STATE OF MINNESOTA
IN COURT OF APPEALS
A10-576

In re the Marriage of: Robert James Perkovich, petitioner,
Respondent,

vs.

Elaine Marie Segan, f/k/a Elaine Marie Perkovich,
Appellant.

Filed February 8, 2011
Affirmed
Stauber, Judge

St. Louis County District Court
File No. 69HIFA07291

Marshall H. Tanick, Minneapolis, Minnesota; and

Richard E. Prebich, Rachel C. Delich-Sullivan, Hibbing, Minnesota (for respondent)

Bill Thompson, Duluth, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Wright, Judge; and Stauber, Judge.

U N P U B L I S H E D O P I N I O N

STAUBER, Judge

In this marital dissolution appeal, appellant argues that (1) the district court erred by failing to award her need-based and conduct-based attorney fees; (2) her spousal maintenance award is inadequate because the district court failed to impute income to

respondent, understated respondent's income, understated appellant's expenses, and should not have imputed income to appellant; (3) respondent should have been required to secure his support and maintenance obligations with life insurance; (4) the district court erred in its award of child support; (5) the district court misvalued the parties' businesses; (6) the district court abused its discretion in its division of marital assets and debts; and (7) the district court erred in its award of nonmarital property to respondent. Because we conclude the district court did not err in any of these respects, we affirm.

FACTS

Appellant Elaine Marie Segan (Segan) and respondent Robert James Perkovich (Perkovich) were married on August 29, 1980. The couple separated in 2007 after 27 years of marriage. They have five children. Only one child, 17-year-old S.R.P., remained a minor at the time of the dissolution.

Perkovich owned and operated a tire shop, Chisholm Tire, throughout the marriage while Segan was a homemaker who worked outside of the home sporadically. Perkovich purchased Chisholm Tire in 1978, two years before the marriage. In addition to Chisholm Tire, Perkovich also owned and operated Chisholm Automotive, an auto sales business, from 1982 until 2005. The couple owned a homestead in Chisholm and a cabin in Side Lake.

Perkovich petitioned for dissolution of the marriage in August 2007. The parties reached a temporary agreement on issues of custody, use of the home, cabin, business properties, and vehicles. After an initial hearing in November 2008, the district court ordered Perkovich to pay temporary spousal maintenance and child support, as well as to

continue to pay household obligations including home-mortgage payments, while Segan was responsible for credit-card debt incurred after the date of separation. Segan was awarded use and occupancy of the home, and Perkovich was awarded use and occupancy of the cabin.

Trial began on December 17, 2008, and was held on various days over the next several months, concluding in May 2009. Testimony focused on the financial and property issues, income and expenses, business valuations, property valuation, spousal maintenance, Segan's ability to work, child support, nonmarital property, asset and debt allocation, life insurance, and attorney fees. On September 15, 2009, the district court issued its Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree.

The district court awarded the homestead to Segan and the cabin to Perkovich. The court determined that the homestead had a fair-market value of $278,500 with equity of $234,161.35, and that the cabin property had a fair-market value of $240,000 and was unencumbered.

The district court determined that Perkovich had an annual gross income of $68,541, earned through his salary from Chisholm Tire, rent from the Chisholm Automotive property, and personal expenses paid through Chisholm Tire. The court determined that Perkovich had necessary monthly expenses of $2,000. The court determined that Segan was unemployed but could work part time earning minimum wage and found that she had monthly expenses of $2,235 for herself and her minor son. Based

on these factual findings, the court awarded Segan $1,500 per month in permanent spousal maintenance and $635 per month in child support.

As to Chisholm Tire, the court determined that the business itself had no measurable value, but had a "speculative value" of $10,500 for its equipment. The court recognized Perkovich's nonmarital claim to this business based on the fact that Perkovich purchased the business two years prior to the marriage. The court also recognized Perkovich's nonmarital claim as to a 1952 Plymouth vehicle. The court determined that Chisholm Auto was closed prior to the parties' separation and therefore the business itself had no value, took into account the value of the real estate, and also included the rental fees in Perkovich's gross income.

