STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1197

In re the Marriage of:

Ephrem Dessie Meheretia, petitioner,
Appellant,

vs.

Rahel Hailu,
Respondent.

Filed December 18, 2023
Affirmed
Wheelock, Judge

Ramsey County District Court
File No. 62-FA-18-1504

Ephrem Meheretia, Roseville, Minnesota (pro se appellant)

Rahel Hailu, St. Paul, Minnesota (pro se respondent)

Considered and decided by Larkin, Presiding Judge; Wheelock, Judge; and Kirk, Judge.[*]

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

In this appeal from a marital-dissolution judgment and decree, appellant father challenges the district court's calculation of his back child-support obligation to respondent

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

mother. The district court ordered back child support beginning in October 2018 based on its factual finding that the parties separated in September 2018. Father asserts that the parties did not separate until August 2019. He argues that the district court should have required mother to submit evidence other than oral testimony, unfairly credited mother's testimony over his, and should have considered documents he claims to have submitted via email after trial. Because the district court did not abuse its discretion by relying on testimony to decide the date the parties separated, the evidence supports its factual finding, and father's argument about late-submitted evidence fails, we affirm.

FACTS

Appellant-father Ephrem Dessie Meheretia and respondent-mother Rahel Hailu were married in 2007 and have four minor children. Father filed for dissolution in June 2018. The parties resided together in a rented apartment with their children during the marriage. While the dissolution was pending, father moved out of the home and the children lived with mother full time. Mother moved the district court for a temporary child-support order, which the court granted in an order that went into effect on January 1, 2021. In its order, the district court reserved the issue of back child support.

At trial, mother asked for back child support from the time father left the home to the date the temporary order went into effect. She testified that father left the home in September 2018 and that from that time to the end of 2019, father did not pay her any child support. Father's trial testimony is inconsistent: he initially testified that he did not leave the home until August 2019 but later testified that he left in August 2018.

The parties' testimony about when father left the home is the only evidence in the record regarding the parties' separation date. When father testified that he left in August 2019, mother's counsel asked, "Did you provide any documentation or a lease for that?" Father responded that he thought he had submitted a lease as an exhibit, but he could not find or identify it during trial. The record does not contain a lease. When the referee told the parties that she was "done receiving evidence" at the end of trial, father did not object.

In the final judgment and decree, the district court ordered back child support for the period from October 2018 until the date the temporary order went into effect based on its factual finding that the parties began living separately in September 2018.

Father appeals.[1]

DECISION

Father appeals the district court's calculation of his back child-support obligation, arguing in his brief that the district court incorrectly determined that his support obligation began in October 2018 based on its finding that he left the family home in September 2018. He maintains that back child support did not begin to accrue until September 2019 because he was living in the home and paying rent until August 2019. In support of his challenge to the district court's determination, he argues that that the district court should have required mother to submit evidence other than oral testimony, credited his testimony over mother's testimony, and considered documents he claims that he submitted to the district court after trial.

[1] Mother did not file a brief. In July 2023, we ordered that the appeal proceed on the merits under Minn. R. Civ. App. P. 142.03.

Because father did not move the district court for amended findings of fact or a new trial, the scope of this court's review is limited to whether any substantive legal issues were properly raised at trial, whether the evidence supports the findings of fact, and whether the findings support the conclusions of law. *Fish v. Ramler Trucking, Inc.*, 923 N.W.2d 337, 340 (Minn. App. 2019), *aff'd*, 935 N.W.2d 738 (Minn. 2019).

We review a district court's determination of child-support obligations for an abuse of discretion, *Korf v. Korf*, 553 N.W.2d 706, 708 (Minn. App. 1996), and do not reverse its factual findings unless they are clearly erroneous, *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021). "[F]indings are clearly erroneous when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Id.* (quotation omitted). When reviewing for clear error, "it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id.* at 223 (quotation omitted).

Father argues that the district court referee should have required mother to submit "tangible" or "concrete" evidence to prove that he left the home in September 2018, but he does not explain why testimony alone is insufficient or identify authority to support his argument. "[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [, and] the burden of showing error rests upon the one who relies upon it." *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944). Appellate courts will not consider arguments that are "devoid of legal authority." *State v. Benton*, 858 N.W.2d 535, 542 (Minn. 2015) (declining to address Benton's claims that were unsupported by the record or citations to legal authority). Because father does not explain

his argument or provide support for it, we could decline to address it; however, his argument fails even if we consider it on its merits because mother did provide evidence—testimony.

