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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A19-1792**

In re the Marriage of: Jennifer Perrill, petitioner,  
Appellant,

vs.

Gregory High Perrill,  
Respondent.

**Filed December 7, 2020  
Affirmed  
Bryan, Judge**

Hennepin County District Court  
File No. 27-FA-17-734

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

Karim El-Ghazzawy, El-Ghazzawy Law Offices, LLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Bjorkman, Judge.

**UNPUBLISHED OPINION**

**BRYAN**, Judge

In this marriage dissolution appeal, appellant asserts that the district court made the following three errors: (1) the district court erred by finding that respondent's efforts did not contribute to the appreciation in value of one of respondent's nonmarital business

interests; (2) the district court made unsupported factual findings concerning spousal maintenance; and (3) the district court failed to invade respondent's nonmarital property. We conclude that the district court did not clearly err in making its challenged findings regarding respondent's efforts and regarding spousal maintenance. In addition, we conclude that the district court did not abuse its discretion in declining to invade respondent's nonmarital property.

### **FACTS**

Appellant Jennifer Perrill (wife) and respondent Gregory Perrill (husband) married in May 2003. The parties have three children together. In early 2017, wife filed for a divorce. The parties had a four-day trial in October 2018 on the issues of child custody, marital property classification, and property division. Following trial, the district court issued its judgment and decree dissolving the marriage, determining marital and nonmarital property, allocating assets, denying wife's spousal maintenance request, and declining to invade husband's nonmarital assets. Wife filed a motion for amended findings. The district court generally declined to amend its findings and conclusions, but it made various amendments to correct clerical errors and revised some of its findings regarding the parties' budgets. This appeal followed. We address the trial evidence and the findings related to the appreciation of one of husband's business interests, wife's request for spousal maintenance, and wife's request to invade husband's nonmarital property in light of wife's anticipated financial hardship.

**A. Appreciation in Value of Husband's Interest in SecureConnect**

Various witnesses testified at trial regarding husband's interest in SecureConnect, a company founded in 1994 by husband's brother. Husband received an ownership interest in the company at that time and acquired additional shares as nonmarital gifts through 2010. In 2010, husband's ownership interest was valued at \$78,894. By the time that husband's brother sold the company in 2013, however, these shares greatly increased in value and were worth \$2,481,639. The parties disputed whether husband's efforts contributed to the appreciation in value of husband's interest in SecureConnect.

During the marriage, husband was employed by another family-owned company known as WAND Corporation. It is undisputed that husband's employment at WAND contributed to the development of WAND's customer base and to that company's growth. In addition, multiple witnesses testified that both WAND and SecureConnect operated out of the same building. Husband's brother explained that both WAND and SecureConnect used the same shipping and receiving facilities, and shared lunch and break rooms. Throughout SecureConnect's operations, WAND also provided "back office functions" to SecureConnect, such as finance, accounting, human resources, and basic administration. In the early years of SecureConnect, those following its founding in 1994, husband's brother confirmed that WAND's customer list was used to generate client development prospects for SecureConnect. After that initial period of time, however, husband's brother testified that market share at SecureConnect grew as a result of the efforts of "a very extensive marketing and sales force," distinct from WAND. Husband's brother explained that SecureConnect had "north of 15 people" separated into specific outreach groups, and

used a national account program to pursue sales. He also testified that, although WAND and SecureConnect would pursue joint sales pitches from time to time, they would do so with different sales teams. He explained, “[E]ach group would build and ultimately design their own marketing collateral materials, and would present it as such. There wasn’t much overlap there just because of the different—the difference of the products.”

When discussing husband’s role with SecureConnect, husband’s brother repeatedly stated that husband was not involved in any SecureConnect business operations. In addition, husband’s brother stated that he did not rely on husband in making decisions at SecureConnect. Instead, husband’s brother relied on the “vice president of sales role” within SecureConnect. When asked if husband was responsible for the success of SecureConnect, husband’s brother said no. According to husband’s brother, husband spent “100 percent” of his workday on WAND business, did not spend time working at SecureConnect, was not on the organizational chart for SecureConnect, was not on the payroll for SecureConnect, had no sales commission, did not sign contracts, and had no legal authority over SecureConnect.