The district court also awarded the parties their respective life insurance policies with no restrictions as to beneficiary, allocated debts, and ordered that each party be responsible for their own attorney fees and costs. The court found that the parties had approximately $40,000 of credit-card debt at the time of the separation, $60,000 at the time of the February 2008 temporary order, and more than $111,000 at the time of trial. The court found that Segan had used the credit cards to pay a portion of her attorney's fees, and therefore ordered Segan responsible for $89,691 of the debt and Perkovich $33,311. The court otherwise ordered that each party be responsible for the debts and obligations they incurred subsequent to the separation. Based on the court's distributions, Segan was awarded an equalization payment of $123,178.50. This appeal followed.

D E C I S I O N

I. Attorney Fees

Segan argues that the district court erred by refusing to award her attorney fees. On review, we will not reverse a district court's award or denial of attorney fees absent an abuse of discretion. *Lee v. Lee*, 775 N.W.2d 631, 641 (Minn. 2009). Minn. Stat. § 518.14, subd. 1 (2010), provides that a district court shall award attorney fees if the fees are necessary to allow a party to continue an action brought in good faith, the party from whom fees are sought has the means to pay the fees, and the party seeking fees cannot pay the fees. Section 518.14 further provides that the district court has the authority to award additional attorney fees against a party "who unreasonably contributes to the length or expense of the proceeding."

Conclusory findings on the statutory factors for need-based attorney fees are insufficient to support a district court's grant or denial of a fee award. *Geske v. Marcolina*, 624 N.W.2d 813, 817 (Minn. App. 2001).

> However, a lack of specific findings on the statutory factors . . . is not fatal to an award where review of the order 'reasonably implies' that the district court considered the relevant factors and where the district court 'was familiar with the history of the case' and 'had access to the parties' financial records.'

Id. (quoting *Gully v. Gully*, 599 N.W.2d 814, 825–26 (Minn. 1999)). Perkovich contends that the district court's findings reasonably imply that the court considered the statutory factors and found they were not met. We agree.

It is undisputed that the district court, after several preliminary hearings and multiple days of trial, was intimately familiar with the history of this case and the parties' financial records. Segan's attorney fees and related costs are also unusually high, in part, because a great deal of time was spent by Segan's attorney and her expert witness pursuing her claim that Chisholm Auto still had value, despite the fact that Perkovich closed the business two years prior to the marriage dissolution. The district court rejected this claim. Further, the district court's other findings reasonably indicate that the court considered each party's ability to pay their attorney fees. The court found that Perkovich has a monthly income before taxes of $5,711, and monthly obligations totaling $4,135 (comprised of child support payments, permanent spousal maintenance, and his own monthly expenses). In addition, Perkovich must pay his own attorney fees, was apportioned part of the couples' debt, and was ordered to pay an equalization payment to Segan of $123,178.50. On the other hand, the court awarded Segan $1,500 per month in permanent spousal maintenance and determined that she has the ability to obtain part-time employment. She also receives the large equalization payment based on the court's distribution of assets. Based on these findings, we cannot conclude that the district court abused its discretion by denying Segan's request for need-based attorney fees.

Segan also argues that the district court abused its discretion by failing to award her conduct-based attorney fees. Segan contends that Perkovich unreasonably contributed to the length and expense of the litigation, pointing to a number of discovery disputes between the parties. The record indicates that this litigation was very contentious on both sides. Both parties brought motions to compel discovery and the

district court held a hearing on November 25, 2008, where each side aired their grievances on discovery and related issues. The court issued its findings of fact and order on February 23, 2009, ordering both parties to comply with discovery requests within one week. The court reserved the issue of attorney fees for trial, but warned both parties that the court would not hesitate to award conduct-based fees if any party contributed to the length and expense of the litigation. Nearly all of the conduct complained of by Segan on appeal occurred prior to this hearing, and the district court adequately addressed the discovery issues in its order. Further, the record shows that both parties were less than cooperative throughout the litigation. We conclude that it was not an abuse of discretion for the district court to deny Segan's request for conduct-based attorney fees.

II. Spousal Maintenance

Segan challenges the district court's award of $1,500 per month in spousal maintenance. An appellate court reviews a district court's maintenance award under an abuse-of-discretion standard. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997). A district court abuses its discretion in awarding maintenance if its findings of fact are unsupported by the record or if it improperly applies the law. *Id.* "Findings of fact concerning spousal maintenance must be upheld unless they are clearly erroneous." *Gessner v. Gessner*, 487 N.W.2d 921, 923 (Minn. App. 1992).