Testimony is evidence. *Black's Law Dictionary* 697 (11th ed. 2019) (defining "evidence" to include testimony). As a general rule, a district court may make factual findings based on testimony alone, even when the testimony presents conflicts. *See Hamilton v. Hamilton*, 396 N.W.2d 91, 94 (Minn. App. 1986) (addressing district court findings based "entirely [on] conflicting testimony"). The district court is not required to solicit evidence other than testimony, and parties are not required to submit nontestimonial evidence to corroborate their testimony. *See Quinn v. LMC NE Minneapolis Holdings, LLC*, 972 N.W.2d 881, 889 (Minn. App. 2022) (rejecting the appellant's argument that evidence did not support findings of fact because the respondent "provided no proof beyond her bare testimony"), *rev. granted* (Minn. June 29, 2022) *and appeal dismissed* (Minn. Feb 17, 2023). The district court was not only permitted to make its finding based solely on testimony, but it was required to do so because testimony was the only evidence presented on the subject. Thus, the district court did not abuse its discretion by making its finding based on testimony alone.

Father next argues that the district court unfairly credited mother's testimony over his testimony, contending that "mother lied." Again, father does not explain why this was error, *see Waters*, 13 N.W.2d at 464-65, but we address the merits of his argument.

"Truthfulness versus lying" is one of multiple aspects of the "broader concept" of credibility. *State v. Leutschaft*, 759 N.W.2d 414, 422 (Minn. App. 2009), *rev. denied*

(Minn. Mar. 17, 2009). Appellate courts defer to a district court's credibility determinations, *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988), and do not reconcile conflicting evidence, *Kenney*, 963 N.W.2d at 221. Thus, regarding father's allegation that mother lied when she testified that father left the home in September 2018, we defer to the district court's conclusion that her testimony on that issue was credible. And to the extent some of father's testimony conflicts with mother's testimony, we defer to the district court's evaluation of the testimony as a whole. Indeed, although father initially testified that he left in August 2019, he later testified that he actually left in August 2018, which is more consistent with mother's testimony. Because the evidence supports the district court's finding of fact and we defer to the district court's credibility determinations, we conclude that the district court did not abuse its discretion here.

Father finally argues that the district court erred by not considering documents he claims to have emailed to the referee nearly six weeks after the trial concluded. He asserts that these documents show that he paid rent at the parties' home during the disputed period. This court considers "only those issues that the record shows were presented and considered by the trial court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). In other words, we will not review evidence that the district court never had the chance to review. *See* Minn. R. Civ. App. P. 110.01 (defining the record on appeal). Although father submitted the documents to this court on appeal, he concedes that he does not know whether the district court ever received them. And, based on our review of the record, we cannot conclude that it did. Moreover, there is no reference to the

documents in the final judgment and decree. Therefore, the documents are not properly before this court on appeal, and we do not consider them.

Even assuming the district court did receive the documents, however, father does not explain why refusing to consider them would have been an abuse of discretion. *See Waters*, 13 N.W.2d at 464-65. A district court has discretion to ignore untimely submissions if there is no justification for their lateness. *See Axford v. Axford*, 402 N.W.2d 143, 145 (Minn. App. 1987) (holding that it was not an abuse of discretion to ignore late-submitted evidence when there was "no indication the facts presented were unknown" to the appellant before the hearing). Although father claims that, during trial, the referee and mother's counsel asked him to submit the documents after trial, the record shows that mother's counsel asked father only if he had *already* produced the documents and that father had not done so. Father did not object when the referee stated that she was done receiving evidence at the end of trial. Because the record was closed, the district court would have been well within its discretion to decline to consider the late-submitted documents.

In sum, we conclude that the district court did not err by relying on testimony as the only evidence about the parties' separation date, the evidence supports the district court's finding of fact on that issue, and father's argument about his late-submitted evidence does not support a conclusion of error.

Affirmed.