

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IRINA HANSEN,
Appellant,
vs.
DONOVAN HANSEN,
Respondent.

No. 84435-COA

FILED

DEC 28 2023

ELIZABETH S. HOWAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Irina Hansen appeals from a district court decree of divorce. Eighth Judicial District Court, Family Division, Clark County; T. Arthur Ritchie, Jr., Judge.

Irina and respondent Donovan Hansen were married in 2007 and have one minor child. During the marriage, Donovan worked as a firefighter for the city of North Las Vegas. Irina worked as a real-estate agent when the couple was first married but later became a stay-at-home mom. Irina subsequently decided to reenter the workforce and she therefore obtained a cosmetology license. Irina also decided to open a salon, and in 2018, Donovan and Irina utilized a home-equity loan to pay for the costs associated with opening the salon. However, the parties' relationship experienced difficulties and, in 2019, Donovan filed a complaint for divorce and requested joint physical and legal custody of their minor child. Irina thereafter retained counsel and filed an answer and counterclaim seeking joint legal custody, primary physical custody, child support, and alimony.

After contentious litigation, this matter proceeded to a trial in 2021. Donovan was represented by counsel but Irina, after being

represented by counsel for large portions of the pretrial period, proceeded in pro se at trial. Following trial, the district court entered a decree of divorce wherein it awarded the parties joint legal custody of the child and awarded Irina primary physical custody. The court also considered the documentary evidence and the parties' testimony concerning Donovan's income and concluded that Donovan's gross monthly income for the purpose of calculating child support was \$15,376.19. After accounting for Donovan's portion of health insurance costs, the court ordered Donovan to pay child support in the amount of \$1,445 per month pursuant to NAC 425.140. And, after considering the appropriate factors under NRS 125.150(9), the court also found that it was just and equitable for Donovan to pay Irina alimony in the amount of \$3,000 per month for a period of 60 months.

In addition, the district court made several findings concerning the parties' separate and community property, and the community debts. The court found that each party was entitled to half of the value of the marital residence but, in consideration of the mortgage and home-equity loan that encumbered the property, the residence should be sold and the proceeds distributed equally. The court also equalized the value of vehicles, personal property, and the parties' additional assets. The court further noted that the parties started the salon business during the marriage but that the business had not been profitable and it thus found the salon had zero value to the community. However, the district court concluded that Irina should take the salon business because it was her means of employment.

Moreover, the court found that Irina discharged a significant amount of debt through her bankruptcy proceedings and the discharged

debt no longer belonged to the community. The court also concluded that there was a compelling reason for an unequal division of the parties' 2020 tax debt totaling \$33,970 and assigned it to Donovan, as it was his decision to borrow against his deferred compensation account that caused the additional tax burden. In addition, the court found that Irina's assertions concerning marital waste were not proven.

The district court also made findings concerning work-related benefits Donovan earned during the marriage. The court noted that Donovan's deferred compensation plan was worth \$87,992.62 when the marriage began and found that this amount was Donovan's separate property. The court also found that \$96,126.82 of the deferred compensation account belonged to the community and it distributed that amount equally. Further, the court noted that Donovan borrowed against his deferred compensation account to pay the community's bills during the divorce proceedings and that debt was a community debt that should be divided equally. In addition, the district court found that the community interest in Donovan's Public Employees' Retirement System (PERS) account should be distributed equally but concluded that Donovan would receive the option to designate the survivor beneficiary upon his retirement. Next, the court found that the health savings account contained \$9,134.85 and distributed it equally between the parties. Finally, the district court found that the community interest in leave-based benefits that Donovan earned during the marriage had a value of \$220,704 and found that interest should be distributed equally.

In addition, after consideration of the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33

(1969), and the disparity of the parties' incomes, the district court awarded attorney fees to Irina in the amount of \$10,000.

Irina subsequently filed a motion to alter or amend the district court's order, which the court denied, concluding there was no basis to alter or amend the decree. This appeal followed.

Child support

First, Irina challenges the district court child support award. Irina contends that the court abused its discretion because it relied upon inaccurate information concerning Donovan's income when it calculated child support.