The district court's discretion in granting maintenance is examined in light of the controlling statutory factors. *Erlandson v. Erlandson*, 318 N.W.2d 36, 38 (Minn. 1982). Spousal maintenance is appropriate when a party lacks sufficient property or is otherwise unable to provide adequate support for reasonable needs in light of the standard of living

established during the marriage. Minn. Stat. § 518.552, subd. 1 (2010). In determining the amount and duration of maintenance, the court considers a number of factors, including the ability of the party seeking maintenance to meet needs, the time necessary to acquire sufficient education or training to obtain appropriate employment, the duration of the marriage, and the ability of the party from whom maintenance is requested to meet needs while providing maintenance. *Id.*, subd. 2 (2010). No single factor is determinative, and the district court weighs the facts of each case to decide whether maintenance is appropriate. *Kampf v. Kampf*, 732 N.W.2d 630, 634 (Minn. App. 2007), *review denied* (Minn. Aug. 21, 2007).

Segan argues that the spousal-maintenance award was an abuse of discretion because the district court (1) failed to impute income to Perkovich from Chisholm Auto; (2) understated Perkovich's income from Chisholm Tire; (3) understated her monthly living expenses; and (4) improperly imputed income to her based on her ability to work part time.

A. Chisholm Auto

The district court determined that Chisholm Auto was closed in January 2006, and the facility was leased to Don Pulford. The court did not assign any value for the business itself or impute any income to Perkovich based on the business. The court found that the real estate had a current market value of $145,000, and that Perkovich received $16,541 per year in rent.

Segan argues that the district court understated Perkovich's income because it did not take into account the potential income that could be earned from Chisholm Auto, and

further, that Perkovich acted in bad faith by closing Chisholm Auto in order to hide income from the court. A district court's determinations of income for purposes of awarding spousal maintenance are reviewed for clear error. *Peterka v. Peterka*, 675 N.W.2d 353, 357 (Minn. App. 2004).

The record shows that the district court was presented with ample evidence regarding the closing of Chisholm Auto. Perkovich testified that he operated the business from 1982 until the end of 2005. Perkovich chose to close the business and rent the property to Pulford, whom he had known for many years. Pulford started his business operation beginning in January 2006, and did so under the name Don's Auto. The district court's finding that Perkovich no longer derived income from Chisholm Auto because the business was closed by January 2006 is not clearly erroneous.

Segan maintains that Perkovich's monthly income should include his potential earning capacity from Chisholm Auto because he acted in bad faith by closing the business. A district court may properly impute income to a party for purposes of setting maintenance if the court finds that the party is underemployed in bad faith. *Carrick v. Carrick*, 560 N.W.2d 407, 410 (Minn. App. 1997). Here, the record supports the district court's conclusion that Perkovich did not act in bad faith by closing Chisholm Auto. Perkovich testified that he was too busy with his tire shop to continue running Chisholm Auto. He also testified that he was having difficulties with his two employees and that the costs of health insurance were becoming too expensive. In addition, Perkovich testified that Chisholm Auto's reputation had declined steadily as a result of poor service by his two employees. He testified that he had been contemplating getting out of the

automotive business for years, long before he considered marriage dissolution, and that Segan knew he wanted to leave the business. Perkovich's testimony was corroborated by Pulford as well as Bill Kangas, an employee of Chisholm Auto for 21 years.

We conclude that the district court's findings regarding Perkovich's income from Chisholm Auto are supported by the record and are not clearly erroneous. The record clearly establishes that Chisholm Auto was closed in January 2006, well before Perkovich began the dissolution proceedings. The record also supports the district court's conclusion that Perkovich did not act in bad faith in deciding to close the business, and therefore it was not error for the court to refuse to impute income to Perkovich.

B. Chisholm Tire

Segan argues that the district court's determination of Perkovich's income is clearly erroneous because the court understated Perkovich's income from Chisholm Tire. The district court determined that Perkovich had an adjusted gross income of $68,541 per year. This figure was composed of an annual salary of $36,000 from Chisholm Tire, $16,541 in rent from the Chisholm Auto property, and $16,000 per year in personal expenses paid through the Chisholm Tire business.