After trial, the district court found that the increase in value of husband’s interest in SecureConnect from \$78,894 to \$2,481,639 did not result from husband’s active efforts. Instead the district court found that although WAND and SecureConnect shared physical space, husband was never employed by SecureConnect during the marriage, did not manage the company, and did not contribute to its appreciation. In short, the district court concluded that husband’s work at WAND did not sufficiently relate to SecureConnect’s success or failure to constitute active efforts and require classification of the appreciation

as a marital asset. Wife moved for amended findings or new trial, restating her position at trial that husband's active efforts caused the increase in value of his SecureConnect shares. The district court again disagreed, reiterated its earlier findings, and denied the request.

**B. Wife's Request for Spousal Maintenance**

Wife requested \$6,484 per month in permanent spousal maintenance. In addition to trial evidence regarding the parties' incomes, expenses, and postdissolution financial circumstances, the parties each submitted proposed findings with arguments related to spousal maintenance.

Uncontested testimony at trial showed that both parties worked until the birth of their first child in 2004. Wife then left her employment with Best Buy Co., Inc. and worked at home supporting the family and taking care of the parties' three children fulltime until 2014, when she returned to employment first as a contract worker, then as a salaried employee. Husband worked until he took a one-year paid sabbatical in 2015. Husband was out of work until 2018. The district court received Exhibit 111, a document listing wife's income both before and after she left the workforce. The table in this document and wife's testimony showed that she earned a consistent salary in the years prior to 2004 when she left the workforce, that she reentered the workforce in 2014, and that she earned a six-figure income by 2017:

Work Year	Taxed Social Security Earnings
2017	\$105,730
2016	\$92,033
2015	\$72,314
2014	\$6,056
....	
2003	\$49,829

2002	\$42,962
2001	\$34,406
2000	\$31,665

These amounts roughly correspond with the salaries listed in Exhibit 48, indicating that wife's salary has increased every year since she reentered the workforce. The district court received into evidence copies of wife's pay stubs, and wife testified consistent with these documents. In 2018, she earned a base salary of \$103,000 and received a bonus of \$24,569 for her 2017 performance.

Wife also submitted a monthly budget received into the record at Exhibit 51 and totaling \$14,424. In this exhibit, wife included a monthly grocery expense for herself (\$300) and for the minor children (\$600), as well as a monthly expense for restaurants for herself (\$50) and the minor children (\$150). Wife testified that these amounts reflect her actual expenses and the standard of living that the parties established during the marriage. Exhibit 51 also includes printouts of online mortgage calculations showing monthly mortgage expenses of \$2,911 and \$2,982 for down payments of \$250,000 and \$300,000 toward the purchase of a home worth \$650,000 and \$700,000.

Husband also submitted exhibits regarding his income and expenses. According to his testimony and documentary evidence, such as his employment agreement, at the time of trial, husband was self-employed as the CEO of a company called Personal Computers

Cash Drawers, LLC, earning a gross annual salary of \$120,000.<sup>1</sup> Husband submitted a monthly budget at Exhibit 164, which totaled \$8,693.

Based on these submissions, the district court found the following facts. At the time of dissolution, wife was 42 years old and husband was 54 years old. Husband was self-employed with gross annual income of \$120,000. Wife was currently employed fulltime in a management position at Best Buy with gross annual income of \$103,000. Both parties are eligible for bonuses, but the district court did not use their bonuses in its calculations. In making its factual findings and conclusions of law regarding both child support and spousal maintenance, the district court analyzed the parties' gross monthly income, not their net monthly income. The district court did not include the child support payments that wife was to receive in its calculation of her income when it analyzed her request for spousal maintenance.

