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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-1310**

William Lawrence Gleason, Jr., petitioner,  
Appellant,

vs.

Regina A. Gleason,  
Respondent.

**Filed November 4, 2008  
Affirmed in part, reversed in part, and remanded  
Lansing, Judge**

Hennepin County District Court  
File No. 27-FA-000294243

William L. Gleason, 13387 - 96th Place North, Maple Grove, MN 55369 (pro se  
appellant)

Michael Ormond, Christopher Zewiske, Suite 303, 510 1st Avenue North, Minneapolis,  
MN 55403 (for respondent)

Considered and decided by Minge, Presiding Judge; Lansing, Judge; and  
Connolly, Judge.

## **UNPUBLISHED OPINION**

**LANSING, Judge**

In this appeal from judgment and the denial of posttrial motions in a marital-dissolution action, William Gleason challenges the calculation and duration of spousal maintenance, the valuation and division of marital assets, the district court's findings relating to parenting time, and the order for attorneys' fees. Because the district court did not misapply the law or make findings unsupported by the record, we affirm in major part. But because it did not address William Gleason's narrow challenges to the parenting-time schedule, the division of personal property, and the distribution of life-insurance policies, we reverse and remand for additional findings limited to these three narrow issues.

### **F A C T S**

William and Regina Gleason were married in 1988 and separated in 2002. The Gleasons are the parents of three children, who were under eighteen at the time of the district court proceedings, and each also has a child born before their marriage, who were both over eighteen. The Gleasons began dissolution proceedings in 2004, and the dissolution judgment was filed in 2006.

Throughout the marriage William Gleason was engaged in real-estate development and has substantial interests in several companies. These interests include a fifty-percent interest in Eagle Crest Townhomes, Inc. and a fifty-percent interest in Lifestyle Properties, Inc. Because of the downturn in the real-estate market and other considerations, a court-appointed business-valuation neutral concluded that determination

of his 2006 income was speculative. The district court requested that William Gleason provide actual information on his 2006 income subsequent to trial. Because of inconsistencies in that information and in William Gleason's explanations, the district court's findings relied on William Gleason's income from 2005. The district court found that William Gleason's net monthly income was \$15,623, that his reasonable monthly living expenses were \$9,229, and, therefore, his net monthly income exceeded his monthly living expenses by \$6,394.

Based on a family decision, Regina Gleason was a full-time homemaker during the Gleasons' marriage. Beginning in 1996 she also home-schooled the children. The district court found that Regina Gleason's limited employment history, lack of post-secondary training, and her time-consuming commitment to home-schooling the children, precluded her from making a current, significant contribution to her own support. The district court also found that William Gleason agreed the reasonable monthly living expenses for Regina Gleason and the children amounted to \$11,268.70 and calculated monthly child support at \$2,432.50. By deduction, the district court found that Regina Gleason's reasonable monthly expenses were \$8,836.20. Taking into account her tax obligations, the district court determined that Regina Gleason needed \$11,487 a month in spousal maintenance. Balancing this amount with William Gleason's ability to pay, the district court ordered spousal maintenance in the amount of \$9,000 a month.

The district court divided the marital assets, allocating the marital homestead to Regina Gleason and the business assets to William Gleason. After including a cash-

payment equalizer, each of the Gleasons received marital property valued at \$476,400. The district court also ordered attorneys' fees of \$22,000 for Regina Gleason.

William Gleason moved for amended findings or a new trial. The district court denied the posttrial motion, and William Gleason appealed in July 2007. William Gleason brought a motion in district court to modify spousal maintenance and child support, and, at his request, this court dismissed his appeal on the denial of his posttrial motion. Based on financial circumstances that developed after the trial, the Gleasons stipulated in October 2007 to a reduction of child support and spousal maintenance. Following entry of an amended judgment, William Gleason then reinstated his appeal from the July 2007 denial of his posttrial motion. He argues that the district court abused its discretion in the calculation and duration of spousal maintenance, the evaluation and division of marital property, the district court's findings on parenting time, and the order for attorneys' fees.

## **D E C I S I O N**

Four general issues are raised on appeal: spousal maintenance, marital property, the findings on parenting time, and attorneys' fees. But William Gleason's forty-four-page pro se brief raises a multitude of subsidiary issues that challenge the full spectrum of the district court's discretionary decision-making.