This court reviews child support orders for an abuse of discretion. *Edgington v. Edgington*, 119 Nev. 577, 588, 80 P.3d 1282, 1290 (2003). This court will not disturb the factual findings underlying a child support order if they are supported by substantial evidence, *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018), "which is evidence that a reasonable person may accept as adequate to sustain a judgment," *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007). When one party disputes the gross monthly income of the other party, the district court makes the determination of the obligor's gross monthly income "after considering all financial or other information relevant to the earning capacity of the obligor." NAC 425.120(1)(b). In addition, this court "leave[s] witness credibility determinations to the district court and will not reweigh credibility on appeal." *Ellis*, 123 Nev. at 152, 161 P.3d at 244.

At trial, the parties introduced Donovan's pay stubs and his income tax documents. Donovan also testified concerning his income as a battalion chief for the fire department. Irina countered that Donovan's

testimony and documentation concerning his income were not accurate as she believed he earned additional income. The district court reviewed the documents admitted at trial and considered the parties' testimony and concluded that Donovan's gross monthly income was \$15,376.19. The court also noted that Donovan pays the monthly \$100 premium for the child's health insurance. Based on Donovan's income, and after adjusting the amount to account for Donovan's portion of the health insurance premium, the court ordered Donovan to pay \$1,445 in monthly child support pursuant to NAC 425.140.

While Irina contends that the district court relied upon inaccurate information concerning Donovan's income, this court will not second guess a district court's resolution of factual issues involving conflicting evidence or reconsider its credibility findings. *See Ellis*, 123 Nev. at 152, 161 P.3d at 244. Thus, Irina's challenges to the court's decisions concerning disputed factual and credibility issues do not provide a basis for relief. Moreover, our review of the record demonstrates that the court's factual findings concerning Donovan's income, on which the child-support payments were based, are supported by substantial evidence. Accordingly, we discern no abuse of discretion by the district court in its child support determination. *See Edgington*, 119 Nev. at 588, 80 P.3d at 1290.

Alimony

Second, Irina argues that the district court abused its discretion when it awarded her alimony in the amount of \$3,000 per month. Irina contends that she will be unable to maintain the lifestyle she was accustomed to and that the court improperly found she was able to earn \$3,000 per month from her career as a cosmetologist and salon owner. She

contends she should have been awarded at least \$6,000 per month in alimony.

A district court has broad discretion in deciding whether to award alimony. *Kogod v. Cioffi-Kogod*, 135 Nev. 64, 66, 439 P.3d 397, 400 (2019). A court may award alimony “as appears just and equitable.” NRS 125.150(1)(a). In deciding the amount and duration of an alimony award, the court should consider what is just and equitable based on the circumstances of each case. *Shydler v. Shydler*, 114 Nev. 192, 199, 954 P.2d 37, 41 (1998). The supreme court has recognized that an award of alimony can be considered just and equitable when alimony is necessary to support the economic needs of a spouse, equalize post-divorce earnings, or maintain a spouse’s marital standard of living. *Kogod*, 135 Nev. at 68, 439 P.3d at 401. Further, in making an alimony award, the district court must consider the factors enumerated in NRS 125.150(9) in addition to any other factors the district court considers relevant. *Id.* at 66, 439 P.3d at 400-01.

Here, the district court applied NRS 125.150(9) and analyzed the appropriate factors for determining an award of alimony. The court reviewed the testimony and evidence concerning Irina’s employment history and found that she was able to earn \$3,000 per month from her career as a cosmetologist and salon owner. The court also reviewed Irina’s monthly expenses and concluded that her reasonable post-divorce needs amounted to approximately \$5,500 in expenses. The court considered Irina’s employment prospects and the monthly child support payment from Donovan, and ultimately concluded that alimony in the amount of \$3,000 per month for 60 months was just and equitable. A reasonable mind could accept that there was sufficient evidence presented to support the district

court's findings in support of its alimony award. *See Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004) (providing that substantial evidence is evidence that a reasonable person would accept to sustain a judgment). Thus, we conclude that this determination was supported by substantial evidence. *See id.* (providing that district court determinations that are supported by substantial evidence will not be disturbed on appeal). Accordingly, we conclude that Irina is not entitled to relief based on this claim.

