

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A24-0989**

In the Marriage of:

Hibaq Diriye Abdi, petitioner,  
Respondent,

vs.

Said Somane,  
Appellant.

**Filed June 30, 2025  
Affirmed in part, reversed in part, and remanded  
Smith, John, Judge<sup>\*</sup>**

Hennepin County District Court  
File No. 27-FA-22-2104

Shawn C. Reinke, Victoria M.B. Taylor, Reinke Taylor, PLLC, St. Paul, Minnesota (for respondent)

Said Somane, St. Paul, Minnesota (self-represented appellant)

Considered and decided by Larkin, Presiding Judge; Larson, Judge; and Smith, John, Judge.

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

## **NONPRECEDENTIAL OPINION**

**SMITH, JOHN**, Judge

We affirm the district court's award of sole legal and sole physical custody to Abdi because the district court's decision is supported by the record, and the district court did not err in finding that Somane committed an act of domestic abuse against Abdi. But we conclude that the district court abused its discretion by calculating Somane's self-employment income without making specific findings to support its determination of his gross receipts and business expenses. We remand for further findings on Somane's self-employment income and for the district court to reconsider three calculations that relied on the original income calculation: (1) basic child support, (2) temporary retroactive child support, and (3) need-based attorney fees. Relatedly, we remand for the district court to reconsider whether Somane dissipated marital property by withdrawing over \$140,000 in cash between the parties' separation and the dissolution trial. Finally, regarding the Toyota Sienna that was allegedly dissipated, we remand for the district court to reconcile its factual findings in the dissolution judgment and decree with its factual findings in the order denying Abdi's motion for amended findings.

## **FACTS**

Abdi and Somane married in 2011. They have five minor children together, ranging in age at the time of the dissolution from four to thirteen years old. During their marriage, Abdi was primarily responsible for raising the minor children, while Somane worked. Somane was self-employed as an Uber driver and also worked night shifts as a direct support professional at Alliance Wellness Center. In September 2021, Abdi and Somane

separated, and Abdi petitioned for dissolution of their marriage in April 2022. In June 2023, the district court held a trial to resolve issues of legal and physical custody of the minor children, parenting time, child support, spousal maintenance, and the division of marital property.

The following factual summary relating to the issue of domestic abuse is based on the evidence and testimony introduced at trial.

Leading up to their separation, the parties had arguments that, according to Abdi, “turned physical.” Abdi testified that one altercation occurred when she arrived home from giving birth to the couple’s fourth child. Somane was “upset that he had to be home alone with three children since [Abdi] had to stay at the hospital [for] three days.” When Somane “gathered his clothes,” Abdi “stood at the door,” asked where Somane was going, and said to him, “I just gave birth. If you are going to leave me with four children, it is better that you divorce me then.” Somane “grabbed [Abdi] by the neck, pushed [her] out of the way,” and “was gone for 55 days.” Abdi testified about another altercation in September 2021 where Somane “got in her face” and yelled. After Abdi “pushed him back,” Somane said to her, “[I]f you ever touch my shirt again, you will not be able to walk on your own two legs.” The district court found that Abdi’s testimony was more credible than that of Somane on the issue of domestic abuse.

Abdi’s dissolution petition sought child support from Somane, but the parties disputed how Somane’s gross income should be calculated for purposes of determining child support. Abdi argued that Somane’s gross income was the sum of his 2022 net payout from Uber, or \$69,353.34, and the amount he received from Alliance Wellness in 2022, for

a total of \$104,352 annually, or \$8,696 per month. Somane argued that his gross income was \$18,670, or the taxable portion of the Uber income that he reported to the IRS in 2022 according to his tax return. The tax return stated that the gross receipts from Somane's Uber business totaled \$112,742 and that he had \$94,072 in total business expenses. \$46,852 of the business expenses were "car and truck expenses," and the remainder were for repairs and maintenance, taxes and licenses, phone and internet, car washes, and fees charged by Uber, the airport, and municipalities. Somane maintained that his income from Alliance Wellness should be excluded from the calculation under Minn. Stat. § 518A.29(b) (2024), because his "work for Uber exceeds 40 hours per week." The district court found that Abdi was employed at Lake Street Academy Daycare. She had a gross monthly income of \$1,558.80. She had monthly living expenses of \$2,173.85. The district court found that Somane drove Uber as an independent contractor and that both parties provided widely divergent reports of Somane's income. Finding that Somane was essentially self-employed, the district court looked at gross receipts minus costs of goods sold minus ordinary and necessary expenses required for self-employment or business operation to determine Somane's income for the calculation of child support. *See* Minn. Stat. 518A.30. Upon reviewing Somane's earnings and subtracting his ordinary and necessary expenses, the Court found that Somane had a gross monthly income of \$3,200. Somane's reasonable monthly expenses were found to be \$2,200.