Segan's expert witness, C.P.A. Gregory Goldman, testified that he believed Perkovich's gross income was approximately $96,000. This was based on $36,000 in annual salary from Chisholm Tire, approximately $16,000 in rent, and the remainder being personal expenses provided through the business. Perkovich's expert witness, C.P.A. Steven Licari, disagreed only with regards to the amount of personal expenses

paid through the business. Licari testified that only $16,000 in personal expenses was paid through Chisholm Tire. The district court agreed with Perkovich's expert.

Segan argues that the district court should not have given weight to the testimony of Perkovich's expert. However, it is well settled that an appellate court defers to a district court's credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Segan argues that Licari based his opinion only on Chisholm Tire's amended 2007 income tax return, and that this "should have disqualified him as an expert" because he relied on "nothing else to put the business in context." However, Licari indicated in his testimony that, while he relied "primarily" on the 2007 tax return, he also reviewed the company's balance sheets and other financial statements to ensure that they supported the numbers in the tax return, and he testified that he had access to the company's tax returns from previous years. The record shows that Segan also had an adequate opportunity to cross-examine Licari regarding the basis for his opinion. We conclude that the district court did not understate Perkovich's income from Chisholm Tire.

C. Monthly living expenses

Segan argues that the district court committed clear error by understating her monthly living expenses. Segan claimed monthly expenses of $5,192 for herself and $373 for the couple's minor son. Perkovich claimed monthly expenses of $2,000. The district court accepted Perkovich's claim of $2,000, but determined that Segan has necessary monthly expenses of $2,235 for herself and the one minor child. In making the determination, the district court noted that it "does not and will not include expenses for

the adult children living with [Segan]. Adult children living in the homestead are capable of contributing toward the maintenance of the home and/or paying rent to supplement the household expenses." The court's finding that Segan has reasonable monthly living expenses of $2,235 is supported by the record and is not clearly erroneous.

D. Segan's ability to work part time

Segan argues that the district court erred by imputing income to her based on her ability to work part time. Segan contends that this was error because a court may only impute income to a party if it finds that the party acted in bad faith by voluntarily being unemployed or underemployed. This court has held that "a [district] court may impute a party's income to be her earning capacity for the purposes of setting maintenance, if it first finds that the party was underemployed in bad faith." *Carrick*, 560 N.W.2d at 410.

However, in its findings, the district court did not actually state that it was imputing income to Segan or that it considered her actions to be in bad faith. The court simply made the finding that Segan has the ability to obtain part-time employment earning minimum wage. "In a dissolution action, a finding that a party seeking maintenance has the ability to meet needs independently by full-time employment is not an 'imputation of income.'" *Schallinger v. Schallinger*, 699 N.W.2d 15, 17 (Minn. App. 2005), *review denied* (Minn. Sept. 28, 2005). Under Minn. Stat. § 518.552, subd. 2(a) (2010), "the [petitioning] party's ability to meet needs independently" is one of the statutory factors that the district court must consider. Further, a finding that a party seeking maintenance will have the ability to meet needs independently does not require a

finding of bad faith. *Rauenhorst v. Rauenhorst*, 724 N.W.2d 541, 545 (Minn. App. 2006).

The record supports the district court's finding that Segan has the ability to work part time earning minimum wage. Perkovich submitted a vocational opinion report that assessed Segan's employment and educational history, her medical information, and the employment opportunities in Segan's geographical area and determined that Segan has the ability to obtain part-time employment. Segan does not seem to contest that she is able to work part time, but rather challenges the district court's findings as insufficient because they do not specifically state how many hours a week the court expects her to work. While it is true that the court did not specifically define "part time," this alone does not render its findings regarding Segan's ability to work clearly erroneous.

III. Security for spousal maintenance

Segan requested that the district court require Perkovich to secure his spousal maintenance and child support obligations with a life insurance policy. The district court denied this request, instead awarding each party their respective life insurance policies "without any restrictions on beneficiary."

"In all cases when maintenance or support payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order." Minn. Stat. § 518A.71 (2010). The district court "has discretion to consider whether the circumstances justifying an award of maintenance also justify securing it with life insurance." *Laumann v. Laumann*, 400 N.W.2d 355, 360 (Minn. App. 1987), *review denied* (Minn. Nov. 24, 1987).