The district court found that wife's Exhibit 51 established estimates for homes ranging from \$650,000 to \$700,000 and that wife might choose to make a down payment of \$250,000 to \$300,000. The district court also analyzed the parties' proposed budgets. The district court credited the testimony and written report of the financial planner that the parties used in 2015. Based on this evidence, the district court found that wife's proposed budget overstated her reasonable expenses and did "not reflect the marital standard of living." For instance, after paying off the existing mortgage in 2016, the parties' monthly

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<sup>1</sup> Before the district court, wife requested that the district court impute annual income to husband of \$225,000. The district court denied this request, and wife does not challenge the district court's decision.

family budget totaled approximately \$6,000, well below wife's proposed budget of \$14,424. In addition, the district court did not accept wife's expense for real estate taxes, which would not be owed while wife rented a residence and which would be included in the line item for monthly mortgage payments after she has purchased a home. Similarly, the district court rejected wife's inclusion of an expense for home repairs, which wife estimated at \$9,756 per year. Given the type of home wife expected to purchase, the district court concluded that wife was not likely to pay for such significant repairs. The district court found that wife's reasonable monthly expenses totaled \$6,492 for herself and an additional \$1,500 for the children. The district court also reduced husband's expenses, finding that husband's reasonable monthly expenses totaled \$6,590 for himself plus \$1,408 for the children. The district court did not include the amount of husband's monthly child support obligation in the list of monthly expenses.

The district court also examined wife's ability to earn income. Although wife forwent income during the parties' marriage and left her position at Best Buy, the district court found no evidence to indicate that wife's earning capacity had been permanently diminished as a result of staying home with the children. Instead, the district court found that wife experienced a near-seamless return to employment at Best Buy and that wife does not face any impairment to her earning capacity moving forward: "There was no credibl[e] testimony that [w]ife's time out of the workforce . . . in any way impairs her earning capacity moving forward." The district court also found that there was no evidence that wife has any physical or emotional conditions that would affect her ability to work for the next 25 years before retiring at the age of 67.



Ultimately, the district court observed that “[w]ife presented no cash flow analysis to support her claim for spousal maintenance,” and that “[w]ife did not introduce evidence to support her request for maintenance.” Despite what the district court referred to as a “dearth of evidence,” regarding the need for spousal maintenance, Minn. Stat. § 518.552, subd. 1 (2018), the district court proceeded to analyze each of the factors enumerated in section 518.552, subdivision 2 (2018).

The district court found that wife failed to establish that these factors supported her request for spousal maintenance. Specifically, the district court determined that wife did not require an additional \$6,484 each month in order to meet her needs given her ability to independently earn income and given the assets awarded to her in the division of marital property. The district court also concluded that wife would not need to acquire any additional education or training to find appropriate employment, having returned to work in 2015 and currently working fulltime in a management position.

The district court also provided a thorough description of the parties’ upper-middle class marital standard of living. The district court determined that this standard of living was in part subsidized by husband’s nonmarital contributions, such as using the proceeds from the sale of husband’s nonmarital asset to pay off the mortgage on the parties’ home, which the parties and the district court valued at \$1,475,000. Similarly, the district court noted that the parties’ family vacations were, in large part, paid for by husband’s family, who have also set aside funds for the children’s postsecondary educations. The district court characterized the parties’ spending as modest and observed that the children attend

public schools, leading to its conclusion that the parties cannot sustain this standard of living on their own postdissolution incomes.

Given wife's previous and current employment, the district court concluded that her experience was not outmoded and that her earning capacity had not become permanently diminished. In addition, the district court determined that wife's physical and emotional conditions did not weigh in favor of awarding spousal maintenance. Given husband's income, the district court also found that he did not have the ability to pay wife's requested amount of \$6,484 in monthly spousal maintenance. Finally, since both parties contributed to the value of the marital estate, the district court treated this factor as neutral.