The parties also jointly owned a Toyota Sienna minivan. They agree the vehicle was purchased in 2019 and that ownership was transferred in March 2023. But they dispute the details of its purchase and transfer. Abdi testified that they bought the vehicle with cash.

But in March 2023, people came to her house and told her that they owned the vehicle because Somane had sold it to them. Somane testified that the parties purchased the vehicle with a \$4,000 down payment and an auto loan of \$13,000 from Xtreme Auto, payable by March 2023. He presented and described the loan agreement at trial, but the loan document was not admitted as evidence by the district court nor was it included as part of the appellate record. Somane transferred title of the vehicle to Xtreme Auto in March 2023 in a title-transfer document stating that the vehicle was not “subject to security agreement(s).” At trial, Abdi argued that Somane sold the vehicle and concealed the proceeds of the sale. The court found that there was insufficient evidence to demonstrate that either party had title to the vehicle or that Somane received the proceeds from the vehicle that could be subject to division.

Abdi also argued at trial that Somane withdrew over \$140,000 in cash from his checking account between the parties’ separation in September 2021 and March 2023 without Abdi’s consent and with the intent to prevent those funds from being divided in the dissolution proceeding. She requested that Somane pay her \$85,981.97 as an “equalizer payment” that “incorporates the value of the dissipated cash along with the dissipated [minivan].”

On October 3, 2023, the district court entered a judgment and decree (J&D) dissolving the parties’ marriage. The district court found that Somane had committed domestic abuse against Abdi and granted Abdi sole legal and sole physical custody of the parties’ children. *See* Minn. Stat. § 518.17, subd. 1(b)(9) (establishing a rebuttable presumption that joint custody is not in the best interests of the children if domestic abuse

has occurred between the parents). The district court awarded parenting time pursuant to the parties' stipulation that Somane would have parenting time on Tuesdays and Fridays from 4:00 p.m. to 6:00 p.m., and Abdi would have the children otherwise. As for child support, the district court calculated Somane's income at \$3,200 per month and awarded Abdi \$914 in monthly child support based on that income. The district court did not order Somane to make retroactive payments to Abdi and did not award Abdi need-based attorney fees or the equalizer payment.

Both parties filed motions for amended findings: Somane asked the district court to revisit its finding of domestic abuse, and Abdi asked the district court to revisit its findings about Somane's gross income, Somane's dissipation of cash and the minivan, need-based attorney fees, and retroactive maintenance. The district court declined to amend the J&D's findings.

Somane appealed. Abdi filed a notice of related appeal.

## **DECISION**

Somane challenges the district court's finding of domestic abuse. Abdi challenges the district court's (1) basic child support decision; (2) denial of need-based attorney fees; (3) implicit denial of temporary retroactive child support; and (4) finding that Somane did not dissipate marital assets—namely, the minivan and \$144,360 in cash he withdrew between September 2021 and March 2023. We address these issues in turn.

### **I. Finding of Domestic Abuse**

Somane challenges the district court's finding that he committed an act of domestic abuse against Abdi in 2018. Appellate courts review findings of fact for clear error.

*In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021). A finding of fact is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *Id.* at 221 (quotation omitted). When reviewing findings of fact for clear error, appellate courts “view the evidence in a light favorable to the findings.” *Id.* at 221. They do not “engage in fact-finding anew,” “reweigh the evidence,” or “reconcile conflicting evidence.” *Id.* at 222 (quotations omitted). “When the record reasonably supports the findings at issue . . . , it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* at 223 (quotation omitted). We defer to the district court’s credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988).

“The guiding principle in all custody cases is the best interests of child.” *Pikula v. Pikula*, 374 N.W.2d 705, 711 (Minn. 1985). Generally, there is a rebuttable presumption that joint legal custody is in the best interests of the child. Minn. Stat. § 518.17, subd. 1(b)(9). But the rebuttable presumption flips if domestic abuse has occurred between the parents. In that case, courts presume that joint legal or joint physical custody is not in the best interests of the child. *Id.* Domestic abuse includes, but is not limited to, “physical harm, bodily injury, or assault” and “the infliction of fear of imminent physical harm, bodily injury, or assault” that is committed against a spouse or former spouse. Minn. Stat. § 518B.01, subd. 2(a)-(b) (2024).

