throughout his life," and found that, considering "the joint decisions of the parties during the marriage to care for [C.H.] at home," it could not now support removing him from the home so that wife could work full-time.

In addressing whether wife was voluntarily underemployed, the district court considered multiple factors, including wife's health, her postretirement employment outlook, the parties' choices during the marriage, and their marital standard of living.

C.H.'s care is one of the many "relevant circumstances" that the district court must consider in determining whether wife has adequate resources to meet her needs. *See* Minn. Stat. § 518.552, subds. 1(b)-(c), 2. We conclude that the district court did not clearly err in finding that wife was not voluntarily underemployed.

B. The district court abused its discretion when it included wife's attorney-fee related debt payments in her monthly expenses without addressing Minnesota Statutes section 518.14, subdivision 1.

Husband argues that "[t]he spousal-maintenance award also exceeds wife's need because the [district] court erroneously included \$2,200 per month in attorney fees" in her monthly expenses. He contends that the district court abused its discretion when it included attorney fees in wife's monthly expenses when determining spousal maintenance. We agree.

The district court found that wife's reasonable monthly expenses were \$10,298. This amount included a \$2,200 monthly credit-card payment on a \$75,000 credit-card debt wife accrued—about 90% of which was for attorney fees. The district court found that wife "has credit card debt because of her financial circumstances and incurring legal fees litigating this matter" and that wife accrued debt "in large part due to [husband] restricting [wife's] access to marital monies for his sole benefit." The district court found that "[wife] does not have the means to support her attorney fees. However, with the granting of spousal maintenance, [wife] has ample means to afford her own attorney's fees." In short, the district court apparently included what was functionally an award of need-based attorney fees in wife's transitional spousal-maintenance award.

In dissolution actions, Minnesota law addresses attorney fees under a different standard than an award of spousal maintenance. “[A]ttorney fees are not recoverable in litigation” absent a contract or statute “authorizing such recovery.” *Barr/Nelson, Inc. v. Tonto’s, Inc.*, 336 N.W.2d 46, 53 (Minn. 1983). Awards of attorney fees in dissolution proceedings are allowed by statute. Under the relevant statute, the district court “shall” “award attorney[] fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding” when it finds:

(1) that the fees are necessary for the good faith assertion of the party’s rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

Minn. Stat. § 518.14, subd. 1.³

A spousal-maintenance award, on the other hand, requires a different analysis, as outlined in Minnesota Statutes section 518.552. Although the district court must consider “all relevant factors” in addressing whether to award spousal maintenance, including those listed in section 518.552, subdivision 2, the analysis focuses on whether a spouse lacks sufficient resources to meet their reasonable needs in light of the marital standard of living.

³ A district court may also award conduct-based attorney fees under Minnesota Statutes section 518.14, subdivision 1a (2024). However, we need not consider the conduct-based attorney-fee statute because the district court’s award expressly considered wife’s needs and not husband’s conduct.

See Honke, 960 N.W.2d at 266. It seems self-evident that a *marital* standard of living (generally) does not include attorney fees to *dissolve* the parties' marriage. Also, the maintenance analysis omits consideration of, at least, the first prong of the statutory analysis for an award of need-based attorney fees: whether the fee award is necessary for a good-faith assertion of the recipient's rights and will not unnecessarily contribute to the length or expense of the proceeding.

To avoid distorting both the analysis for awarding need-based attorney fees and the analysis for awarding spousal maintenance, we hold that, in dissolution proceedings, a district court must address whether to award need-based attorney fees under Minnesota Statutes section 518.14, subdivision 1, and whether to award spousal maintenance under Minnesota Statutes section 518.552. In this case, the district court did not fully analyze wife's request for need-based attorney fees under Minnesota Statutes section 518.14, subdivision 1, and instead functionally awarded need-based attorney fees through wife's transitional spousal-maintenance award, which is an abuse of discretion.

On remand, the district court shall (a) separately address spousal maintenance under Minnesota Statutes section 518.552 and need-based attorney fees under Minnesota Statutes section 518.14; (b) award maintenance and/or attorney fees as it deems appropriate; and (c) make findings explaining whatever award(s) it makes, including any offset of payments.⁴

⁴ The district court may offset a transitional spousal-maintenance award by an award of attorney fees. However, each award must be analyzed separately under the appropriate statutory analysis prior to offset.

C. The district court abused its discretion by failing to offset wife's income when calculating her need for spousal maintenance and failing to make particularized findings that support an award in excess of wife's need.

Husband argues that the district court abused its discretion when it awarded spousal maintenance in excess of wife's need. In part, husband contends that the district court "did not account for [wife's] employment income in setting spousal maintenance." We understand this portion of husband's argument to be that the district court identified wife's need for monthly maintenance without reducing that monthly need by wife's monthly income. We agree that the district court abused its discretion by failing to offset wife's need by her income. We further conclude that the district court abused its discretion by awarding transitional spousal maintenance in excess of wife's need without making particularized findings explaining the necessity of the total amount.

The district court found that wife had a gross income of \$1,473 each month. It also found that wife's proposed monthly budget of \$10,298, which included an expense for attorney fees as discussed above, was in line with the parties' testimony regarding the marital standard of living and was supported by banking records. Because of the disparity between wife's earnings and her needs, the district court found that she did not have the resources to meet her needs independently and awarded her \$10,000 per month in transitional spousal maintenance for seven years.