After careful consideration of the record as a whole, we conclude that the district court did not abuse its discretion by denying Segan's request to have the spousal maintenance award secured by a life insurance policy. The facts in this case are distinguishable from those in *Kampf*. Compared to the maintenance payor in *Kampf*, Perkovich has a much lower income and is less able to afford to carry life insurance to secure the maintenance award. *See* 732 N.W.2d at 632. Further, as compared to the maintenance recipient in *Kampf*, Segan's reasonable monthly expenses are far lower, she has more recent work experience, and the maintenance award is not as large. Thus, we conclude that the district court did not abuse its discretion by declining to require Perkovich to secure his maintenance obligation with a life insurance policy.

IV. Child Support

On appeal, this court reviews a child-support order for an abuse of discretion and considers whether the district court resolved the matter in a manner that is against logic and facts on the record. *Butt v. Schmidt*, 747 N.W.2d 566, 574 (Minn. 2008). The district court ordered Perkovich to pay $635 per month in child support. Segan argues that the court abused its discretion by failing to make statutorily-required findings. *See* Minn. Stat. § 518A.34 (2010) (providing that presumptive child support obligations are computed based on the gross income of each parent, each parent's parental income for determining child support (PICS), and the percentage contribution of each parent).

We agree that the district court did not make detailed findings to support its award of child support. However, to prevail on appeal, an appellant must show both error and prejudice resulting from the error. *Midway Ctr. Assocs. v. Midway Ctr. Inc.*, 306 Minn.

352, 356, 237 N.W.2d 76, 78 (1975). Even if we accept that the district court erred by failing to make the statutorily required findings, Segan has not shown any resulting prejudice. Segan argues only that the district court's findings are inadequate; she does not contend that more detailed findings would have resulted in a more substantial child support award. Indeed, Segan does not even allege what the proper child support award should be. An appellant bears the burden of demonstrating that an error is prejudicial. *Bloom v. Hydrotherm, Inc.*, 499 N.W.2d 842, 845 (Minn. App. 1993), *review denied* (Minn. June 28, 1993). Segan has failed to carry this burden.

In reaching this conclusion, we also emphasize the de minimis nature of this child support award as compared to the marital estate. This court has stated that a de minimis, technical error in a dissolution action does not require a remand. *Wibbens v. Wibbens*, 379 N.W.2d 225, 227 (Minn. App. 1985). Perkovich's child-support obligation was to continue only until the parties' minor child reached the age of 18 or graduated from high school, whichever occurred later. The district court ordered child support payments to begin on October 1, 2009, at which time the child was already 17 years old. The child turned 18 in February 2010, and we presume that he graduated from high school in May or June of 2010, as there is nothing indicating the contrary. Given these facts, and in the interest of judicial economy, we conclude that any error resulting from the district court's inadequate statutory findings is harmless.

V. Valuation of businesses

Segan challenges the district court's valuation of the Chisholm Tire and Chisholm Auto businesses. A district court's valuation of property is a finding of fact, and it will

not be set aside unless it is clearly erroneous on the record as a whole. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001). An appellate court does not require the district court to be exact in its valuation of assets; "it is only necessary that the value arrived at lies within a reasonable range of figures." *Johnson v. Johnson*, 277 N.W.2d 208, 211 (Minn. 1979). "[M]arket valuation determined by the trier of fact should be sustained if it falls within the limits of credible estimates made by competent witnesses even if it does not coincide exactly with the estimate of any one of them." *Hertz v. Hertz*, 304 Minn. 144, 145, 229 N.W.2d 42, 44 (1975).

A. Chisholm Tire

Segan argues that the district court clearly erred in its valuation of Chisholm Tire by concluding that Perkovich was a key person for the business and by relying on the testimony of Perkovich's expert, Licari.