The district court found that Abdi credibly testified that Somane perpetrated two acts of domestic abuse against her, including an incident in which Somane “pushed and choked” Abdi after Abdi returned home from giving birth to their fourth child.

Somane first argues, without citing legal authority to support his argument, that the district court's finding was erroneous because "law enforcement and the court denied [Abdi's] request for restriction and [a] protection order, finding no evidence of domestic violence." However, we know of no authority providing that a district court is bound by a party's failure to prove an allegation of domestic abuse in a collateral proceeding. Rather, a district court making a custody and parenting-time determination may consider "whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs." Minn. Stat. § 518.17, subd. 1(a)(4) (2024). The statute permits a district court to consider such allegations "[i]n evaluating the best interests of the child for purposes of determining issues of custody and parenting time." *Id.*, subd. 1(a) (2024). The district court therefore did not err by considering the allegations of domestic abuse, even if they may not have been substantiated in collateral proceedings.

Somane also argues that the record does not support the district court's findings because Abdi's testimony was vague and not credible. We disagree. Abdi testified that Somane "grabbed [her] by the neck" and "pushed [her] out of the way" when she returned from giving birth to their fourth child. The district court found Abdi's testimony credible, and we defer to that credibility determination. *Sefkow*, 427 N.W.2d at 210. We conclude that the district court's domestic-abuse finding is supported by the record and therefore not clearly erroneous.



## II. Basic Child Support

We turn next to Abdi's challenges to the district court's order, beginning with her argument that the district court did not make adequate findings to support its calculation of Somane's self-employment income, which served as the basis for its child-support decision. We review a district court's child-support decision for abuse of discretion. *Butt v. Schmidt*, 747 N.W.2d 566, 574 (Minn. 2008). A district court abuses its discretion when it misapplies the law, its decision is against logic and the facts on record, or its factual findings are clearly erroneous. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997)

A district court's child-support decision must include written findings on "(1) each parent's gross income; (2) each parent's [parental income for determining child support]; and (3) any other significant evidentiary factors affecting the child support determination." Minn. Stat. § 518A.37, subd. 1 (2024). These written findings are required "in every case." *Sheehy Lee v. Kalis*, 19 N.W.3d 186, 192 n.8 (Minn. 2025).

To calculate a self-employed parent's gross income, the district court must determine their "gross receipts" and subtract that figure by the "costs of goods sold" and the "ordinary and necessary expenses required for self-employment or business operation." Minn. Stat. § 518A.30 (2024). "The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary." *Id.*

We have held that a district court's findings are inadequate when they do not make specific findings on how gross receipts and business expenses were calculated. In *Schisel v. Schisel*, we concluded that the district court erred because it did not make

findings on the self-employed parent's business expenses, "neither indicating whether there were any such expenses nor, if there were, the extent to which they were deductible." 762 N.W.2d 265, 272 (Minn. App. 2009). And in *Davis v. Davis*, we reversed and remanded for additional findings because a child-support magistrate "made no findings regarding mother's business expenses beyond deductions for medical and dental insurance, taxes, and social security." 631 N.W.2d 822, 827 (Minn. App. 2001). Nor did that record show that "the district court considered the appropriate tax table for self-employment income." *Id.*

Here, the J&D provides that Somane is self-employed, has a gross monthly income of \$3,200, and has "reasonable monthly expenses" of \$2,200. In its order denying the parties' motions to amend findings, the district court found the J&D's calculation of Somane's income to be "accurate and supported by the record evidence." The district court found that Somane "has various ordinary and necessary business expenses that reduce his earnings. This includes gas, car insurance, and other items reflected in [Somane's] tax returns." But neither the J&D nor the amended-findings order made findings on Somane's gross receipts or the specific expenses that it was deducting.

Abdi argues that the district court's findings were inadequate because "it did not show its math." Specifically, Abdi maintains that the district court erred in calculating Somane's gross income and expenses because it did "not specify whether the expenses are deductible business expenses or personal expenses," nor did it "explain how it arrived at" the \$3,200 per month gross monthly income figure or the \$2,200 reasonable monthly expenses figure.