In the final paragraph of its 13-page analysis of wife's spousal maintenance claim, the district court noted that "[w]ife did not introduce evidence to support her request for maintenance." In the absence of other evidence, the district court conducted what it called a "rudimentary calculation of net incomes" using a computer program commonly relied on in dissolution litigation. The district court stated that the computer program determined that "[u]sing the same gross monthly incomes as in the child support section," if the district court granted "[w]ife's request for \$6,484 in monthly, non-taxable spousal maintenance," the child support obligation would change. "Wife would owe [h]usband child support of \$516 per month." In that scenario, "[w]ife's net monthly income would be \$12,551 (94.7% of combined net income) and [h]usband's net monthly income would be \$709 (after receipt of child support; 5.3% of combined net income)." The district court noted that these were not factual findings based on the record. Instead, this reasoning was used to illustrate the "effect of [w]ife's request."

In her motion for amended findings or new trial, wife challenged the district court's spousal maintenance findings, restating her position that the district court should impute annual income to husband of \$225,000. Wife also requested that the district court adjust the parties' expenses, such as increasing the amount for rent or mortgage in wife's budget by \$100, adding the monthly expense of \$481 to reflect wife's current car payment, and reducing the amounts in husband's food and grocery items to "the same level as [w]ife's." Wife also requested that based on these amended findings, the district court should reverse its denial of her spousal maintenance request and award her permanent spousal maintenance of \$4,000 per month. Wife also submitted an affidavit with exhibits and a memorandum of law in support of the requested changes. The district court amended the original judgment and decree in some respects, but denied wife's requests to impute income to husband, to reduce his food expenditures so that they were identical to wife's, and to award her spousal maintenance.

### **C. Hardship-Based Allocation of Nonmarital Assets**

Wife also asked the district court to invade husband's nonmarital property and find undue hardship because she is unable to provide "even a fraction of the marital standard of living for her three sons post-divorce." The district court denied wife's request because wife has the ability "to earn approximately the same income as [h]usband." In addition, according to the balance sheet attached to the district court's order at Exhibit 1, wife's property award included cash and securities valued at \$22,678; her share of the marital interest in the home valued at \$162,250; her share of the marital interest in WAND valued at \$84,533; her vehicle valued at \$9,500; and her share of the marital interest in the

retirement accounts valued at \$96,465. The value of this award totaled \$375,426. The district court further explained that wife would receive a majority of the marital estate and that fact, combined with her age, abilities, and significant income, precluded allocation of husband's nonmarital assets to wife.

Wife reiterated her request to invade husband's nonmarital property in her motion for amended findings or new trial. The district court again denied the request, noting that wife has the ability to earn a high level of income, similar to husband. The district court also rejected wife's argument that the children will experience two very different, disconnected worlds unless the district court awarded wife a portion of husband's nonmarital property. The district court reiterated its findings that the parties spent modestly during the marriage, and that a comparison of the marital standard of living to wife's postdissolution standard of living does not indicate wife has suffered an unfair hardship.

## **D E C I S I O N**

### **I. Appreciation in Value of Husband's Interest in SecureConnect**

Wife argues that the district court erred when it found that husband's efforts did not contribute to the appreciation in value of his SecureConnect shares. Because our review of the record does not leave us with the conviction that the district court made a mistake in determining this fact, we affirm the district court.

Marital property is defined as "property, real or personal . . . acquired by the parties, or either of them, to a dissolution . . . at any time during the existence of the marriage relation between them, . . . but prior to the date of valuation." Minn. Stat. § 518.003, subd. 3b (2018). Property acquired by a spouse during a marriage is presumed to be marital

property unless it meets an exception for nonmarital property. *Id.* Nonmarital property is defined as “property real or personal, acquired by either spouse . . . , which . . . (a) is acquired as a gift, bequest, devise or inheritance made by a third party to one but not to the other spouse; (b) is acquired before the marriage; [or] (c) is acquired in exchange for or is the increase in value of” nonmarital property. *Id.*