We start with a reaffirmation of the general principle that, to determine whether the district court has abused its discretion, we analyze whether it reached an erroneous conclusion that is against logic and the facts on the record. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). We do not substitute our judgment for the district court's judgment,

and we must affirm if there is a reasonable basis in fact and principle, even if we might have exercised our discretion differently. *DuBois v. DuBois*, 335 N.W.2d 503, 507 (Minn. 1983). In evaluating the district court's exercise of discretion, we defer to the district court's findings of fact and will not set them aside unless they are clearly erroneous. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001). And, we defer to the district court's credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1998).

## I

The subsidiary issues that William Gleason raises under the general category of spousal maintenance are the district court's reliance on his 2005 income to determine his ability to pay, the district court's evaluation of the Gleasons' financial circumstances and respective abilities to contribute, and the provision for permanent instead of temporary maintenance.

The district court found that William Gleason's interconnected business interests and his inter-entity transactions made it impracticable to determine William Gleason's income. It concluded that "there is little way to separate each transaction and to determine with any finality as to what [William Gleason's] actual income is and the amount and location of the various financial resources he has a history of using to not only increase his current and potential income but to supplement the family's lifestyle over the years."

When it is impracticable to determine actual income, earning capacity is an appropriate measure of income. *Veit v. Veit*, 413 N.W.2d 601, 605 (Minn. App. 1987).

After concluding that it was impracticable to find William Gleason's actual income, the district court relied on the neutral business valuator's assessment of William Gleason's net monthly cash flow of \$15,623 in 2005, which was based on William Gleason's W-2 for 2005. The district court reasonably questioned the credibility of the posttrial submissions offered to show actual 2006 income because the submissions were inconsistent and in conflict with other undisputed evidence. We defer to a district court's credibility determinations. *Sefkow*, 427 N.W.2d at 210. Because it was impracticable to determine William Gleason's actual income and reasonable to rely on the business valuator's testimony, the district court did not abuse its discretion.

Alternatively, William Gleason argues that, even if it was permissible to rely on the 2005 cash-flow analysis, the calculation must be reduced to reflect certain losses. The business valuator's calculation of the cash flow assumed a continuation of claimed losses because William Gleason had consistently claimed a loss every year in the last four years. Because William Gleason has not explained why this historical pattern would stop or why the business valuator's testimony was erroneous, we are able to discern no error in the analysis.

William Gleason also argues that the 2005 cash flow reflected the tax benefit of claiming all three children as tax exemptions and it is therefore erroneous because he now receives only two exemptions. The record lacks a factual basis for this argument because it does not contain the cash-flow exhibit to demonstrate who was exempted and who was included. *See Mesenbourg v. Mesenbourg*, 538 N.W.2d 489, 494 (Minn. App. 1995) (stating that generally, appellant bears burden of providing adequate record on appeal).

Second, William Gleason argues that the monthly spousal maintenance of \$9,000 is excessive, that the district court incorrectly evaluated the Gleasons' marital expenses and their marital standard of living, and that the findings ignore Regina Gleason's ability to provide self-support. The district court carefully analyzed the statutory criteria for determining the amount and duration of maintenance as set forth in Minn. Stat. § 518.552, subd. 2(a)-(h) (2006). The district court found that Regina Gleason was thirty-nine years old when the district court issued its order and that she lacked a post-secondary degree or training. The Gleasons had an upper-middle-class standard of living during their eighteen-year marriage. Throughout the marriage, Regina Gleason worked as a homemaker and home-schooled the children. Significantly, the district court found that William Gleason agreed that Regina Gleason's reasonable monthly expenses, after receipt of child support, are \$8,836.20. William Gleason has not expressly disputed this finding or demonstrated that it was erroneous. The current argument that Regina Gleason can reduce her expenses is in conflict with the early acknowledgement that her expenses were reasonable. Although the maintenance amount is high, the district court observed that William Gleason's budget for himself is only \$2,000 less than Regina's budget for herself and three children. The district court also concluded that the facts demonstrate that William Gleason had not reduced his standard of living and that he had an ability to obtain money whenever he needed it. We cannot retry the case on appeal; we must rely on the record as it was developed in the district court. Based on the marital standard of living and Regina Gleason's undisputed need, the district court did not abuse its discretion when it set monthly spousal maintenance at \$9,000.

Third, William Gleason contends that the district court abused its discretion by not making the maintenance temporary. The district court has broad discretion to determine the duration of a spousal-maintenance obligation, but “[w]here there is some uncertainty as to the necessity of a permanent award, the court shall order a permanent award leaving its order open for later modification.” Minn. Stat. § 518.552, subd. 3 (2006). This statutory provision requires that a district court order permanent maintenance if the court is uncertain that the spouse seeking maintenance can ever become self-supporting. *Nardini v. Nardini*, 414 N.W.2d 184, 198 (Minn. 1987) (concluding that statute required permanent maintenance because it was uncertain whether spouse could become fully supporting).

