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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0060**

In re the Marriage of:
Benjamin Walter Eidem, petitioner,
Appellant,

vs.

Debra Louise Eidem,
Respondent.

**Filed November 4, 2019
Affirmed
Bjorkman, Judge**

Olmsted County District Court
File No. 55-FA-12-5484

Kay Nord Hunt, Marc A. Johannsen, Lommen Abdo, P.A., Minneapolis, Minnesota (for appellant)

Carrie Osowski, Dittrich & Lawrence, P.A., Rochester, Minnesota (for respondent)

Considered and decided by Bratvold, Presiding Judge; Bjorkman, Judge; and Jesson, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Husband challenges the denial of his motion to modify spousal maintenance based on wife's increased income and decreased needs. Because the district court did not abuse

its discretion by concluding that husband did not meet his burden to show a substantial change in circumstances, we affirm.

FACTS

Appellant Benjamin Walter Eidem and respondent Debra Louise Eidem married in 1987 and have one child born in 1999. In 2013, the marriage was dissolved by a stipulated judgment. At the time of the dissolution, husband earned approximately \$410,000 a year as a pediatric cardiologist at Mayo Clinic. Wife had not worked outside the home since the child's birth, but a vocational assessment determined she had the capacity to earn \$30,000 per year. The judgment awards wife permanent spousal maintenance of \$9,000 per month. In early 2018, a stipulated cost-of-living adjustment increased monthly maintenance to \$9,753.28.

In May 2018, husband moved to reduce his maintenance obligation. He asserted a substantial change in circumstances due to wife's full-time employment as a school paraprofessional, her increased income from investments, her decreased living expenses, and the child's emancipation.

The district court denied the motion following a hearing. The district court found that wife's employment income is "about \$18,318.86 per year or \$1,526.57 per month."¹ But the court concluded that neither wife's income from employment nor decreased need

¹ The district court also found that husband's income increased "approximately \$200,000 or \$16,666.66 per month since the [s]tipulation." While husband challenges this amount, the record shows that during the first five months of 2018 he had employment gross income of over \$252,961.82, suggesting increased income of at least \$50,000.

constituted a substantial change of circumstances to support modification. Husband appeals.

DECISION

A district court may modify spousal maintenance if the terms of a prior order are “unreasonable and unfair” because one of the parties has experienced a substantial increase or decrease in gross income, or a substantial increase or decrease in needs. Minn. Stat. § 518A.39, subd. 2(a) (2018). When the dissolution judgment is based on the parties’ stipulation, the judgment constitutes “baseline circumstances” from which any change is measured. *Hecker v. Hecker*, 568 N.W.2d 705, 709 (Minn. 1997). The party seeking to modify maintenance has the burden of proof. *Youker v. Youker*, 661 N.W.2d 266, 269 (Minn. App. 2003), *review denied* (Minn. Aug. 5, 2003); *see* Minn. Stat. § 518A.39, subd. 2(a) (requiring movant to show grounds for maintenance modification). We review a district court’s decision to modify maintenance for abuse of discretion. *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019). But our supreme court has “suggested that [district] courts exercise that discretion carefully and only reluctantly alter the terms of a stipulation governing maintenance.” *Claybaugh v. Claybaugh*, 312 N.W.2d 447, 449 (Minn. 1981).

Husband makes two general arguments to support modification of his maintenance obligation. He asserts that wife’s increased employment income (from \$0 to \$18,318.86) and her decreased need show a substantial change in circumstances. We address each argument in turn.

As to wife's income, husband first challenges the district court's finding that wife's income only increased by 17%. Husband contends the district court should have used \$0, rather than the \$9,000 wife received as spousal maintenance, as the baseline. This argument is unavailing.

In determining whether there has been a substantial change in circumstances, a district court compares the circumstances at the time of the prior order with the current circumstances. The judgment does not impute income to wife. But it is undisputed that wife had the capacity to earn annual income of \$30,000 at the time of the dissolution. In that context, the parties agreed wife would receive permanent maintenance of \$9,000 per month. Because wife's current \$18,318.06 annual salary is well below her \$30,000 earning capacity, we discern no change—substantial or otherwise—in her income.

