STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0154

In re the Marriage of:
Eugene Everett Schollen, petitioner,
Appellant,

vs.

Karri Lynn Schollen, n/k/a Karri Lynn Linke,
Respondent.

Filed January 20, 2009
Remanded
Connolly, Judge

Nicollet County District Court
File No. 52-F8-96-000483

Eugene Everett Schollen, 405 Elm Street, P.O. Box 136, Henderson, MN 56044 (pro se appellant)

Karri Lynn Linke, 609 Highland Lane, Lino Lakes, MN 55014 (pro se respondent)

Lori Swanson, Attorney General, 445 Minnesota Street, Suite 1800, St. Paul, MN 55101; and

Michael K. Riley, Sr., Nicollet County Attorney, Kenneth R. White, Assistant County Attorney, 326 South Minnesota Avenue, P.O. Box 360, St. Peter, MN 56082 (for Nicollet County)

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

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

CONNOLLY, Judge

Appellant brought a motion before a child-support magistrate (CSM) to reduce his child-support obligation, arguing that there was a substantial decrease in his income. The CSM denied this motion, the district court affirmed, and appellant now appeals to this court. Because the district court did not make a finding explaining why the rebuttable presumption found in Minn. Stat. § 518A.29, subd. (e) (2006), that foster care subsidies are not included in gross income has been overcome, we remand.

FACTS

On January 12, 1999, appellant had a total support obligation of $476 per month. In 2005, appellant brought a motion to modify his support payments claiming he was unable to continue his employment as an auto-body repairman due to an injury he had received. Appellant's motion was granted, and his total support obligation was reduced to $310 per month. At the time his total support obligation was reduced, the CSM found that appellant's gross income was $1,339.[1]

On April 23, 2007, appellant again served a motion for a modification of his child-support obligation. He alleged that, due to a decrease in income, he was no longer able to maintain his current obligation. On June 21, 2007, the matter was heard before a CSM. At the time of his hearing before the CSM, appellant received $505 in retirement,

[1] The CSM, after finding that it was "unable to determine or estimate the earning ability of the Obligor," went to "calculate child support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage, pursuant to Minn. Stat. § 518.551, subd. 5b(d)." This amount equated to $1,339. Minn. Stat. § 517.551, subd. 5b(d) is now, in relevant part, codified in Minn. Stat. § 518A.32 (2006).

survivors, and disability insurance benefits (RSDI), and $137.50 in social security insurance income. Appellant had previously worked at a convenience store, earning $320 per month, but left because he was unwilling to work weekends. Appellant and his spouse had also served as foster parents, receiving $1,126 per month in subsidies, but they stopped because they were unwilling to fill out the required paperwork.

The CSM determined that if appellant had not voluntarily quit those two positions, he would have a gross income of $1,388 per month. This was calculated by taking appellant's RSDI income of $505 and adding to it: (1) the $320 per month he had earned as a convenience-store clerk, and (2) $563 per month, which is equivalent to one-half of the $1,126 per month appellant and his wife received as foster parents. The CSM then denied appellant's motion, finding that his gross income was essentially unchanged.

Appellant sought review of the CSM's decision in district court. On October 15, 2007, the district court heard the matter and affirmed the CSM's decision. Appellant then brought this appeal but did not order transcripts of the proceedings before the CSM and the district court.

D E C I S I O N

When a district court affirms a CSM's ruling, the CSM's ruling becomes the ruling of the district court, and an appellate court reviews the district court's ruling. *Kilpatrick v. Kilpatrick*, 673 N.W.2d 528, 530 n.2 (Minn. App. 2004). Whether to modify child support is discretionary with the district court, and its decision will be altered on appeal only if it resolved the matter in a manner that is against logic and the facts on record. *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002). But, generally, the

failure to make findings on relevant statutory factors requires a remand. *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989) (remanding maintenance question because findings were inadequate to allow review).

Here, the amount of money appellant received from serving as a foster parent was included in the computation of his gross income. "It is a rebuttable presumption . . . foster care subsidies are not gross income." Minn. Stat. § 518A.29, subd. (e). When the district court included the foster care subsidies that appellant received in his gross income, it made no specific finding explaining why the statutory presumption that foster care subsidies are not included in gross income has been overcome. As a result, we are unable to determine if the district court correctly calculated appellant's gross income, and albeit reluctantly, we must remand this matter to the district court for additional findings.

Remanded.