Increases in the value of nonmarital property are divided into two types of appreciation: active and passive. *Gottsacker v. Gottsacker*, 664 N.W.2d 848, 853 (Minn. 2003); *Nardini v. Nardini*, 414 N.W.2d 184, 193 (Minn. 1987). Active appreciation is considered marital, whereas passive appreciation is nonmarital. *Baker v. Baker*, 753 N.W.2d 644, 650 (Minn. 2008). To determine whether the appreciation in the value of a nonmarital investment is marital or nonmarital, we “look to whether the appreciation is the result of active management.” *Id.* The party seeking to establish the nonmarital character of appreciation during the marriage bears the burden to establish that the appreciation resulted from passive efforts or general market forces. *Id.* at 649-50. We review independently the issue of whether property is marital or nonmarital, “giving deference to the district court’s findings of fact.” *Id.* at 649. If we are “left with the definite and firm conviction that a mistake has been made, we may find the [district] court’s decision to be clearly erroneous, notwithstanding the existence of evidence to support such findings.” *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997) (quotation omitted).

Wife argues that husband’s employment at WAND resulted in the success of SecureConnect and caused the appreciation in the value of his shares. This presents a

question of fact. *Baker*, 753 N.W.2d at 649.<sup>2</sup> The district court found that husband's work at WAND, in or around SecureConnect, was insufficient to tie him to SecureConnect's success or failure. The district court did not clearly err in making this finding. Although the companies shared some business space, administrative functions, and facilities, the evidence supports the finding that each company maintained independent marketing and sales operations. In addition, the record includes evidence that husband spent 100% of his workday on WAND business and that he was not employed by SecureConnect, was never paid by SecureConnect, was not on SecureConnect's organizational chart, had no legal authority over SecureConnect, and did not participate in sales functions for SecureConnect. On this record, we conclude that the district court did not clearly err in finding that husband's work at WAND did not result in the appreciation in the value of SecureConnect shares.

## **II. Denial of Wife's Request for Spousal Maintenance**

Wife next raises several challenges to the factual findings regarding her request for spousal maintenance. We conclude that none of these arguments has merit. The record supports the district court's factual findings regarding wife's requested spousal maintenance award.

Spousal maintenance is "an award made in a dissolution or legal separation proceeding of payments from the future income or earnings of one spouse for the support

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<sup>2</sup> Wife does not argue that the district court misapplied the law to its findings regarding the connection between husband's efforts at WAND and the increase in the value of his SecureConnect shares. Instead, wife argues that had the district court made alternative factual findings, it would have classified the appreciation as a marital asset.

and maintenance of the other.” Minn. Stat. § 518.003, subd. 3a (2018). A district court may award spousal maintenance if it first finds that the spouse seeking maintenance does not have sufficient property or resources to provide for his or her reasonable needs or is unable to self-support, taking into consideration the marital standard of living and any other relevant circumstances. Minn. Stat. § 518.552, subd. 1(a)-(b) (2018); *see also Curtis v. Curtis*, 887 N.W.2d 249, 251-52 (Minn. 2016). Next, the district court determines whether to award the requested amount and duration of spousal maintenance. In doing so, the district court considers the following factors: the financial resources of the party seeking maintenance; whether additional education or training is necessary in order to find appropriate employment; the marital standard of living; the duration of the marriage and the period of time the party seeking maintenance has been absent from employment; whether the earning capacity of the party seeking maintenance has become permanently diminished; any loss of earnings and other employment opportunities by the party seeking maintenance; the age and physical and emotional condition of the party seeking maintenance; the ability of the payor spouse to meet needs while paying maintenance; and the contribution of each party to the acquisition of marital property and the furtherance of the other party’s employment. Minn. Stat. § 518.552, subd. 2 (2018). The party seeking maintenance has the burden to show the need for maintenance and to show that the statutory factors weigh in favor of the request. *Curtis*, 887 N.W.2d at 252; *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997).

We review factual challenges regarding spousal maintenance for clear error. Minn. R. Civ. P. 52.01 (stating that findings of fact “shall not be set aside unless clearly

erroneous”); *Gessner v. Gessner*, 487 N.W.2d 921, 923 (Minn. App. 1992) (“Findings of fact concerning spousal maintenance must be upheld unless they are clearly erroneous.”). “Findings of fact are clearly erroneous where an appellate court is left with the definite and firm conviction that a mistake has been made.” *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (quotation omitted). We view the record in the light most favorable to the district court’s findings. *Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000). “That the record might support findings other than those made by the [district] court does not render the findings clearly erroneous . . . .” *Robert v. Zygmunt*, 652 N.W.2d 537, 544 (Minn. App. 2002), *review denied* (Minn. Dec. 30, 2002).