A key person typically "performs highly personal or unique services from which the entire business income is derived." *Nemitz v. Nemitz*, 376 N.W.2d 243, 247 (Minn. App. 1985), *review denied* (Minn. Dec. 30, 1985). This is often found where a business's income is entirely dependent upon the key person's personal services. *Id.* In *Bateman v. Bateman*, 382 N.W.2d 240, 246 (Minn. App. 1986), *review denied* (Minn. Apr. 24, 1986), this court held that the district court's valuation of appellant-husband's insurance agency was clearly erroneous because the district court failed to exclude the value of the husband's personal services in valuing the business. In reaching this conclusion, the court recognized the former husband's role as a key person in the agency that he owned and operated by himself. *Id.*

Licari testified that he estimated the value of Chisholm Tire to be approximately $10,000 based on a liquidation method valuation. Licari found that the business had approximately $110,000 in assets and $100,000 in liabilities, leaving only $10,000 in value. The largest asset was the business's tire inventory. Licari testified that he believed no value could be assigned to the business's goodwill:

> Mr. Perkovich being basically a key man in this operation and the amount of salary that he is taking out of there and the amount of work that he is doing, we really felt that there was no way to put a value or any positive value on that goodwill in that without Mr. Perkovich in the operation there would be certainly a potential reduction in sales; again, a lot of his sales being generated because of his personal relationship with customers, customers coming from around the area to his particular store because of him being there.

Licari also stated in his report that, "[t]he business that is generated is directly connected to [Perkovich's] personal relationships and reputation with customers. The company does not have an established workforce or any other variables that would indicate that any goodwill has been generated or is present in this business." Segan's expert, Goldman, estimated that Chisholm Tire had a much higher market value. Goldman testified that his valuation was based on Chisholm Tire's cash flow, noting that the difference between his and Licari's opinion was that "[Licari] doesn't believe there is a cash flow to sell simply because no one can be Mr. Perkovich and sell $585,000 of tires and services, and that's where we disagree."

The district court concluded that Chisholm Tire was worth $10,500 based on its liquidation value. In reaching this factual finding, the court noted Perkovich's "role as a key man":

> In valuing said businesses and doing so in small town America, the Court considers that [Perkovich] himself, his experience, skills, customer relations, networking reputation and reliability are inestimable and conversely, the loss of Bob Perkovich renders the worth of Chisholm Tire as negligible at best.

This factual finding was not clearly erroneous. The court's reliance on Perkovich's status as a key person is supported by the record, and the value of his personal services to the business was properly excluded in the valuation. In addition, the credibility of the two expert witnesses was for the court to determine, and we must show great deference to the district court's role in this regard. *See Alstores Realty, Inc. v. State*, 286 Minn. 343, 353, 176 N.W.2d 112, 118 (1970). The court's finding that the fair market value of Chisholm Tire is best determined by its liquidation value is not clearly erroneous.

B. Chisholm Auto

Segan argues that the district court clearly erred by determining that Chisholm Auto has no value. Segan contends that the district court's finding is clearly erroneous because (1) Chisholm Auto was still in existence; (2) Perkovich did not provide an expert witness to testify regarding the business's value; and (3) the court did not account for the value of Chisholm Auto's equipment.

As to the first point, Segan contends that "[t]here was ample evidence to show that Chisholm Auto was still in existence." Once again, the record supports the district court's finding that Chisholm Auto was closed prior to the dissolution proceeding. We

conclude that the district court's determination that the business itself did not have value is not clearly erroneous.

Segan also claims that the district court erred by failing to adopt Goldman's opinion as to the value of Chisholm Auto because Perkovich did not provide an expert witness to testify on the issue. We find this argument unpersuasive. Expert testimony is by no means conclusive, but rather is to be weighed and considered by the fact finder. *Sandhofer v. Abbott-Northwestern Hospital*, 283 N.W.2d 362, 367 (Minn. 1979). A district court need not adopt the opinion of an expert witness, even if they are the sole expert witness. *In re Estate of Congdon*, 309 N.W.2d 261, 267 (Minn. 1981). Here, the court determined that Chisholm Auto was closed in January 2006, and it is apparent from its findings that the court was not persuaded by Goldman's opinion regarding the business's value. Furthermore, on cross-examination, Goldman acknowledged that he was expressing his opinion as to the value of Chisholm Auto on December 31, 2005, when the business was still open, and not at any later point in time.

