

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTINE S. SCHMITZ-GRONAU,  
Appellant,  
vs.  
GREGORY S. GRONAU,  
Respondent.

No. 76832-COA

**FILED**

JAN 30 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART AND  
REMANDING*

Christine S. Schmitz-Gronau appeals from a decree of divorce and post-decree order denying a motion for NRCP 59(e) or 60(b)<sup>1</sup> relief. Eighth Judicial District Court, Family Court Division, Clark County; Charles J. Hoskin, Judge.

In the proceedings below, the parties were divorced by way of a decree of divorce entered after trial. Pursuant to the terms of the decree, as relevant here, respondent Gregory Gronau was ordered to pay Christine alimony; Gregory was awarded the parties' marital residence located in Las Vegas with all encumbrances; Christine was awarded the parties' residence located in Chicago with all encumbrances; Gregory was awarded a 401k account, brokerage account, and an IRA account; Christine was awarded a

---

<sup>1</sup>The Nevada Rules of Civil Procedure were amended effective March 1, 2019. See *In re Creating a Comm. to Update & Revise the Nev. Rules of Civil Procedure*, ADKT 0522 (Order Amending the Rules of Civil Procedure, the Rules of Appellate Procedure, and the Nevada Electronic Filing and Conversion Rules, December 31, 2018). Accordingly, we cite the prior version of the rules herein.

401K account; and each party was awarded an equal portion of their stocks. Additionally, prior to trial, the district court awarded each party \$50,000 of community assets for attorney fees. Following trial, the district court awarded Christine an additional \$15,000 in attorney fees, to be paid by Gregory. Christine then moved to amend the findings, amend the judgment, or for relief from judgment, which the district court granted in part and denied in part. This appeal followed.

On appeal, Christine challenges the divorce decree and the subsequent denial of her post-trial motion primarily on the basis that the distribution of community assets and debts was improper, that Gregory withheld evidence, and that the parties were provided insufficient time at trial to present evidence due to the district court's limiting the time for trial. This court reviews the district court's division of property and alimony awards for an abuse of discretion. *Schwartz v. Schwartz*, 126 Nev. 87, 90, 225 P.3d 1273, 1275 (2010). And this court will not disturb a district court's decision that is supported by substantial evidence. *Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004). Substantial evidence is that which a reasonable person may accept as adequate to sustain a judgment. *Id.*

First, as to Christine's challenge to the district court's distribution of community property, the district court "[s]hall, to the extent practicable, make an equal disposition of the community property." NRS 125.150(1)(b). However, the district court may divide the community property unequally "as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition." *Id.*

Here, the district court specifically found that it made an unequal distribution of the parties' community property, awarding Christine a larger portion because Christine paid expenses that Gregory was ordered to pay prior to trial, but had not. Based on values provided in the decree, the distribution of community assets and debts does appear to favor Christine, but the decree does not make findings as to all of the assets and debts. For example, the decree awards each party a vehicle, but makes no findings as to the value of those vehicles or whether any debt is owed on them. Similarly, Christine asserts that there is outstanding debt incurred by the community prior to divorce that was not specifically divided in the decree. Because there are no findings as to the value of these assets and debts, it is impossible for this court to determine whether the decree divides the community property equally or awards Christine a greater share of the community as the decree states it intended to do. Thus, we must necessarily reverse and remand this matter to the district court for additional findings. *Id.*; *Putterman v. Putterman*, 113 Nev. 606, 607, 939 P.2d 1047, 1047 (1997).

As to Christine's argument that Gregory withheld evidence and that she has newly discovered evidence such that she is entitled to an amended judgment or relief from the judgment,<sup>2</sup> we discern no abuse of

---

<sup>2</sup>We note that on appeal Christine primarily argues that she is entitled to a new trial, rather than an amended judgment or relief from the judgment. However, because Christine did not seek a new trial in the district court, we do not consider that argument on appeal. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal.").

discretion in the district court's denial of Christine's post-trial motion. Specifically, Christine has failed to demonstrate she is entitled to an amended judgment or relief from the judgment based on newly discovered evidence or Gregory's alleged withholding of evidence, as Christine's assertions are based on facts she admits were known to her prior to trial. See NRCP 60(b)(2) (allowing the district court to relieve a party from a final judgment based on "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)"); *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 582, 245 P.3d 1190, 1193 (2010) (explaining that the grounds for a Rule 59(e) motion include "newly discovered or previously unavailable evidence" (internal quotation marks omitted)). Thus, we cannot conclude that the district court abused its discretion in distributing the parties' community property or in denying Christine's post-trial motion. See *AA Primo Builders, LLC*, 126 Nev. at 589, 245 P.3d at 1197 (stating that this court reviews an order denying an NRCP 59(e) motion to alter or amend a judgment for an abuse of discretion); *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996) (stating that this court reviews the denial of an NRCP 60(b) motion for relief from judgment for an abuse of discretion).

Lastly, Christine challenges the district court's award of attorney fees, asserting that the court failed to consider that she incurred over \$100,000 in attorney fees at the time of trial. This court reviews a district court's award of attorney fees for an abuse of discretion. *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005). When awarding attorney fees in a family law case, the district court must consider the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345,

349, 455 P.2d 31, 33 (1969), and must also consider the disparity in the parties' income pursuant to *Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998). *Id.* at 623, 119 P.3d at 730.

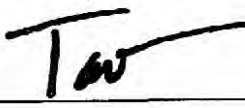
As an initial matter, we note that it is not clear which rule the district court relied upon in awarding attorney fees. While the district court stated that it considered NRS 18.010 in determining an additional award of attorney fees was appropriate, NRS 18.010(2)(a) is inapplicable in this case and the district court did not make any findings relating to an award of fees pursuant to NRS 18.010(2)(b). Additionally, it appears that the district court awarded fees pursuant to *Sargeant v. Sargeant*, 88 Nev. 223, 227, 495 P.2d 618, 621 (1972) (allowing the district court to award attorney fees to a spouse on the basis of disparity in income to ensure an even playing field in the courtroom). Regardless of the rule upon which the award was grounded, based on our review of the record, it is not clear that the district court properly considered *Brunzell* or *Wright* in determining a reasonable award of attorney fees. Specifically, although the district court stated it considered the *Brunzell* factors, it did not cite to *Wright* and it failed to make any findings or otherwise demonstrate that it considered the required factors supporting the award of an additional \$15,000 in attorney fees despite evidence that Christine incurred over \$100,000 in attorney fees and the parties' disparity in incomes. *See MEI-GSR Holdings, LLC v. Peppermill Casinos, Inc.*, 134 Nev. 235, 245, 416 P.3d 249, 258-59 (2018) (explaining that while the failure to make explicit findings as to the *Brunzell* factors is not a per se abuse of discretion, the district court must demonstrate that it considered the required factors and the award must be supported by substantial evidence). Thus, we are unable to discern from the record

whether the district court actually considered the required factors, and we necessarily reverse and remand the award of attorney fees to the district court for additional findings. *See Miller*, 121 Nev. at 622-23, 119 P.3d at 729-30.

Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Charles J. Hoskin, District Judge, Family Court Division  
Christine S. Schmitz-Gronau  
Paul M. Gaudet  
Eighth District Court Clerk

---

<sup>3</sup>To the extent the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.