**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A10-2304**

In re the Marriage of:
Bob Vang, petitioner,
Appellant,

vs.

Goutxu Her,
Respondent.

**Filed October 24, 2011**
**Affirmed**
**Klaphake, Judge**

Ramsey County District Court
File No. 62-FA-10-259

Beau D. McGraw, McGraw Law Firm, P.A., Oakdale, Minnesota (for appellant)

Goutxu Her, St. Paul, Minnesota (pro se respondent)

Considered and decided by Schellhas, Presiding Judge; Klaphake, Judge; and Crippen, Judge.*

**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 Bob Vang challenges the factual basis for the district court's decision to award child support and claims that the amount of child

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

support he was ordered to pay for his three children, $675 per month, was excessive. At the time of trial on September 2, 2010, the parties' children were ages eleven, ten, and five. Because we observe no error or abuse of discretion in the district court's child support decisions, we affirm.

## D E C I S I O N

This court reviews child support issues for an abuse of discretion and will reverse only when the district court resolves the matter in a manner that is against logic and the facts on record or when the district court misapplies the law. *Butt v. Schmidt*, 747 N.W.2d 566, 574 (Minn. 2008); *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984); *see Ver Kuilen v. Ver Kuilen*, 578 N.W.2d 790, 792 (Minn. App. 1998) (stating that it is an abuse of discretion for judge to improperly apply the law to the facts). We will affirm a district court's findings of fact unless they are clearly erroneous. Minn. R. Civ. P. 52.01. A factual finding is clearly erroneous if a reviewing court is left "with the definite and firm conviction that a mistake has been made." *Gjovik v. Strope*, 401 N.W.2d 664, 667 (Minn. 1987).

*Basis for Child Support Award*

Minn. Stat. § 518A.36, subd. 1(a) (2010) provides that

> [p]arenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time. The percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent, or by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight.

The district court applied the alternate method of calculating the parties' percentage of parenting time for child support purposes, based on the parties' stipulated parenting time schedule. In accordance with this schedule, the district court found that the children are sleeping much of the time while in appellant's care and are in school much of the time while in respondent's care. However, the court also found that the children are in respondent's care during summer days and that the youngest child is not in school full time. Given the amount of time that respondent actively parents the children, the court found "that the children are in [appellant's] care less than 45% of the time, and in respondent's care more than 45% of the time."

Appellant claims that because of the amount of time that he parents the children he should not have been required to pay any child support. He claims that he "has the children for 26 out of 30 overnights per month" and that he "incurs the vast majority of the expenses related to the children because he bears the costs of housing and feeding the children over 80% of the time." This claim is contrary to the parties' stipulated parenting time schedule, which provides that (1) during the school year, the children will sleep at appellant's home on week nights; respondent is to pick up the children from appellant's home at 7:00 a.m., drop off the two older children at school at 8:30 a.m., parent the youngest until he goes to preschool at 11:30 a.m., pick up the children after school at 3:30 p.m. and keep them at her house until 5:00 p.m. or 9:00 p.m., depending on their after-school events and appellant's evening class schedule; (2) during the summer, the evening schedule will remain essentially the same; and (3) the children are to live with each parent on alternate weekends. The court also found that the children are not in

school during the summer; as appellant works during the day, presumably respondent must care for them during that time.

The stipulated parenting time schedule was read into the record in August 2010 and had been in effect for only one week when appellant challenged it; appellant has not specifically challenged the validity of the stipulation. "Generally, a stipulation fixing the respective rights and obligations of the parties represents their voluntary acquiescence in an equitable settlement, and the district court should carefully and only reluctantly alter its terms." *O'Donnell v. O'Donnell*, 678 N.W.2d 471, 475 (Minn. App. 2004) (quotation omitted). Because the district court's decision to award child support was consistent with the parties' stipulation and other record evidence, we conclude that the district court did not abuse its discretion by awarding child support.

*Amount of Child Support*

Appellant also argues that the amount of support ordered by the district court was excessive under the facts presented. A district court has broad discretion to order child support. *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002). The child support statute requires the district court to apply an adjustment to the calculation of child support that corresponds to the percentage of parenting time granted to the child-support obligor. Minn. Stat. § 518A.36, subd. 2(1) (2010). The obligor is entitled to a parenting expense adjustment based on the following differences in the obligor's amount of parenting time:

| | Percentage Range of Parenting Time | Adjustment Percentage |
|---|---|---|
| (i) | Less than 10 percent | no adjustment |
| (ii) | 10 percent to 45 percent | 12 percent |
| (iii) | 45.1 percent to 50 percent | presume parenting time is equal |

*Id.* The district court found that appellant parented the children less than 45% of the time, so it reduced appellant's support obligation by 12%, from $966 to $850 per month. The court further reduced appellant's support obligation from $850 to $675 per month because it found that appellant "has the responsibility to care for the children a significant amount of the time."

While the children sleep at appellant's home, respondent appears to care for them the majority of time during their waking hours when they are not in school. This is a valid reason for the district court to apply the alternate statutory method for calculating parenting time. Appellant again attacks the district court's determination on the amount of time that he parents the children, claiming that he actually parents the children greater than 45% of the time. While this argument might be supported by appellant's trial testimony, it is contrary to the stipulated parenting time schedule and to other facts in the record, including appellant's testimony. For this reason, and because it is clear from the reductions in the suggested statutory amount of child support ordered that the district court carefully considered this issue, we conclude the district court did not abuse its discretion in setting the amount of child support.

**Affirmed**.