The district court provided specific reasons for its finding that Regina Gleason would not be able to make a significant financial contribution to her own support at the current time. If the children are no longer home schooled or other circumstances change, William Gleason may seek modification based on changed circumstances. *See* Minn. Stat. § 518A.39, subd. 2(a) (2006) (providing grounds for modifying maintenance order). In fact, William Gleason has already obtained modification through stipulation with Regina Gleason, and the district court ordered reduction of the maintenance and child support based on William Gleason’s 2007 financial circumstances.

## II

Under the general issue of valuation and division of marital assets, William Gleason has raised ten subsidiary issues relating to the Gleasons’ marital home, his businesses, the Gleasons’ vehicles, a loan to business associates, a gift to his stepson,



division of life-insurance policies, unverified medical expenses, and the cost of the asset valuation itself. Upon dissolution of a marriage, the district court “shall make a just and equitable division of the marital property of the parties.” Minn. Stat. § 518.58, subd. 1 (2006). Asset valuation in marital-dissolution proceedings also receives broad deference because “valuation is necessarily an approximation in many cases.” *Hertz v. Hertz*, 304 Minn. 144, 145, 229 N.W.2d 42, 44 (1975). Accordingly, the value arrived at by the district court need only fall “within a reasonable range of figures.” *Id.*

In challenging the neutral property appraiser’s valuation of the marital home at \$791,000, William Gleason points to a neighboring home that was listed at \$930,000. But the district court explained the reasons for accepting the property appraiser’s valuation, and William Gleason cannot demonstrate error by recounting only adverse or contradictory arguments when the record provides a basis for the district court’s valuation. *See Vangsness v. Vangsness*, 607 N.W.2d 468, 474 (Minn. App. 2000) (stating that fact “[t]hat the record might support findings other than those made by the [district] court does not show that the [district] court’s findings are defective).

Similarly, it is not an abuse of discretion for the district court to divide the marital assets equally and allocate the house to Regina Gleason. Although the district court has discretion to order a sale of the home, it is not required to order it sold. *See* Minn. Stat. § 518.58, subd. 3(a) (2006) (allowing district court to order sale of marital home during pendency of proceedings).

In challenging the district court’s findings on his business interests, William Gleason does not dispute the business valuator’s appraisal. Instead he requests, without

alleging any prejudice, that the district court's findings be amended to conform to the valuator's report. The record demonstrates that the district court accepted the valuator's report and allocated the business interests to William Gleason. Because the variances between the district court's findings and the business valuator's report, if any, do not affect the result, William Gleason has failed to demonstrate a basis for reversal.

The challenges to the district court's determinations on the Gleasons' vehicles relate to a boat, a motorcycle, and Regina Gleason's purchase of a replacement vehicle. First, William Gleason argues that the district court should have ordered the recreational vehicles to be sold and divided the proceeds between the Gleasons. As we have previously stated, the method of distributing the assets is discretionary with the court and the decision to allocate the vehicles rather than ordering them to be sold is not an abuse of discretion. William Gleason's challenge to Regina Gleason's replacement vehicle is essentially a dispute over whether she should have been credited with the current value of her car or with \$15,421 in insurance proceeds that she received when her previous vehicle was totaled. The record establishes that she used the proceeds to purchase her current car, partially at William Gleason's behest, because the car she was using was unsafe transport for the children. William Gleason has demonstrated no abuse of discretion in the district court's valuation of Regina Gleason's replacement vehicle.

The district court allocated a \$33,000 promissory note to William Gleason. The record provides no basis for William Gleason's claim that this was an abuse of discretion. The district court found that without consulting Regina Gleason, William Gleason "made a personal loan to business associates . . . of \$33,000." William Gleason testified that,

after the Gleasons separated, he withdrew money from a line of credit on the marital home. He also testified that he financed a \$33,000 loan. Regina Gleason testified that a total of \$66,000 had been withdrawn from the line of credit on the marital home and that she had only taken out \$5,700. Based on this testimony, the district court did not abuse its discretion when it found that William Gleason unilaterally made the loan and credited William Gleason with the \$33,000 promissory note.

Similarly, after the Gleasons separated, William Gleason unilaterally provided a \$20,000 gift to his adult stepson for the purchase of a vehicle and music equipment. The district court did not abuse its discretion when it credited William Gleason with the \$20,000 gift.