Division of property

Third, Irina challenges the district court's division of separate and community property. Irina first contends that the court provided Donovan with an unequal portion of the community property without making findings in support of such a distribution and asserts that it based its decisions upon inaccurate evidence presented by Donovan. In addition, Irina argues that the court should have permitted her to keep the marital residence. Irina also contends that the court improperly rejected her assertions that Donovan committed waste of community assets.

This court reviews the district court's division of property for an abuse of discretion. *Schwartz v. Schwartz*, 126 Nev. 87, 90, 225 P.3d 1273, 1275 (2010). And we will not disturb a district court's decision in this regard when it is supported by substantial evidence. *Williams*, 120 Nev. at 566, 97 P.3d at 1129.

The district court, to the extent practicable, should make an equal distribution of community property, "except that the court may make an unequal disposition of the community property in such proportions 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.” NRS 125.150(1)(b). Assertions of waste may provide a compelling reason for distributing community property unequally. *Kogod*, 135 Nev. at 75, 439 P.3d at 406.

Here, the district court considered the evidence presented by the parties, entered findings concerning the values of the community property and community debt, and ordered an equal distribution of the community property. Moreover, the court found that much of Irina’s testimony concerning the value of the parties’ assets was inaccurate or not credible, and instead concluded that Donovan presented credible evidence concerning that issue. And the court concluded that a sale of the marital residence was appropriate given the mortgage and home-equity loan that encumbered the property. Finally, the court concluded that Irina did not demonstrate that Donovan committed marital waste.

Again, Irina essentially challenges the district court’s decisions concerning conflicting evidence and the credibility of witnesses. However, as stated previously, this court will not second guess a district court’s resolution of factual issues involving conflicting evidence or reconsider its credibility findings. *See Ellis*, 123 Nev. at 152, 161 P.3d at 244. Thus, Irina’s challenges to the court’s decisions concerning disputed factual and credibility issues do not provide a basis for relief. Instead, the district court’s factual findings regarding the distribution of community property are supported by substantial evidence. Accordingly, we discern no abuse of discretion by the district court; thus, Irina is not entitled to relief based on this claim. *See Schwartz*, 126 Nev. at 90, 225 P.3d at 1275.

Irina next contends that the district court abused its discretion by finding that funds in Donovan's deferred compensation account that he earned prior to their marriage were his separate property. This court reviews a district court's handling of separate property issues for an abuse of discretion. *Smith v. Smith*, 94 Nev. 249, 252, 578 P.2d 319, 320 (1978). "All property of a spouse owned by him or her before marriage . . . is his or her separate property." NRS 123.130.

At trial, Donovan introduced evidence concerning his deferred compensation account and the amount of funds contained within that account prior to the parties' marriage. The district court found that Donovan's deferred compensation account had a value of \$87,992.62 when he and Irina married. And thus, the court concluded that this portion of the deferred compensation account was Donovan's separate property. The record supports the district court's findings on this point, and we therefore conclude that Irina fails to demonstrate the court abused its discretion in this regard. *See Smith*, 94 Nev. at 252, 578 P.2d at 320.

PERS survivor beneficiary

Fourth, Irina argues the district court abused its discretion when it declined to direct Donovan to grant her the survivor beneficiary interest in Donovan's PERS retirement benefits. Retirement benefits earned during a marriage are community property. *Gemma v. Gemma*, 105 Nev. 458, 460-61, 778 P.2d 429, 430 (1989). The Nevada Supreme Court, when describing PERS benefits, has stated that "Nevada does not consider a survivorship interest to be a community property asset and, as such, does not require a divorce decree to provide a former spouse with a survivor beneficiary interest." *Holguin v. Holguin*, No. 81373, 2021 WL 3140576, at

*1 (Nev. July 23, 2021) (Order Affirming in Part, Reversing in Part and Remanding); *see also Henson v. Henson*, 130 Nev. 814, 815-16, 334 P.3d 933, 934 (2014) (stating that “unless specifically set forth in the divorce decree, an allocation of a community property interest in the employee spouse’s pension plan does not also entitle the nonemployee spouse to survivor benefits”).