In this case, wife argues that the district court made the following errors in its findings of fact:<sup>3</sup> (1) the district court understated husband’s net income; (2) the district court used husband’s child support obligation and wife’s child support income to deny spousal maintenance; (3) the district court understated wife’s anticipated mortgage expense; (4) the district court found that husband’s family subsidized the marital standard of living; and (5) the district court found that wife’s earning capacity has not become permanently diminished.<sup>4</sup>

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<sup>3</sup> Wife does not argue a misapplication of law. Instead, wife argues that had the district court adopted wife’s proposed findings, the factors would have weighed in wife’s favor. Such arguments present questions of fact.

<sup>4</sup> Wife also challenges the food and grocery expense amounts, arguing they should be identical. Wife argues that it is not reasonable to permit one spouse to list food and grocery expenses that differ from the other spouse’s expenses. Wife cites to no legal authority, however, requiring identical expenses or holding that unequal expenses are unreasonable. Nor does wife argue that this is an issue of first impression. We need not address legal arguments that are not adequately briefed. *State, Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997); *see also, e.g., Melina v. Chaplin*, 327



First, wife argues that the district court understated husband's net income in denying wife's spousal maintenance claim. We are not persuaded.

As a preliminary matter, wife's argument mischaracterizes the district court's decision. Paragraph XII, titled "Parties' Income and Employment," includes the district court's findings regarding the incomes of the parties. In this paragraph, the district court determined the gross income for the parties and made no reference or finding regarding net income. The district court determined that husband's gross monthly income was \$10,000. Wife's argument apparently stems from the district court's comments in the final paragraph of its 13-page analysis of wife's spousal maintenance claim. The district court noted that "[w]ife did not introduce evidence to support her request for maintenance." In the absence of this evidence, the district court referred to a "rudimentary calculation of net incomes" that the district court conducted. The district court noted that these were not factual findings based on the record. Instead, this reasoning was used to illustrate the "effect of [w]ife's request." Contrary to wife's argument, the reference to net incomes in the district court's illustration does not conflict with or undermine the definitive income findings that the district court made in Paragraph XII.

In addition, the district court did not clearly err in making the income findings in Paragraph XII. Wife's pay stubs and testimony support the district court's finding that her gross annual income is \$103,000. Similarly, husband's testimony and husband's

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N.W.2d 19, 20 (Minn. 1982) (declining to address issue not adequately briefed). In the absence of legal authority to support her position, we decline to adopt such a requirement in this case.

employment agreement support the district court's finding that his gross annual income is \$120,000. Viewing this evidence in the light most favorable to the district court's findings, we are not left with the conviction that the district court made a mistake in its income findings. *Goldman*, 748 N.W.2d at 284; *Vangsness*, 607 N.W.2d at 472.

Second, wife argues that the district court improperly considered child support when making its spousal maintenance findings. Again, we do not agree because wife's argument mischaracterizes the district court's decision. Contrary to wife's argument, the district court did not include husband's monthly child support obligation in his list of expenses and did not include wife's receipt of monthly child support payments as part of her income.

To the extent that wife again relies on the district court's comments in the final paragraph of its lengthy analysis, we conclude this reliance is misplaced. As noted above, while the district court accounted for child support when it conducted a "rudimentary calculation of net incomes," it did so as an illustration of what could happen if the district court granted wife's spousal maintenance request and not as a factual finding based on the record. In addition, the district court noted that "[c]onsidering [w]ife's request for \$6,484 in monthly, non-taxable spousal maintenance, the calculation shows that [w]ife would owe [h]usband child support of \$516 per month and that [w]ife's net monthly income would be \$12,551." According to the rudimentary calculation, husband's net monthly income would be \$709, "after receipt of child support." In this calculation, wife's receipt of \$6,484 in spousal maintenance causes the change in child support. Therefore, the rudimentary calculation performed by the district court did not consider child support before determining spousal maintenance as wife argues.

