FILED
April 29, 2025
OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

IN COURT OF APPEALS

A24-0763

In the Marriage of:

Rebecca Lynnelle Halling, petitioner,

Respondent,

vs.

Francis Gregory Halling,

Appellant.

ORDER OPINION

Wright County District Court
File No. 86-FA-23-333

Considered and decided by Larson, Presiding Judge; Cochran, Judge; and Slieter, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Appellant Francis Gregory Halling appeals from a district court judgment dissolving his marriage to respondent Rebecca Lynnelle Halling.[1]

2. Respondent petitioned to dissolve her marriage to appellant in January 2023. Appellant counter-petitioned to dissolve the marriage in March 2023. Both parties sought sole legal and sole physical custody of their children and to be awarded the marital homestead. Appellant thereafter filed a notice to remove the judge, which the district court

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[1] Respondent did not file a brief, and we issued an order stating that this appeal would be submitted for consideration on the merits. *See* Minn. R. Civ. App. P. 142.03 ("If the respondent fails or neglects to serve and file its brief, the case shall be determined on the merits.").

denied. A bench trial occurred in January 2024. Both parties represented themselves. In March 2024, the district court filed an order to dissolve the marriage. As relevant here, the district court awarded respondent sole legal and sole physical custody of the children and the marital homestead. This appeal follows.

3. Appellant argues the district court erroneously: (1) granted sole legal and sole physical custody of the children to respondent; (2) divided the marital property; and (3) denied his motion to remove the judge. We address each argument in turn.

4. Appellant first challenges the district court's decision to award sole legal and sole physical custody of the children to respondent. We review this issue for an abuse of discretion. *See Thornton v. Bosquez*, 933 N.W.2d 781, 793-94 (Minn. 2019).

5. "The guiding principle in all custody cases is the best interest[s] of the child." *Pikula v. Pikula*, 374 N.W.2d 705, 711 (Minn. 1985). "In considering the child's best interests, a district court must consider and evaluate all relevant factors, including 12 factors set forth by statute." *Thornton*, 933 N.W.2d at 789; *see also* Minn. Stat. § 518.17, subd. 1(a)(1)-(12) (2024) (providing the best-interests factors). "The [district] court must provide detailed findings on each of the statutory best-interests factors and explain how each led to its conclusions and to the determination of custody and parenting time." *Thornton*, 933 N.W.2d at 789 (quotations omitted).

6. Here, appellant avers that the district court decided to award sole legal and sole physical custody of the children "based on false information according to evidence which was not properly reviewed." But appellant does not identify the evidence that "was not properly reviewed." And appellant's claim of "false information" appears to dispute

the district court's credibility determinations. But because we defer to the district court's credibility determinations, *see Thornton*, 933 N.W.2d at 790, and discern no obvious error after inspecting the record, *see Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971), we conclude that the district court did not abuse its discretion.

7. Next, appellant argues that the district court erred when it awarded the marital homestead to respondent. We review this issue for an abuse of discretion. *See Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002).

8. The district court must "make a just and equitable division of the marital property of the parties . . . after making findings regarding the division of the property." Minn. Stat. § 518.58, subd. 1 (2024). The district court must "base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party." *Id.* The district court "is not required to make an equal division of marital property." *White v. White*, 521 N.W.2d 874, 878 (Minn. App. 1994).

9. Here, appellant makes two claims regarding the marital homestead: (1) the district court relied on hearsay and (2) the district court ignored appellant's request for a property appraisal. But appellant makes no references to the record to explain where these alleged errors occurred. And, on mere inspection, we discern no obvious error in the property division. *See Schoepke*, 187 N.W.2d at 135. Specifically, the district court relied on the parties' testimony regarding their personal knowledge of the marital homestead and

its value to divide the property, which is not hearsay. *See* Minn. R. Evid. 801(c) (defining hearsay as out-of-court statement offered "to prove the truth of the matter asserted"); *see also Bury v. Bury*, 416 N.W.2d 133, 136 (Minn. App. 1987) (noting parties are presumptively competent to testify to value of their assets); *Doering v. Doering*, 385 N.W.2d 387, 390-91 (Minn. App. 1986) (affirming district court's use of party's testimony to value property). And the district court did not "ignore" appellant's request for an appraisal because the record does not reflect that he made such a request. Further, even if it was made, "a district court's decisions valuing and dividing marital property are made on the evidence *submitted by both parties*." *Haefele v. Haefele*, 621 N.W.2d 758, 765 (Minn. App. 2001) (emphasis added), *rev. denied* (Minn. Feb. 21, 2001). Thus, if appellant wanted the district court to consider an appraisal, appellant—not the district court—needed to obtain one. *See Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that "[o]n appeal, a party cannot complain about a district court's failure to rule in her favor when one of the reasons it did not do so is because that party failed to provide the district court with the evidence that would allow the district court to fully address the question"), *rev. denied* (Minn. Nov. 25, 2003); *Hesse v. Hesse*, 778 N.W.2d 98, 104 (Minn. App. 2009) (citing this aspect of *Eisenschenk*). Therefore, we conclude the district court did not abuse its discretion.

10. Finally, appellant argues the judge violated Minnesota Code of Judicial Conduct Rule 2.11(A) when they did not disqualify themself based on a reasonable question as to their impartiality. Appellant asserts: (1) that the district court improperly

acted as an advocate during the bench trial and (2) had a conflict of interest. We review this issue de novo. *In re Jacobs*, 802 N.W.2d 748, 750 (Minn. 2011).

11. "No judge shall sit in any case if disqualified under the Code of Judicial Conduct." Minn. R. Civ. P. 63.02. "A judge shall disqualify [themself] in any proceeding in which the judge's impartiality might reasonably be questioned." Minn. Code Jud. Conduct Rule 2.11(A). We presume that a district court judge properly discharged their duties. *Hannon v. State*, 752 N.W.2d 518, 522 (Minn. 2008). "Whether a judge's impartiality may reasonably be questioned is determined by an objective examination into the circumstances surrounding the removal request." *Jacobs*, 802 N.W.2d at 752 (quotation omitted).

12. Beginning with appellant's argument that the judge acted as an advocate, our review of the record does not support this contention. Although the judge did occasionally redirect appellant's testimony and questioning when he veered into irrelevant topics, the judge did the same to respondent. Further, a judge may examine witnesses "to clarify the testimony." *Teachout v. Wilson*, 376 N.W.2d 460, 465 (Minn. App. 1985) (citing Minn. R. Evid. 614), *rev. denied* (Minn. Dec. 30, 1985). Here, to the extent the judge questioned the parties, the judge did so to clarify testimony, not to advocate for one party over the other.

13. Regarding his conflict-of-interest argument, appellant makes a bare assertion that the judge had improper relationships with "part[ies] directly adverse to . . . [respondent]," including the children's former foster parent. But appellant does not provide any supporting evidence to show that such a relationship existed. Appellant

therefore fails to demonstrate error, and we discern no obvious error on mere inspection. *See Schoepke*, 187 N.W.2d at 135.

14. For these reasons, we conclude the district court did not err when the judge did not disqualify themself.

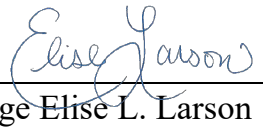
IT IS HEREBY ORDERED:

1. The district court's order is affirmed.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: April 29, 2025

BY THE COURT



Judge Elise L. Larson