We agree. The district court did not make findings about Somane's gross receipts from his self-employment. Nor did it make findings about whether and how the items listed in Somane's tax returns are deductible as business expenses. Those items are "significant evidentiary factors affecting the child support determination" that require the district court to make written findings by statute. Minn. Stat. § 518A.37, subd. 1. As a result, we are "unable to conduct a meaningful review" of the district court's child-support decision. *Schisel*, 762 N.W.2d at 272. The district court therefore abused its discretion in deciding the appropriate child-support obligation.

Accordingly, we reverse the district court's finding of Somane's gross income and reasonable monthly expenses. We remand for the district court to determine Somane's gross income and make findings on how it arrived at its calculations for Somane's gross receipts and ordinary and necessary business expenses. *See* Minn. Stat. § 518A.30. If the record does not contain sufficient evidence for the district court to make the necessary findings, the district court may reopen the record at its discretion. *See Davis*, 631 N.W.2d at 828 (remanding to the district court "to open the record for reconsideration of" a party's business expenses and net monthly income).

### **III. Need-Based Attorney Fees**

Having concluded that the district court erred in finding Somane's gross income, we address the district court's decision that Somane could not afford to pay Abdi's need-based attorney fees because the \$914 in child support he pays "takes up a good portion of his monthly income." Apparently addressing an award of need-based attorney fees, the supreme court has stated that appellate courts review a district court's attorney-fee

determination for an abuse of discretion. *Gully v. Gully*, 599 N.W.2d 814, 825 (Minn. 1999). A district court “shall” award attorney fees when it finds:

- (1) that the fees are necessary for the good faith assertion of the party’s rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;
- (2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and
- (3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

Minn. Stat. § 518.14, subd. 1 (2024).

Because the district court clearly erred in determining Somane’s monthly income, the district court also abused its discretion by relying on that figure to determine that Somane lacked the means to pay need-based child support. *See Dobrin*, 569 N.W.2d at 202. We therefore reverse the attorney-fees determination and remand for the district court to revisit it after it makes findings on Somane’s income.

#### **IV. Temporary Retroactive Child Support**

Next, Abdi argues that the district court abused its discretion by not ruling on her motion for retroactive temporary child support dating back to service of the petition. She maintains that the district court has authority to grant her relief based on (1) its broad discretion to provide for support of the children, *see Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984); (2) the statute providing that modification of support is retroactive to the date of the modification motion, Minn. Stat. § 518A.39, subd. 2(f) (2024); and (3) the “public policy surrounding child support,” as recognized in *Aumock v. Aumock*, 410 N.W.2d 420, 421-22 (Minn. App. 1987), where this court held that a stipulated permanent waiver of child support is unenforceable. Because Abdi “was solely responsible for the

care of the parties' five children" after the parties separated, mother argues that the district court should have ruled on her motion for retroactive child support.

We do not "assume a district court erred by failing to address a motion, and silence on a motion is therefore treated as an implicit denial of the motion." *Palladium Holdings, LLC v. Zuni Mortg. Loan Tr. 2006-OA1*, 775 N.W.2d 168, 177-78 (Minn. App. 2009), *rev. denied* (Minn. Jan. 27, 2010). A district court's implicit findings of fact are subject to clear-error review. *See Vettleson v. Special Sch. Dist. No. 1*, 361 N.W.2d 425, 428 (Minn. App. 1985).

Although the district court did not expressly rule on Abdi's retroactive child-support motion, we presume that its implicit denial of the motion was based, at least in part, on its determination of Somane's gross income. Because that determination was clearly erroneous, the district court abused its discretion in denying temporary retroactive child support. *See Dobrin*, 569 N.W.2d at 202. On remand, the district court shall reconsider whether retroactive child support is warranted.

## **V. Dissipation of Marital Assets**

Lastly, Abdi argues that the district court clearly erred by finding that Somane had not dissipated a minivan and \$144,360.95 in cash.

Parties to a dissolution owe each other "a fiduciary duty . . . for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets." Minn. Stat. § 518.58, subd. 1a (2024). If the district court finds that one party to a marriage improperly "transferred, encumbered, concealed, or disposed of marital assets" during the pendency of the dissolution proceeding, the

district court shall “place both parties in the same position that they would have been” if that misconduct had not occurred. *Id.* The statute establishes a four-part test for determining whether a party inappropriately transferred, encumbered, concealed, or disposed of marital assets: (1) a transfer or disposal of marital assets; (2) without the other party’s consent; (3) “in contemplation of commencing, or during the pendency of, the current dissolution . . . proceeding”; and (4) the transfer or disposition was “not in the usual course of business or for the necessities of life.” *Id.* The burden of proof is on the party alleging a dissipation. *Id.* Whether a party has dissipated marital assets is a question of fact. *See id.* (“If the court *finds* . . .” (emphasis added)).