Segan also argues that the district court's valuation of Chisholm Auto is clearly erroneous because the court did not take into account the value of the equipment within Chisholm Auto. Segan argues that Frank Bigelow, a property appraiser, placed a value of $78,250 on the equipment. However, Perkovich correctly points out that Bigelow's appraisal did not include any equipment on the Chisholm Auto property, but rather was a valuation of equipment from Chisholm Tire. Segan points to no other place in the record where she presented evidence regarding the value of any equipment at the Chisholm Auto property. Pulford testified that there was some equipment left in the Chisholm Auto

building, but that the rent he pays to Perkovich includes the use of this equipment. While this equipment may very well have some additional value, there is nothing in the record to indicate that Segan presented this evidence to the court. Accordingly, the district court's findings regarding the valuation of Chisholm Auto are not clearly erroneous.

VI. Valuation and division of assets

Segan challenges the district court's division of marital assets and debts, arguing that the court erred in (1) determining the value of personal property; (2) allocating debt; and (3) calculating the equalization payment.

Marital property is subject to an equitable, but not necessarily equal, division between former spouses. Minn. Stat. § 518.58, subd. 1 (2010); *White v. White*, 521 N.W.2d 874, 878 (Minn. App. 1994). A district court generally has broad discretion in dividing property during a dissolution action and will not be reversed unless it abuses this discretion. *Maranda v. Maranda*, 449 N.W.2d 158, 164 (Minn. 1989). "[An appellate court] will affirm the [district] court's division of property if it had an acceptable basis in fact and principle even though we might have taken a different approach." *Antone v. Antone*, 645 N.W.2d 96, 100-01 (Minn. 2002). Detailed findings regarding the division of property are not necessary, but the findings must demonstrate consideration of the relevant statutory factors, express a rationale for the chosen division of assets, and allow for effective appellate review. *Dick v. Dick*, 438 N.W.2d 435, 437 (Minn. App. 1989); *Vinnes v. Vinnes*, 384 N.W.2d 589, 592 (Minn. App. 1986). A division of property need not be equal in order to be equitable. *Sirek v. Sirek*, 693 N.W.2d 896, 900 (Minn. App. 2005).

C. Personal property

The court found that Perkovich had personal property in his possession valued at approximately $24,000, and that Segan had personal property worth approximately $17,157. Segan argues that this finding was clearly erroneous because Segan's expert testified that Perkovich's personal property was worth $53,350. While a reduction from $53,350 to $24,000 is indeed large, Perkovich testified at length on the matter and questioned the expert's appraisal as being overinflated. Perkovich went through the appraisal line by line and questioned the value assigned to nearly every piece of personal property. In Perkovich's opinion, many of the items were worth less than half what the expert appraised them at. An owner of property, like Perkovich, "is competent to express an opinion on the market value of his or her property." *Vreeman v. Davis*, 348 N.W.2d 756, 757 (Minn. 1984). As an appellate court, we must defer to the district court's credibility determinations. *Sefkow*, 427 N.W.2d at 210. We therefore conclude that the court's factual findings with regards to the value of personal property are not clearly erroneous.

D. Debt

Segan argues that the district court misallocated the debts of the parties. Debts are generally treated as property and are apportioned in the same manner as assets in a property settlement. *Filkins v. Filkins*, 347 N.W.2d 526, 529 (Minn. App. 1984). But attorney fees for the dissolution are not part of the marital estate and should not be considered. *Id.*

The district court found that the parties had $111,302 in credit card debt. Along with two other bills from creditors, the total debt was $123,002. The court apportioned $33,311 of the total debt to Perkovich and the remaining $89,691 to Segan. While Segan was given a much larger share of the debt, the court based its determination on its finding that the majority of the credit card debt was incurred by Segan after the parties separated and that Segan used the parties' credit cards to pay her attorney fees. Perkovich argues that the district court's apportionment of the debt was equitable and not an abuse of discretion. We agree.

The court's factual finding that the majority of the credit card debt was incurred by Segan after the separation and was used to pay her attorney fees is supported by the record. Indeed, Segan acknowledges in her brief that she "does not dispute that litigation costs were place[ed] on the credit cards during the pendency of the divorce." But Segan argues that the court's apportionment of debt is inequitable because she incurred some of the credit card debt in order to pay normal living expenses. However, the district court's temporary order from February 22, 2008, recognized that Segan was unable to provide for herself and therefore ordered Perkovich to pay $1,000 per month in spousal maintenance, $292 per month in child support, and to continue to pay household obligations including mortgage payments, insurance, real estate taxes, utilities, cable, and phone bills. We conclude that the district court's apportionment of debt is not an abuse of discretion.