Third, wife argues that the district court erred in finding that her monthly mortgage expense of \$2,982 is reasonable. Specifically, wife argues that the district court determined the reasonableness of her mortgage expense by assuming that with her property award, wife could purchase a \$700,000 home using a \$300,000 down payment. Wife asserts that she was not awarded property sufficient to fund the down payment on which she based her mortgage expense. We are not persuaded that the district court erred. The exhibit that wife submitted containing her printouts of online mortgage calculations show monthly expenses of \$2,911 and \$2,982 for down payments of \$250,000 and \$300,000 toward the purchase of a home worth \$650,000 and \$700,000. This exhibit, together with wife's testimony, indicate that wife intended to purchase a home within this price range using a down payment within this anticipated range. In addition, we observe that wife's property award totaled \$375,426. Even after excluding the value of her vehicle and retirement accounts, wife would have \$269,461 available for an anticipated down payment. This amount falls within the contemplated range, and wife's property award is not the only possible source for wife's anticipated future down payment. Given wife's financial circumstances and the value of her property award, we conclude that the district court did not clearly err when it accepted wife's stated monthly mortgage expense of \$2,982 instead of some higher amount. The district court did not understate wife's mortgage expense.

Fourth, wife argues that the district court erred in finding that husband's family subsidized the marital standard of living. The record supports the district court's findings. For instance, the trial testimony established that husband's family paid for many of their family vacations. In addition, the parties lived in a home that they remodeled for over ten

years prior to purchasing their current home. Wife testified that they were able to purchase their current home in large part due to husband's nonmarital interest in their previous home and due to the SecureConnect sale proceeds, which, as discussed above, are nonmarital. Apart from the home, the record supports that the parties' lived on a budget of \$6,000 per month for the entire family. The affluent lifestyle emphasized by wife was relatively short lived and primarily due to husband's nonmarital assets. *See Robert*, 652 N.W.2d at 545 (affirming district court's denial of request for spousal maintenance because the high standard of living during the marriage was relatively short lived). The district court did not clearly err in its findings regarding the marital standard of living.

Fifth, wife argues that the district court erred when it found that she stopped working during the marriage "to be at home with the children." The district court made this finding as part of its analysis of the fourth statutory factor. *See* Minn. Stat. § 518.552, subd. 2(d). Wife contends that she stopped working to support husband's career, not out of a desire to spend more time with the children. For purposes of reviewing this factual finding, we need not determine the precise reason or combination of reasons why wife left the workforce because application of this factor does not hinge on the motives behind wife's absence from employment.<sup>5</sup> Instead, the statute requires findings regarding the effect that the absence

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<sup>5</sup> Wife does not challenge the district court's findings relating to the eighth statutory factor: "the contribution of each party 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 or in furtherance of the other party's employment or business." Minn. Stat. § 518.552, subd. 2(h). The motives for leaving the workforce could be relevant to application of this factor, if the parties disputed whether the decision to leave the workforce was "in furtherance of the other party's employment." Here, the district court concluded that this factor was neutral because both parties contributed to the accumulation

may have had on wife's earning capacity. Minn. Stat. § 518.552, subd. 2(d). In this case, after her absence from the workforce, wife returned to employment in a management position with her previous employer. The documentary and testimonial exhibits establish that wife's income since her return to the workforce greatly exceeds her income prior to her absence. In the four years prior to her absence, wife earned between \$31,665 and \$49,829 annually. In contrast, after reentering the workforce, wife earned between \$72,314 and \$105,730 annually, and according to wife's testimony and pay stubs, her annual gross 2018 salary was approximately \$103,000, plus a bonus of \$24,569 for her 2017 performance. Viewing this evidence in the light most favorable to the district court's findings, we are not left with the definite and firm conviction that the district court made a mistake in finding that wife's earning capacity has not become permanently diminished.