**A. Toyota Sienna Minivan**

The J&D’s findings state that “there is insufficient evidence to demonstrate that either party still has title to the [minivan] or that [Somane] received proceeds from the car that could be subject to division.” But in the amended-findings order, the district court found that the minivan was “correctly sold and the Court finds it proper that [Somane] maintained the proceeds from that vehicle.” Yet the district court ultimately declined to amend the J&D’s findings to reflect that Somane sold the vehicle and maintained the proceeds.

Abdi contends that the district court erred in finding the minivan was not dissipated because (1) the findings in the J&D and the amended-findings order conflict; and (2) the record does not support that Somane transferred title to the loan company, sold the van, or had it repossessed. Abdi contends that Somane’s testimony—that the loan company threatened to repossess the minivan in 2023 based on a prior loan—is not credible. Instead,

Abdi submits that the vehicle was wrongfully dissipated, in line with Somane’s “previous threats to cut her off financially.”

We agree with Abdi that the district court’s findings materially conflict. Either Abdi did not prove that Somane sold the minivan and “received proceeds . . . that could be subject to division” (as the J&D provides), or Somane sold the minivan and maintained the proceeds (as the amended-findings order provides). And if Somane received proceeds from the sale of the minivan, the district court did not explain why those proceeds are not subject to division.

When a district court has made inconsistent findings, but we could reasonably infer what the district court intended to find, this court has affirmed the judgment as modified. *See, e.g., Rauenhorst v. Rauenhorst*, 724 N.W.2d 541, 545-46 (Minn. App. 2006). But here, the district court’s intended findings are unclear. Accordingly, we remand for the district court to reconcile its conflicting findings on the minivan.

## **B. Cash**

Abdi also contends that the district court clearly erred by finding that the \$144,360 that Somane withdrew from his checking account between September 2021 and March 2023 was not dissipated. The district court found that “[t]o the extent [Somane] removed money from some of his bank accounts, this was done in the usual and ordinary course of business as a self-employed individual and was not done in the manner of a dissipation.”

In our careful review of the record, we found no support for the district court’s finding Somane withdrew more than \$140,000 over a 19-month period “in the usual and ordinary course of business *as a self-employed individual*.” (Emphasis added.) Somane

never testified that he used the withdrawn cash for business expenses; he merely affirmed that he was “routinely taking cash withdrawals out of [his] checking account.” And the record does not support that Somane spent \$144,360 in cash, or close to that sum, on self-employment expenses between September 2021 and March 2023. In fact, Somane’s 2022 tax return—which the district court relied on—suggests that his business expenses were significantly lower than the withdrawn cash.<sup>1</sup> Accordingly, we remand for the district court to reconsider whether Somane dissipated any of the cash he withdrew and, if so, the amount of cash he dissipated. The district court shall consider the relevant statutory factors. *See* Minn. Stat. § 518.58, subd. 1a.

We reverse the district court’s determination of Somane’s gross income and monthly expenses, as well as three decisions relying on the gross-income determination: basic child support, temporary retroactive child support, and need-based attorney fees. On remand, the district court shall make specific findings relating to Somane’s self-employment income, including his gross receipts and deductible expenses, and reconsider the three decisions informed by its prior gross-income calculation. We also reverse the district court’s finding that Somane’s withdrawal of \$144,360 in cash was in the “usual and ordinary course of business as a self-employed individual and was not done in the manner of a dissipation.” On remand, the district court shall reconsider whether the cash was

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<sup>1</sup> In 2022, Somane reported \$94,072 in expenses for his Uber business and \$14,222 in expenses as an independent contractor for a company called Ground Transportation Medical. Of the reported Uber expenses, \$43,389.17 were paid by Uber from Somane’s Uber earnings for various fees and expenses; the record suggests that those expenses could not have been paid in cash by Somane. The sum of the remaining Uber expenses and the Ground Transportation Medical expenses is \$64,904.83.



dissipated and, if so, the extent of the dissipation. The district court shall also reconcile its conflicting findings related to dissipation of the minivan. The district court may, in its discretion, reopen the record. *See Davis*, 631 N.W.2d at 828 (directing the district court to reopen the record on remand). As to all other issues, we affirm.

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