Even ignoring the district court's treatment of its award of attorney fees to wife, wife's monthly expenses total \$10,298 and her gross income is \$1,473, leaving a monthly deficit of approximately \$8,825. The district court made no findings as to wife's net income. Nor did the finding of wife's reasonable monthly expenses at the marital standard

of living include her income tax and related liabilities. Accordingly, the finding of her gross income appears to overstate her ability to support herself, but it is impossible, on this record, to determine her net monthly income and her exact monthly deficit. *See Schmidt*, 964 N.W.2d at 229 (concluding that the district court erred by not making a finding on the spousal-maintenance recipient's net or after-tax income).

Additionally, the district court made no findings that indicate wife's monthly expenses were offset by her monthly income. Minnesota Statutes section 518.552, subdivision 2(a), requires the district court to consider wife's financial resources. While wife's need was slightly reduced, it does not appear that the district court fully offset her expenses by her income. Failure to consider all of wife's financial resources is an abuse of discretion.

In addition, the district court also did not explain why it awarded spousal maintenance seemingly in excess of what it found to be wife's need as represented by her monthly expenses minus her gross income. We hold that particularized findings are required to support a district court's award of spousal maintenance in excess of the recipient's demonstrated need. *See Lee*, 775 N.W.2d at 642 (remanding for the district court to make findings justifying a maintenance award in excess of the recipient's reasonable need); *Sinda v. Sinda*, 949 N.W.2d 170, 177 (Minn. App. 2020) (“[P]articularized findings are necessary to show that relevant statutory factors have been considered.” (quotation omitted)). Here, the district court abused its discretion by awarding transitional spousal maintenance in excess of what appears to be wife's need without making particularized findings to support the award.

We therefore reverse and remand for the district court to reconsider its spousal-maintenance award. On remand, the district court must reopen the record for submission of evidence that allows the district court to calculate wife's net income. In setting the amount of spousal maintenance, the district court shall offset wife's need by her net income and, if wife is awarded spousal maintenance in excess of her apparent need, make particularized findings that support the award.

D. The district court did not clearly err by finding that husband has the ability to pay transitional spousal maintenance in the amount of \$10,000 per month.

Lastly, husband argues that this court should “reverse the spousal-maintenance award because it exceeds [his] ability to pay and is unfair and unreasonable.” We disagree.

When awarding spousal maintenance, a district court must consider “the ability of the spouse from whom maintenance is sought to meet [their own] needs while meeting those of the spouse seeking maintenance.” Minn. Stat. § 518.552, subd. 2(f).

The district court found that the testimony of a certified public accountant (CPA) called as a witness by wife was helpful. The CPA's analysis showed that husband had historically earned approximately 20 times the income of wife. The district court also found that husband's exhibits did “not give the court an adequate understanding of what his actual expenses are,” but determined that, even if husband's monthly expenses “were \$12,000.00 as claimed on his ‘projected monthly budget,’” he would still be left with adequate resources to contribute to wife's reasonable needs.

Husband first contends that the district court considered his gross income instead of his net income, as required in *Kostelnik v. Kostelnik*, 367 N.W.2d 665, 670 (Minn. App.

1985), *rev. denied* (Minn. July 26, 1985). We disagree. The income that the district court relied upon in the amended J&D can be found in lines 25 and 26 of an exhibit prepared by the CPA, which represent *after-tax* annual income and monthly cash flow. The parties' average after-tax monthly income over the last five years was \$22,066. Although husband contends that these numbers included wife's wages, the last two years were after she retired, during which her income from sources other than husband's business was \$7,623 and \$0, respectively.

Despite this, husband contends that his after-tax cash flow is \$14,652, which, with monthly expenses of \$12,119 plus a \$10,000 spousal-maintenance award to wife, leaves him with a monthly deficit of \$7,467. However, the figures from which husband derives these numbers are cash-flow calculations that do not include all the income available to husband from his two businesses. Taking into account the evidence of husband's additional sources of income, we conclude that the record supports the district court's finding that husband can afford to pay spousal maintenance while meeting his own needs. Thus, the district court did not abuse its discretion when it found that husband has the ability to pay the award of spousal maintenance to wife.⁵

DECISION

The district court did not separately address whether to award need-based attorney fees under Minnesota Statutes section 518.14, subdivision 1, when it awarded spousal

⁵ The district court also credited husband's testimony in which he stated that he is currently cohabitating with a third party who pays one-half of his monthly budgetary expenses, which further supports our conclusion.

maintenance under Minnesota Statutes section 518.552. The district court also failed to offset wife's need by her income and did not make particularized findings explaining why its spousal-maintenance award exceeds what appears to be wife's reasonable monthly needs. Accordingly, we reverse the spousal-maintenance award and remand for particularized findings and proceedings consistent with this opinion. On remand, the district court may make additional findings and award need-based attorney fees to wife as it deems appropriate under section 518.14, subdivision 1. The district court must reopen the record so that the parties may submit evidence of wife's net income.

We affirm the district court's determinations as to wife's gross income and husband's ability to pay.

Affirmed in part, reversed in part, and remanded.