In sum, the record supports the challenged findings and we conclude that the district court did not clearly err when it made its findings concerning spousal maintenance.

### **III. Undue Hardship**

Wife argues that the district court abused its discretion by failing to invade husband's nonmarital assets to prevent wife from experiencing an undue financial

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of the marital estate. Specifically, the district court found that "[w]ife left the workforce to care for the parties' children and household. She managed the children's medical, educational, and religious care when she stayed home with them." The court also found that wife became the "primary income-earner" after husband took a "one-year paid sabbatical in 2015." We need not review the findings or conclusions regarding the eighth statutory factor because wife's challenge only relates to the fourth statutory factor: the effect of wife's absence from employment on her earning capacity.

hardship. Because there is not a severe financial disparity between the parties, the district court did not abuse its discretion.

A district court may award nonmarital property of one spouse to the other spouse, but only if “the court finds that either spouse’s resources or property . . . are so inadequate as to work an unfair hardship.” Minn. Stat. § 518.58, subd. 2 (2018). If a district court apportions nonmarital property, it must make 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, and opportunity for future acquisition of capital assets and income of each party.” *Id*; see also *Ward v. Ward*, 453 N.W.2d 729, 733 (Minn. App. 1990), *review denied* (Minn. June 6, 1990). While a district court generally enjoys broad discretion regarding the division of property in marriage dissolutions, *Hein v. Hein*, 366 N.W.2d 646, 649 (Minn. App. 1985), that discretion is narrower in the nonmarital-property-division context. *Stageberg, v. Stageberg*, 695 N.W.2d 609, 618 (Minn. App. 2005), *review denied* (Minn. July 19, 2005).

“A very severe disparity between the parties is required to sustain a finding of unfair hardship necessary to apportion nonmarital property.” *Ward*, 453 N.W.2d at 733. In fact, it is “an unusual case where nonmarital property is distributed.” *Dammann v. Dammann*, 351 N.W.2d 651, 653 (Minn. App. 1984) (concluding that respondent suffered no hardship because she was ten years younger than appellant, earned more money, was healthy, and neither party owed substantial liabilities); see also *Robert*, 652 N.W.2d at 546 (affirming denial of request to invade respondent’s nonmarital property because although respondent’s financial circumstances were significantly better due to substantial

nonmarital holdings, appellant was in good health, possessed marketable skills, and was able to meet his reasonable expenses); *Wolter v. Wolter*, 395 N.W.2d 417, 420 (Minn. App. 1986) (reversing decision to invade appellant's nonmarital property and concluding that respondent did not suffer from economic hardship because she received \$160,000 in marital property and had net annual income of approximately \$21,600); *Hanson v. Hanson*, 378 N.W.2d 28, 30 (Minn. App. 1985) (affirming district court's invasion of appellant's nonmarital property where appellant had a net worth of approximately \$1 million, while respondent could barely speak English, lacked employable skills, and had a net worth of \$5,000); *Frederiksen v. Frederiksen*, 368 N.W.2d 769, 775 (Minn. App. 1985) (affirming district court's invasion of appellant's nonmarital property where appellant was a successful farmer, while respondent suffered from serious emotional and physical problems and had no marketable skills).

In this case, wife maintains that she is in such a disproportionate financial situation that she will experience an unfair hardship, requiring reversal. We are not persuaded. Unlike the requesting spouses in *Hanson* and *Frederiksen*, wife received a property award valued at \$375,426 (a majority of the marital estate), earns a six-figure income, and has experienced few, if any, barriers to her employability. While there is some financial disparity in the value of the parties' nonmarital property, this is not a situation where one spouse lacks marketable skills or where one spouse has an ability to earn significantly more than the other. Instead, wife is more similar to the requesting parties in *Robert, Wolter*, and *Dammann*. We conclude that the district court did not abuse its discretion when it

determined that wife did not demonstrate that her resources were “so inadequate as to work an unfair hardship.”

**Affirmed.**