STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0192

In re the Marriage of: Amy Marie Causton, petitioner,
Respondent,

vs.

Paul Ronald Causton,
Appellant.

Filed August 20, 2018
Affirmed
Klaphake, Judge[*]

Hennepin County District Court
File No. 27-FA-16-2637

Mark E. Mullen, Jensen, Mullen, McSweeney & Meyer, PLLP, Bloomington, Minnesota (for respondent)

John T. Burns, Jr., Burns Law Office, Burnsville, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Bjorkman, Judge; and Klaphake, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

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

KLAPHAKE, Judge

In this marital dissolution dispute, appellant challenges the district court's imputation of income, division of marital debts and property, and characterization of money received from appellant's parents as gifts to both parties. We affirm.

D E C I S I O N

I. Imputed Income

The district court's imputation of income is a finding of fact, which we review for clear error. *Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003), *review denied* (Minn. Nov. 25, 2003). In doing so, we view the record in the light most favorable to the district court's findings and defer to the district court's credibility determinations. *Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000). To conclude that findings of fact are clearly erroneous we must be left with the definite and firm conviction that a mistake has been made. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013). "If there is reasonable evidence to support the [district] court's findings of fact, a reviewing court should not disturb those findings." *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999). Minn. Stat. § 518A.32, subd. 1 (2016), states "if a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis . . . child support must be calculated on a determination of potential income."

Appellant Paul Ronald Causton does not challenge the district court's decision to impute income but contests the amount of income imputed. Appellant argues that the district court did not properly consider his probable earnings based on his employment

potential as required by statute. Minn. Stat. § 518A.32, subd. 2 (2016), provides that a "[d]etermination of potential income must be made according to one of three methods," the first of which is to consider "the parent's probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community." The district court used this method to calculate appellant's potential income.

The district court considered the fact that appellant "historically made between $70,000 and $80,000 as an ordained minister," which was supported by testimony from respondent Amy Marie Causton and by appellant's W2 form indicating he made $67,100 in 2015. The district court noted that appellant has a bachelor's degree, a medical degree with a specialty in anesthesiology, and a master's degree in divinity. Finally, the district court relied on appellant's testimony that there were approximately 100 to 200 churches in Minnesota of appellant's denomination.

Appellant asserts that the district court's findings are clearly erroneous. Appellant argues that it is improbable that he will find a new job as a pastor, because his previous positions were temporary, his divorce decreases his employment chances, and jobs are available only when a church is in need of a pastor. Appellant contends that the district court should have used his lower-paying work history as a special-education paraprofessional when imputing income rather than his income as a pastor.

The district court's determination of income is supported by record evidence and based on the appropriate statutory factors. Because its decision on this point is not clearly erroneous, we affirm.

II. Orthodontics Debt

Appellant argues, "The district court abused its discretion in ordering [him] to pay 60% of [an] . . . orthodontics debt." A district court has broad discretion in apportioning marital property and debt. *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002); *Chamberlain v. Chamberlain*, 615 N.W.2d 405, 414 (Minn. App. 2000), *review denied* (Minn. Oct. 25, 2000). We will affirm the district court's division of property if it has an acceptable basis in fact and principle even though we might have taken a different approach. *Antone*, 645 N.W.2d at 100.

The district court divided the orthodontics debt based on the parties' incomes. Appellant argues that this was unfair because he does not agree with the court's imputation of income. But because we affirm the district court's determination of appellant's imputed income, the division of property and assignment of debt was not an abuse of discretion.

III. Division of Tax Refund

Appellant argues that he "is entitled to . . . an equal share of the 2016 tax return." Appellant asserts that the district court abused its discretion by awarding unequal shares of the 2016 refund because "[t]he parties agreed generally that their assets were to be divided equally."

The district court is required to make "a just and equitable division of the marital property," but not necessarily an equal distribution. *Sirek v. Sirek*, 693 N.W.2d 896, 900 (Minn. App. 2005). The district court stated its reason for dividing the returns: "Because [appellant] had no income in 2016 and [respondent] was working two jobs, the Court finds

that [respondent] should be awarded a larger interest in the refund." Again, the district court did not abuse its discretion.

IV. Marital Gifts and Homestead

Appellant argues that the district court abused its discretion by characterizing money received from his parents as marital gifts, not loans, and refusing to credit him with a nonmarital interest in the homestead because he used the money from his parents to pay the mortgage. Appellant did not raise a claim of nonmarital interest in district court. "A reviewing court must generally consider only those issues that the record shows were presented and considered by the district court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). Appellant's argument regarding his nonmarital interest in the homestead is not properly before this court.

We review the issue of whether property is marital or nonmarital de novo as a question of law and the district court's findings for clear error. *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). All property acquired by either spouse during a marriage is presumptively marital, but a spouse may defeat the presumption by showing by a preponderance of the evidence that the property acquired is nonmarital. *Antone*, 645 N.W.2d at 100-01. "Nonmarital property" includes real or personal property acquired by a spouse as a gift, bequest, devise, or inheritance made by a third party to one spouse but not the other. Minn. Stat. § 518.003, subd. 3b(a) (2016).

Appellant's parents provided $69,500 during periods of appellant's unemployment and $22,000 in order to refinance the homestead. The district court found that respondent "was unaware of the loan and had no information as to how the $22,000 was spent. [She]

stated credibly that she first learned of the loan during the pendency of the divorce proceedings." With respect to the $69,500, the district court stated that respondent "knew that [appellant] was receiving money from his parents, but was never informed the money would need to [be] repaid." Appellant's father testified that the money was to be used to refinance the house and to supplement the parties' income during appellant's unemployment. The record evidence indicates that the gifts were made to the parties, and not exclusively to appellant. The district court did not err by determining that these payments were marital gifts.

Affirmed.