On William Gleason's challenge to the division of life-insurance policies, the record is not clear. The court found that William Gleason is the owner of all five of the life-insurance policies and distributed the policies to him, with a cash value of \$40,808. William Gleason argues that the MassMutual and the Catholic Knights insurance policies are in Regina Gleason's name. This issue was raised in the posttrial motion, but the district court did not address it. We therefore remand this limited issue to the district court for further findings and, if necessary, a redetermination.

William Gleason also argues that the district court abused its discretion when it allocated outstanding medical bills to him without requiring verification of the expenses. The record indicates that the district court ordered Regina Gleason's outstanding medical bills to be paid from an escrow account. Accepting Regina Gleason's testimony on the basis and the amounts of the outstanding medical bills, the district court provided for

payment from the escrow account but reserved a \$22,000 chiropractor bill for later determination because of pending litigation. Regina Gleason's testimony provided a basis for the district court to order payment of these expenses from the escrow account, and the district court did not include the accident-related chiropractic expense that was in litigation. We conclude that this decision is not an abuse of discretion.

The district court required William Gleason to pay \$5,000 for extra costs incurred as a result of the business valuator having to recalculate the business values after William Gleason submitted additional information. A district court may order costs against a party who unreasonably contributes to the length or expense of the proceeding. Minn. Stat. § 518.14, subd. 1 (2006). The business valuator testified that his total bill from determining the cash flow available to William Gleason was approximately \$17,000. He testified that approximately \$5,000 of the total bill was incurred for recalculating the cash flow after William Gleason made objections, hired a new accountant to develop balance sheets, and submitted additional information. The district court has broad discretion in ordering payment of costs and did not abuse its discretion by requiring William Gleason to pay \$5,000 for the extra costs.

Finally, William Gleason argues that the district court abused its discretion by not addressing his undisputed claim for allocation of specific personal property. The district court allowed "all right and title to the household goods and furnishings and other personal property as currently divided between them." The Gleasons were separated for four years before dissolution. At the dissolution trial, William Gleason submitted a list of personal property items and household items. The district court did not address this in

the denial of the posttrial motion. Consequently, we remand for further findings about whether to include the list in the amended dissolution judgment.

### III

William Gleason next challenges the district court's findings relating to the Gleasons' children and the parenting-time schedule. He argues that the district court made "unnecessarily caustic" findings that he played a limited role in the upbringing of the children. He requests that the findings be amended to reflect that he has a "close, intimate relationship with [his] children." We recognize that litigants may be disappointed or offended by inadvertent or unintentional choice of language, but we disagree that the district court's language was caustic. Furthermore, even if we might have stated it differently, we are not permitted to substitute our findings for the district court's, particularly when evidence in the record supports a disputed characterization. And, because William Gleason seeks no legal remedy for the inclusion of the finding, we decline to review this issue.

The district court adopted the custody evaluator's recommendation of midweek parenting time on Wednesday evenings. The record supports William Gleason's argument that he and Regina Gleason and one of the children objected to Wednesday night for the midweek parenting time. The evaluator admitted that she chose Wednesday only because it was in the middle of the week. William Gleason requested that the order be amended to provide for Tuesday nights instead of Wednesday nights. The district court did not address this request in its posttrial order, and we, therefore, reverse and

remand to the district court to amend the parenting-time schedule or make findings on why it should not be amended.

#### IV

The district court found that “[b]ecause [William Gleason] has used marital funds amounting to \$44,000 in order to pay his own litigation expenses, it is appropriate that he compensate [Regina Gleason] by paying \$22,000 toward her attorney fees.” William Gleason contends that the fees are excessive and the findings are deficient. We disagree.

The district court “shall” grant need-based attorneys’ fees if the district court finds that the fees are necessary to a party’s good-faith claim, that the party from whom fees are sought has the means to pay the fees, and that the party seeking the fees does not have the means to pay them. Minn. Stat. § 518.14, subd. 1. The district court is required to make specific findings on these statutory factors. *Richards v. Richards*, 472 N.W.2d 162, 166 (Minn. App. 1991). But lack of specificity in the findings is not reversible error if review of the order “reasonably implies” that the district court considered the relevant factors and “was familiar with the history of the case” and “had access to the parties’ financial records.” *Gully v. Gully*, 599 N.W.2d 814, 825-26 (Minn. 1999).

A review of the order and the record demonstrates that the district court considered the appropriate factors in ordering the attorneys’ fees. Additionally, the district court was familiar with the history of the case and had access to the parties’ financial records, which were submitted as exhibits. The district court gauged the amounts of the fees based on the amount William Gleason had expended for fees. The

district court did not abuse its discretion in ordering \$22,000 in attorneys' fees to Regina Gleason.

**Affirmed in part, reversed in part, and remanded.**