E. Equalization payment

Segan argues that the district court erred in calculating the equalization payment. Based on the division of assets, the court ordered Perkovich to pay $123,178.50 to Segan in order to equalize the discrepancy in marital assets each received. Segan does not assert what amount she believes this equalization payment should be, and argues only that the district court erred because the payment amount does not result in a mathematically equal division of assets. We find no merit in this argument.

A district court is to divide the parties' marital property after it

> mak[es] findings regarding the division of the property. The court shall base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall also consider the contribution of each in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker.

Minn. Stat. § 518.58, subd. 1. A district court's "division of marital property need not be mathematically equal but need only be just and equitable." *Swanson v. Swanson*, 583 N.W.2d 15, 18 (Minn. App. 1998), *review denied* (Minn. Oct. 20, 1998).

After reviewing the record, we are satisfied that the district made adequate findings on the relevant statutory factors and we conclude that the equalization payment awarded to Segan is just and equitable. A mathematically equal division of assets is not required.

Segan also argues that the equalization payment is incorrect because it does not take into account the value of a life insurance policy in Perkovich's name that he was awarded. However, in her proposed findings, Segan also did not place a cash value on this policy, and submitted no evidence as to its value. The only evidence submitted was the policy itself, which, unlike the couples' other life insurance policies, does not list any cash value. On this record, we cannot conclude that the district court erred in its division of assets.

VII. Nonmarital property

Finally, Segan argues that the district court erred by concluding that both the Chisholm Tire business and a 1952 Plymouth automobile were nonmarital property belonging to Perkovich. "Whether property is marital or nonmarital is a question of law, but a reviewing court must defer to the [district] court's underlying findings of fact." *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). Property acquired before marriage is nonmarital. Minn. Stat. § 518.003, subd. 3b(b) (2010).

The district court stated that it "recognizes the nonmarital claim of [Perkovich] as to Chisholm Tire as the purchase date was two years prior to the marriage." Perkovich presented evidence and testimony that he purchased Chisholm Tire for $20,000 on September 1, 1978, two years prior to his marriage to Segan. He financed the purchase by borrowing $1,000 from his grandmother, $1,000 from his brother, and $18,000 from First National Bank of Chisholm. The district court's factual finding that Perkovich purchased Chisholm Tire two years prior to his marriage is supported by the record.

Segan argues that the district court should have found that Chisholm Tire was partial marital property because Perkovich had not fully paid off the loan prior to the couples' marriage. Segan cites *Schmitz v. Schmitz*, 309 N.W.2d 748 (Minn. 1981), where the supreme court held that a homestead purchased with nonmarital funds was comprised of both marital and nonmarital interests. In *Schmitz*, the husband used nonmarital funds to provide a down payment for a duplex, and mortgage payments were made throughout the marriage with rental income from the other unit. *Id.* at 748–49. The court held that the increase in equity in the homestead was properly apportioned between both marital and nonmarital interests. *Id.* at 750. Segan does not address exactly how the district court should have decided this issue, but argues simply that "some form, if not the exact form, of the *Schmitz* formula would apply," and that the court erred by failing to discuss "the potential marital aspects of the business."

After reviewing the record, we conclude that Segan never raised this argument below. In her written closing submitted to the court, Segan does not address Perkovich's nonmarital claim to the business. In her proposed findings, Segan addresses only Perkovich's nonmarital claims to the cabin and the homestead, which the court ultimately found were marital property, and does not address his nonmarital claim to Chisholm Tire. Nowhere in the record did Segan ask the district court to apportion marital and nonmarital interests in the business. An appellate court will not consider matters not argued to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

Segan finally argues that the district court erred by concluding that the 1952 Plymouth automobile was nonmarital property. Segan does not dispute that the automobile was purchased prior to the marriage, but argues that because Perkovich performed some additional work on it during the marriage, the district court should have "allocate[ed] some portion of the potential value of this automobile to both parties." Again, the record shows that Segan never made this argument below. We therefore decline to address it on appeal.

Affirmed.