Even if we accept husband's contention that wife's income increased by 100%, caselaw persuades us such a change does not make the existing order unreasonable or unfair. In *Halvorson v. Halvorson*, the maintenance obligee's income increased from \$194 to \$19,870; the obligor's income increased from \$21,981 to \$40,530. 402 N.W.2d 168, 171 (Minn. App. 1987). We affirmed the district court's determination that the obligee's increased income did not constitute a substantial change in circumstances warranting modification. *Id.* at 172-73. In rejecting the obligor's argument, we noted the parties both experienced increased income of “nearly the same” amount, and that permanent maintenance was based on the parties' stipulation. *Id.* at 172.

More recently in *Kielley v. Kielley*, we confirmed that district courts have broad discretion to determine whether a substantial decrease in an obligor's income renders an

existing maintenance order unreasonable or unfair. 674 N.W.2d 770, 779 (Minn. App. 2004). Although the obligor testified that his annual income decreased from \$250,000 to \$22,000 due to a job loss, we agreed with the district court's assessment that "it lacked sufficient evidence to order modification" because the obligor provided no evidence regarding "the parties' overall financial pictures." *Id.* These cases support the district court's exercise of discretion, including considering husband's increased income here. The parties' marital income supported an affluent standard of living. On this record, we discern no abuse of discretion by the district court in rejecting husband's contention that wife's modest income from employment constitutes a substantial change in circumstances.

Husband next points to a provision in the dissolution judgment as support for his argument. When interpreting a provision in a stipulated judgment, we apply general contract principles, including that "where the language employed by the parties is plain and unambiguous there is no room for construction." *Starr v. Starr*, 251 N.W.2d 341, 342 (Minn. 1977). And we review de novo a stipulation in a dissolution matter. *Grachek v. Grachek*, 750 N.W.2d 328, 331 (Minn. App. 2008), *review denied* (Minn. Aug. 19, 2008).

The relevant provision states:

The parties agree maintenance is based on [h]usband's primary employment, but he has other sources of earned income. Therefore, if [w]ife obtains part-time employment, temporary employment or earns secondary income, rather than from primary employment, the secondary income will not be considered in a modification of maintenance.

Husband asserts that this provision should be read to treat wife's salary as income from "primary employment," requiring modification of his maintenance obligation. We are not

persuaded. Even if wife's current position is considered her primary employment, her earnings do not reach the level of her earning capacity at the time of the dissolution. The district court did not abuse its discretion by denying husband's maintenance-modification motion based on wife's increased income.

As to wife's needs, husband contends that they have substantially decreased because she has been able to save more than \$800 per month for retirement, an amount that far exceeds what the parties saved during the marriage. The judgment does not include findings regarding the marital standard of living or wife's reasonable monthly expenses. In its order denying modification, the district court found that "the parties saved for retirement under a standard of living based on [husband's] income at the time" and that wife "would be unable to save enough for retirement at the marital standard of living without using funds from maintenance." Husband also offered evidence that wife's monthly expenses exclusive of savings in the years 2015 to 2017 were between roughly \$7,000 and \$8,000. Bank records from the same time period reflect average monthly expenses between \$8,700 and \$15,900. The district court weighed the competing evidence and made implicit credibility determinations. *See Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009). We defer to such credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988).

Husband also points to wife's investment income and her ability to save for the child's post-secondary education as evidence the awarded maintenance exceeds her reasonable needs. But the judgment specifically excludes husband's "other sources of earned income" from the maintenance calculation and does not mention wife's other

potential sources of income, despite the fact the parties' investment assets, which presumably produced income, were divided as part of the dissolution. Likewise, any reduction in wife's needs due to the child's emancipation was anticipated and could have been addressed in the parties' maintenance negotiations. It was not. We decline to now penalize wife for living frugally in order to save for the child's college education. And we see no error by the district court in determining wife's maintenance award reflects the standard of living established during the parties' marriage. *See Lee v. Lee*, 775 N.W.2d 631, 642 (Minn. 2009) ("We have repeatedly stated that the support to which a divorced party is entitled is not simply that which will supply her with the bare necessities of life," and "the obligee can expect a sum that will [keep] with the circumstances and living standards of the parties at the time of the divorce." (alteration in original) (quotations omitted)).

In sum, as the party seeking to modify maintenance, husband had the burden to show a substantial change in circumstances that rendered the existing order unreasonable and unfair. On this record, we discern no abuse of discretion by the district court in concluding husband failed to meet this burden either by demonstrating that wife's income has substantially increased or that her needs have substantially decreased.

Affirmed.