

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2008).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-2123**

In re the Marriage of:

Margaret Marie Wood, petitioner,
Respondent,

vs.

Thomas Eugene Wood,
Appellant.

**Filed August 25, 2009
Affirmed
Kalitowski, Judge**

Washington County District Court
File No. 82-F2-05-002996

Margaret Marie Zimmer, 8861 Sequoia Court, Woodbury, MN 55125 (pro se respondent)

Thomas Eugene Wood, 3176 C Juniper Lane, Woodbury, MN 55125 (pro se appellant)

Considered and decided by Johnson, Presiding Judge; Kalitowski, Judge; and Connolly, Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Pro se appellant Thomas Eugene Wood argues that the district court abused its discretion in denying his motion for a reduction in his child-support obligation. We affirm.

DECISION

Appellant's marriage to respondent Margaret Marie Wood was terminated by a 2006 judgment based on a negotiated marital termination agreement (MTA). Both parties were represented by counsel at the time of dissolution. Appellant agreed to pay respondent \$518 per month for child support of their two children, a son born in 1993 and a daughter born in 1990. The parties agreed that appellant's support obligation would be reduced by 16 and 2/3% upon the emancipation of the oldest child and that the modified payments would continue until no child was eligible for support. The parties' daughter was emancipated on June 30, 2008. As a result, effective July 1, 2008, appellant's support obligation was reduced to \$450 per month, pursuant to the judgment.

On July 8, 2008, appellant moved pro se for a further reduction in child support. At the hearing before the magistrate, appellant argued that his support obligation should be reduced based on his daughter's emancipation. The child support magistrate denied appellant's motion because the 2006 judgment and MTA "stated what the child support was going to be, after emancipation." The magistrate also concluded that there was no substantial change in circumstances rendering the existing support order unfair and unreasonable under section 518A.39, subdivision 2(b). Appellant unsuccessfully sought review from the district court, which affirmed the magistrate's decision in its entirety.

A court may modify a child-support obligation where the moving party shows substantially changed circumstances that render the existing child-support obligation unreasonable and unfair. *Bormann v. Bormann*, 644 N.W.2d 478, 480-81 (Minn. App. 2002). The party seeking modification of child support has the burden to establish a

substantial change in circumstances. *Gorz v. Gorz*, 552 N.W.2d 566, 569 (Minn. App. 1996). Whether to modify child support is discretionary with the district court, and its decision will be altered on appeal only if it resolved the matter in a manner that is against logic and the facts on record. *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002). We review a district court's decision confirming a magistrate's order for an abuse of discretion. *Davis v. Davis*, 631 N.W.2d 822, 826 (Minn. App. 2001).

Emancipation

Appellant argued to the child support magistrate that the emancipation of his daughter was a substantial change in circumstances rendering the existing award unreasonable and unfair. Appellant contends that the district court abused its discretion concluding otherwise. The magistrate concluded that the emancipation of appellant's daughter did not result in a substantial change in circumstances rendering the existing award unfair and unreasonable because the judgment already provided for a reduction in support upon emancipation.

The child support modification statute provides that the terms of a support order "may" be modified upon the emancipation of a child. Minn. Stat. § 518A.39, subd. 2(a)(8) (2008). Generally, a stipulation fixing the rights and obligations of the parties represents their voluntary acquiescence in an equitable settlement, and its terms should be carefully and reluctantly altered. *Claybaugh v. Claybaugh*, 312 N.W.2d 447, 449 (Minn. 1981). But the existence of a stipulation does not "operate as a bar to later consideration of whether a change in circumstances warrants a modification." *Hecker v. Hecker*, 568 N.W.2d 705, 709 (Minn. 1997). Because child support relates to the nonbargainable

interests of children, child support is less subject to restraint by stipulation than other dissolution matters. *Martin v. Martin*, 401 N.W.2d 107, 110 (Minn. App. 1987).

Here, the judgment provides for a reduction in appellant's child-support obligation upon the emancipation of a child. And upon his daughter's emancipation, appellant's obligation was reduced per the judgment. On this record, we find no abuse of discretion by the district court in declining to further reduce appellant's support obligation on the basis of emancipation.

Section 518A.39, subdivision 2(b)

Appellant also argues that the district court abused its discretion in denying his motion for modification because he showed a substantial change of circumstances under section 518A.39, subdivision 2(b)(1). We disagree.

Section 518A.39, subdivision 2(b)(1), provides that a substantial change in circumstances is presumed if the application of the child-support guidelines to the parties' current circumstances results in a child-support obligation "that is at least 20 percent and at least \$75 per month higher or lower than the current support order." If this subdivision is met, there is an additional rebuttable presumption that the existing award is unreasonable and unfair. *See Frank-Bretwisch v. Ryan*, 741 N.W.2d 910, 914 (Minn. App. 2007) (applying the 2004 standard with similar language).

The district court found that there had not been a substantial change in circumstances under section 518A.39, subdivision 2. Appellant claims that he provided documentation showing that he met the requirements of subdivision 2(b)(1). But the calculation appellant relies on in his appellate brief was not submitted to the district

court. Moreover, the record indicates that the calculations that appellant submitted to the district court were based on three different unverified income amounts for respondent that were not accepted by the district court. On this record, we conclude that the district court did not abuse its discretion in ruling that appellant failed meet the requirements of section 518.39, subdivision 2(b).

Other arguments

Appellant contends that there has been a substantial change in respondent's gross income rendering the existing award unfair and unreasonable. Reviewing courts generally consider only those issues that the record shows were presented to and considered by a district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Here, the magistrate specifically asked appellant if he sought modification based on a change in either his or respondent's gross income. Appellant replied he did not. Therefore, on appeal, we decline to review this argument because it was not presented to or considered by the magistrate and hence was not before the district court.

Appellant argues that the original support order in the MTA was calculated incorrectly and challenges whether the district court erred in accepting the terms of the MTA. But appellant did not raise this argument before the magistrate or the district court, and therefore it is waived on appeal. *See id.* (reviewing courts only consider issues presented below). Moreover, the MTA includes provisions stating that its proposed findings are accurate and that the MTA was fair and reasonable. Appellant signed the MTA, thereby indicating his agreement with these provisions.

Appellant claims that respondent made personal attacks on him in documents she submitted to the magistrate and that because the magistrate did not address these attacks, the magistrate may have been “prejudiced” against him. But we do not presume error on appeal. *White v. Minn. Dep’t of Natural Res.*, 567 N.W.2d 724, 734 (Minn. App. 1997), *review denied* (Minn. Oct. 31, 1997). The magistrate’s lack of discussion of respondent’s allegedly prejudicial comments about appellant does not establish the magistrate’s failure to exercise fairness and impartiality.

Appellant argues that the magistrate mischaracterized his arguments by interpreting appellant to be seeking modification based on changes in the law. The record indicates that appellant sought modification based on the emancipation of his daughter and the district court’s decision was rendered on this ground. Thus, the magistrate did not summarily disregard appellant’s argument as solely based on changes in the law and the district court did not err in affirming the magistrate’s decision.

Finally, because we affirm the district court’s decision to deny appellant’s motion, we decline to address appellant’s argument concerning the effective date of modification.

Affirmed.