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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-0516**

In re the Marriage of:

Joni Kay Williams, petitioner,  
Respondent,

vs.

Raymond Andrew Williams,  
Appellant.

**Filed June 30, 2009  
Affirmed in part, reversed in part, and remanded  
Kalitowski, Judge**

Polk County District Court  
File No. 60-F4-02-000215

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Considered and decided by Klaphake, Presiding Judge; Kalitowski, Judge; and Hudson, Judge.

**UNPUBLISHED OPINION**

**KALITOWSKI**, Judge

Appellant Raymond Andrew Williams challenges the district court's award of \$2,000 per month in permanent spousal maintenance to respondent Joni Kay Williams.

Appellant argues that (1) several of the district court's findings are clearly erroneous; (2) the record does not support an award of permanent maintenance; and (3) the district court abused its discretion when it awarded attorney fees to respondent. We conclude that the record supports the award of permanent spousal maintenance, but because the record does not support the district court's finding of the amount of respondent's monthly expenses, we reverse and remand. We affirm the district court's award of attorney fees.

## **DECISION**

### **I.**

Appellant contends that several district court findings are clearly erroneous and that the award of \$2,000 per month in permanent maintenance to respondent was an abuse of discretion.

We review a district court's maintenance award under an abuse of discretion standard. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997). A district court abuses its discretion regarding maintenance if its findings are unsupported by the record or if it improperly applies the law. *Id.* "Findings of fact concerning spousal maintenance must be upheld unless they are clearly erroneous." *Gessner v. Gessner*, 487 N.W.2d 921, 923 (Minn. App. 1992). In order to successfully challenge a district court's findings of fact, "the party challenging the findings must show that despite viewing that evidence in the light most favorable to the trial court's findings . . . the record still requires the definite and firm conviction that a mistake was made." *Vangsness v. Vangsness*, 607 N.W.2d 468, 474 (Minn. App. 2000).

### **Respondent's monthly expenses**

Appellant contends that the district court clearly erred in its calculation of spousal maintenance by attributing expenses to respondent that respondent did not request and that are not supported by evidence in the record.

In her financial affidavit, respondent claimed between \$2,436 and \$2,531 in monthly expenses. The district court found that respondent “grossly understated” her monthly expenses, noting respondent’s failure to include health insurance, car payment, life insurance, a burial plan, and a newspaper subscription in her listed expenses. The court found respondent’s actual expenses to be between \$3,000 and \$3,500. Because the record contains no evidence of the actual costs of the expenses referenced by the district court, we conclude that the finding that respondent’s monthly expenses are \$3,000 to \$3,500 is clearly erroneous.

“The purpose of a maintenance award is to allow the recipient and the obligor to have a standard of living that approximates the marital standard of living, as closely as is equitable under the circumstances.” *Peterka v. Peterka*, 675 N.W.2d 353, 358 (Minn. App. 2004). The record supports the district court’s finding that because the parties had health insurance, life insurance, and other expenses during the marriage, these expenses are appropriate in determining respondent’s need for spousal maintenance. But because the record lacks information on the amounts of these expenses, we reverse and remand for a determination regarding respondent’s monthly expenses in such proceedings as the district court deems appropriate.

### **Challenges to other findings**

Appellant claims the district court made clearly erroneous findings regarding respondent's hip surgery, health, and age; ability to self-support; ability to acquire education and training; current education skills and experience; and the parties' marital standard of living. In addition, appellant challenges the district court's findings regarding his ability to meet his own needs and expenses while meeting the needs of respondent.

After a thorough and complete review of the record, we conclude that the record supports the district court's challenged findings. Because the district court's findings are not clearly erroneous, we need not further address appellant's discussion of the evidence. *See id.* at 358 (declining to discuss in detail the evidence supporting the district court's findings); *Vangsness*, 607 N.W.2d at 474 (holding it unnecessary to address the appellant's discussion of evidence when findings not clearly erroneous); *Wilson v. Moline*, 234 Minn. 174, 182, 47 N.W.2d 865, 870 (1951) (stating function of appellate court "does not require us to discuss and review in detail the evidence for purpose of demonstrating that it supports the trial court's findings," and our "duty is performed when we consider all the evidence, as we have done here, and determine that it reasonably supports the findings").

### **Challenge to the award of permanent maintenance**

Appellant argues that the district court clearly erred in awarding permanent, rather than temporary, maintenance. We disagree.

The district court has broad discretion to determine the duration of a spousal maintenance obligation. *McConnell v. McConnell*, 710 N.W.2d 583, 585 (Minn. App.

2006). But “[w]here there is some uncertainty as to the necessity of a permanent award, the court shall order a permanent award leaving its order open for later modification.” Minn. Stat. § 518.552, subd. 3 (2008). Temporary maintenance awards are not favored over permanent awards where consideration of the factors in section 518.522, subdivision 2, justify a permanent award. *Id.* And “poor health is a proper reason for awarding permanent maintenance.” *McConnell*, 710 N.W.2d at 586 (quotation omitted).

Here, the district court concluded that several factors, including respondent’s health problems, favored an award of permanent maintenance. On this record, we conclude that the district court did not abuse its discretion in ordering permanent spousal maintenance.

## II.

Appellant challenges the district court’s award of conduct-based costs and attorney fees. Appellant argues that the district court’s order is “entirely ambiguous” as to the reason for awarding such costs and fees. We disagree.

A district court may, in its discretion, award additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceedings. Minn. Stat. § 518.14, subd. 1 (2008).

Here, under section 518.14, the district court awarded both need-based and conduct-based fees and costs to respondent in the amount of the lesser of \$10,000 or respondent’s actual attorney fees and costs. The district court said, “[i]n relation to conduct-based fees, the Court finds that the [appellant] has unreasonably contributed to the length or expense of this proceeding.” The record supports this finding and the record

does not support appellant's argument that the district court was ambiguous as to its reason for awarding conduct-based fees and costs. Moreover, the record supports the district court's findings regarding award of need-based fees and costs in the amount ordered.

**Affirmed in part, reversed in part, and remanded.**