IN THE SUPREME COURT OF THE STATE OF NEVADA

NATHANIEL HARRIS,
Appellant,
vs.
ALLENA A.M. HARRIS,
Respondent.

No. 40442

FILED

JAN 16 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a final divorce decree. The parties were married in 1977 and separated in 1997. They have one minor child from the marriage, who is approximately fifteen years old. In December 2001, respondent filed a complaint for divorce.

On October 11, 2002, the district court entered a final divorce decree. The decree provides, among other things, that appellant reimburse respondent $17,800 for the cost of care and support of the child during the four-year period that the parties were separated from 1997 to 2001.[1] Moreover, the district court ordered appellant to pay respondent $700 per month in spousal support for ten years, to cease if respondent remarries or dies. Finally, the district court ordered the division of certain community assets and debts.

First, this court reviews a district court child support order for abuse of discretion.[2] Under NRS 125B.030, when no child support order has been entered and the parents are separated, the parent with physical

[1]The record reveals that the parties stipulated to the issues of child custody and prospective child support.

[2]See Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996).

custody of the child may recover from the other parent a reasonable portion of the cost of care and support for a period not longer than four years before the action for support was commenced. Here, the district court determined that appellant was responsible for approximately $24,000 for the child's support and care from 1997-2001. The district court further concluded that offsets were warranted against the total amount based on an eight-month period in which appellant was unemployed and a six-month period when the parties equally shared child custody. Subtracting the offsets, the district court ordered appellant to reimburse respondent $17,800. Appellant was ordered to pay the amount at a rate of $100 per month. We conclude that the district court did not abuse its discretion.

With respect to spousal support, the district court has wide discretion in determining whether to grant it, and this court will not disturb the district court's award of spousal support absent an abuse of discretion.[3] The district court awarded respondent spousal support in the amount of $700 per month, subject to cessation in the event of respondent's remarriage or death. We conclude that the district court did not abuse its discretion when it awarded respondent spousal support.

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[3]Wolff v. Wolff, 112 Nev. 1355, 929 P.2d 916 (1996) (holding that an award of spousal support will not be disturbed on appeal unless it appears from the record that the district court abused its discretion); see also Sprenger v. Sprenger, 110 Nev. 855, 859, 878 P.2d 284, 287 (1994) (examining relevant factors in determining an appropriate spousal support award).

Finally, in granting a divorce, the district court is required, as much as practicable, to equally distribute community property.[4] This court has previously noted that it will not interfere with the disposition of the parties' community property, unless it appears from the entire record that the district court abused its discretion.[5] Property acquired during marriage is generally presumed to be community property absent an explicit agreement or decree to the contrary.[6] Moreover, this court has recognized that when a husband and wife separate, the community does not dissolve and the character of community property is not altered by the separation.[7]

Here, the district court found that appellant had a one-half community interest in respondent's 401K retirement plan, subject to offsets. Moreover, the court concluded that the two loans made by respondent and secured against the 401K were community debt, as were the credit card debts. Accordingly, the district court determined that appellant was responsible for one-half of the debt incurred, which the court ordered offset from appellant's interest in the 401K plan. We

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[4]NRS 125.150(1)(b).

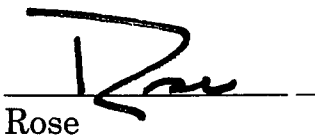
[5]See Heim v. Heim, 104 Nev. 605, 607, 763 P.2d 678, 679 (1988), superseded on other grounds as stated by Rodriguez v. Rodriguez, 116 Nev. 993, 13 P.3d 415 (2000).

[6]See NRS 123.220; Pryor v. Pryor, 103 Nev. 148, 734 P.2d 718 (1987) (providing that clear and convincing evidence is required to overcome the presumption that property acquired during marriage is community property).

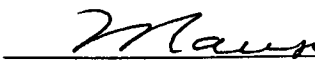
[7]See Hybarger v. Hybarger, 103 Nev. 255, 737 P.2d 889 (1987); see also NRS 123.220.

conclude that the district court did not abuse its discretion as to its characterization and division of the 401K plan, the two loans incurred during the separation period, and the credit card debt. Accordingly, we

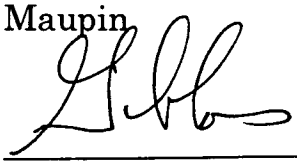
ORDER the judgment of the district court AFFIRMED.



_____, J.
Rose



_____, J.
Maupin



_____, J.
Gibbons

cc: Hon. Cheryl B. Moss, District Judge, Family Court Division
Wells & Herr
Nathaniel Harris
Clark County Clerk