The district court found that Donovan earned PERS benefits during the marriage. The court accordingly ordered each party to receive one half of the community property interest in Donovan’s PERS benefits earned during the marriage.¹ The court further directed that the PERS benefits be divided pursuant to the “time rule” and the “wait and see” approach. *See Fondi v. Fondi*, 106 Nev. 856, 859, 802 P.2d 1264, 1266 (1990) (stating that, when determining the community interest of an unvested pension, the district courts should not only use the “time rule” but must also measure the community interest by the “wait and see” approach to determine the actual size of the pension once it is vested (quoting *Gemma*, 105 Nev. at 462-63, 778 P.2d at 431-32)). Finally, the court concluded that Irina was not entitled to an order directing Donovan to grant her the PERS survivor beneficiary interest but rather that Donovan should be able to choose the survivor beneficiary when he decides to retire.

As noted above, the district court was not required to award Irina the survivor beneficiary interest, *see Holguin*, No. 81373, 2021 WL 3140576, at *1, and its decisions concerning the distribution of the

¹The district court also awarded to Donovan as his separate property the PERS benefits he earned prior to the marriage.

community interest in Donovan's PERS retirement benefit are supported by substantial evidence in the record. Accordingly, Irina has not demonstrated that the court abused its discretion in declining her request for the survivor beneficiary interest. *See Kilgore v. Kilgore*, 135 Nev. 357, 359-60, 449 P.3d 843, 846 (2019) (reciting the well-established rule that this court reviews factual findings deferentially, but conclusions of law de novo). Therefore, we conclude that Irina is not entitled to relief based on this claim.

Attorney fees

Fifth, Irina challenges the district court's award of attorney fees. Irina contends that Donovan spent a substantial amount of money on attorney fees and that she should have been awarded a commensurate amount.

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). An abuse of discretion occurs when the court's decision is not supported by substantial evidence. *Otak Nev., LLC v. Eighth Judicial Dist. Court*, 129 Nev. 799, 805, 312 P.3d 491, 496 (2013). The district court is authorized to award attorney fees in a divorce. NRS 125.150(4). Attorney fees may be awarded to allow a spouse to meet their spouse in court on an equal basis. *Sargeant v. Sargeant*, 88 Nev. 223, 227, 495 P.2d 618, 621 (1972). When awarding attorney fees in a family law case, the 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 income pursuant to *Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998). *Miller*, 121 Nev. at 623-24, 119 P.3d at 730.

In this case, the district court reviewed the attorney fee requests from both parties. The court noted that both parties expended a substantial amount of funds on attorney fees and that some of those expenditures were caused by Irina and “her stated intent to drag this case out for her financial advantage.” However, the court also found that there was a significant income disparity between the parties and, after reviewing the appropriate factors pursuant to *Brunzell*, 85 Nev. at 349, 455 P.2d at 33, the court concluded Irina should be awarded \$10,000 in attorney fees, and that both parties should bear any additional costs or attorney fees.

The record in this matter supports the district court’s award of attorney fees to Irina, and Irina fails to demonstrate the district court abused its discretion in declining to award her additional fees beyond this amount. *See Miller*, 121 Nev. at 622, 119 P.3d at 729. Accordingly, Irina is not entitled to relief based on this claim.

Judicial Bias

Finally, Irina argues that the district court was biased against her. We conclude that relief is unwarranted on this point because Irina has not demonstrated that the court’s decisions in the underlying case were based on knowledge acquired outside of the proceedings and the court’s decision does not otherwise reflect “a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Canarelli v. Eighth Judicial Dist. Court*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-seated favoritism or

antagonism that would render fair judgment impossible); *see In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally “do not establish legally cognizable grounds for disqualification”); *see also Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167, 1171 (2023). Therefore, Irina is not entitled to relief based on this claim.

Accordingly, for the reasons articulated above, we
ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

²Insofar as Irina raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. T. Arthur Ritchie, Jr., District Judge, Family Division
Irina Hansen
Naimi Family Law Group
Kainen Law Group
Eighth District Court Clerk