

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-0338**

In re the Marriage of:

Jacqueline M. Reuter, petitioner,  
Respondent,

vs.

Dennis R. Reuter,  
Appellant.

**Filed May 20, 2008  
Reversed and remanded  
Lansing, Judge**

Dakota County District Court  
File No. F4-05-7548

Michael Hamilton, P.O. Box 65, 755 Westview Drive, Hastings, MN 55033 (for respondent)

Thomas E. Gorman, Thomas E. Gorman Law Office, 1626 Old West Third Street, Red Wing, MN 55066 (for appellant)

Considered and decided by Ross, Presiding Judge; Lansing, Judge; and Johnson, Judge.

## UNPUBLISHED OPINION

LANSING, Judge

Dennis Reuter, a self-employed farmer, appeals the district court's determination of his net monthly income for purposes of calculating his child-support obligation. Because the district court's computation of net income does not properly take into account depreciation deductions for dairy cows, farm buildings, and farm equipment, we reverse and remand.

### FACTS

In this 2006 marital-dissolution proceeding, Jacqueline and Dennis Reuter reached a stipulation on all issues except the amount of child support for their two dependent children. Under the terms of their stipulated judgment, the Reuters have joint legal custody of the children, and Jacqueline Reuter has primary physical custody. At the August 2006 stipulation hearing, the Reuters each provided brief testimony on the issue of income for purposes of determining Dennis Reuter's child-support obligation. They stipulated to the admission of their respective accountant's financial reports and submitted the reports for consideration to the district court.

The district court issued its findings of fact, conclusions of law, and order for judgment in September 2006. In its findings of fact, the district court stated that Dennis Reuter's total net monthly income from his work as a self-employed farmer and from his part-time job as a veterinarian's assistant amounts to \$4,133. Based on this finding, the district court ordered Dennis Reuter to pay \$1,240 each month in child support.

The record does not provide a transcript of the testimony from the stipulation hearing. Instead, the Reuters have submitted a brief statement of proceedings under Minn. R. Civ. App. P. 110.03. In light of the brevity of the statement of proceedings, the district court's findings appear to rest primarily on the financial reports provided by the accountants. Jacqueline Reuter's accountant provided a cash-flow analysis that calculated Dennis Reuter's monthly net income as \$4,133 and his corresponding monthly child-support obligation at \$1,240. Dennis Reuter's accountant provided a cash-flow analysis that calculated Dennis Reuter's monthly net income as \$1,921 and his corresponding monthly child-support obligation at \$576.

The disparity in the two accountant's cash-flow analyses is in the depreciation of three categories of farm assets. Dennis Reuter's accountant allowed for depreciation of dairy cows, farm buildings, and farm equipment. Jacqueline Reuter's accountant disallowed depreciation for these three categories.

The findings do not indicate the method by which the district court resolved the conflicting evidence or the divergent approaches to depreciation in the cash-flow analyses. The district court's findings adopt the numbers for Dennis Reuter's net monthly income that were supplied in the cash-flow analysis of Jacqueline Reuter's accountant. Consequently, we assume that the district court also adopted the financial analysis submitted in that report.

Following entry of judgment in the district court, Dennis Reuter moved for amended findings or a new trial. The district court denied the motion, and Dennis Reuter appeals.

## DECISION

It is well settled that in marital-dissolution proceedings the district court has broad discretion to provide for the support of dependent children. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). We will sustain a district court's exercise of discretion in making a support determination unless it results in a clearly erroneous conclusion that is against logic and the facts on record. *Id.* But the district court's findings must be sufficient to "enable an appellate court to determine whether the [district] court properly considered the requirements" of a governing statute. *See Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989) (reversing and remanding because district court's findings were insufficient to determine whether district court properly applied statutory requirements for maintenance determination).

A self-employed obligor's income is equal to gross receipts minus ordinary and necessary expenses. Minn. Stat. § 518A.30 (2006). But ordinary and necessary expenses do not include amounts allowed by the Internal Revenue Service for accelerated-depreciation expenses, investment tax credits, or any other business expenses that the court reasonably determines to be inappropriate considerations for ascertaining income. *Id.* This flexible approach recognizes that tax returns with substantial depreciation deductions for farming operations may not be the most accurate calculation for the district court to rely on in determining net income for purposes of determining child support. *Otte v. Otte*, 368 N.W.2d 293, 297 (Minn. App. 1985); *see also Freking v. Freking*, 479 N.W.2d 736, 740 (Minn. App. 1992) ("Taxable income is not always a reliable indication of net income.").

Total disregard of depreciation, however, is reversible error. *See Stevens County Social Serv. Dep't ex rel. Banken v. Banken*, 403 N.W.2d 693, 697 (Minn. App. 1987) (reversing and remanding for determination of income because district court failed to consider depreciation); *see also Knott v. Knott*, 358 N.W.2d 493, 496 (Minn. App. 1984) (reversing and remanding to district court with direction to appoint expert to construct net disposable-income figure that accounts for farm-depreciation deductions). When determining a child-support obligor's net income, the district court may not disregard depreciation absent evidence that the obligor has no corresponding replacement costs in his farming operation. *Banken*, 403 N.W.2d at 695. The district court disregarded depreciation on Dennis Reuter's farming operation, and there is no evidence that he does not have corresponding replacement costs. To the contrary, Dennis Reuter testified that he has corresponding replacement costs for dairy cows, farm buildings, and farm machinery.

The depreciation dispute centers on two issues. First, whether Dennis Reuter can deduct depreciation for some dairy cows and also deduct the replacement costs of other dairy cows. The record shows that this is not a duplicate deduction, instead it represents a change over the time in which the business was analyzed. Before 2005, Reuter sold calves to another farmer and then bought the animals back when they were able to provide milk. At the time Reuter "bought back" a dairy cow, he then placed it on a five-year depreciation schedule. After February 2005, Reuter changed his procedures and did not sell the calves but paid another farmer to feed the calves until they were ready for milking. These costs were deducted as production expenses, and the dairy cows were not

placed on a depreciation schedule. Thus, before 2005 the “bought back” dairy cows were included in a depreciation schedule and, after 2005, the cost of having another farmer feed the calves was deducted as a production expense. In adopting Jacqueline Reuter’s accountant’s figures, the district court neither deducted the depreciation of the dairy cows or the cost of replacement dairy cows, nor explained why a deduction was not appropriate.

The second point of contention on depreciation involves the farm buildings and farm equipment. The Reuters dispute the debt-service calculations and length of time applicable to the debt service. Jacqueline Reuter argues that depreciation is automatically applied through the deduction for debt service. But the record suggests that out of approximately \$1,324,000 in assets, only \$363,000 are encumbered. Therefore the debt-service expense does not apply to more than one-half of the assets. Dennis Reuter also argues that many of the assets have no corresponding debt service because they were purchased with operating capital. It is not clear from the record whether purchases made with this capital were then deducted as an expense the year they were purchased, or if they were then placed on a depreciation schedule.

At oral argument, counsel for Jacqueline Reuter acknowledged that Dennis Reuter should be able to deduct either depreciation or replacement costs as a reasonable business expense. But based on this sparse record and the district court’s limited findings, it does not appear that the district court considered deductions for either depreciation or one-time replacement costs.

Because the total disregard of depreciation or replacement expenses is reversible error and because there is no evidence that Dennis Reuter does not have corresponding replacement costs in his farming operation, the district court's failure to consider depreciation in determining Dennis Reuter's net income for purposes of child support is an erroneous conclusion that is against logic and the facts on record. We remand to the district court to make additional findings on Dennis Reuter's net monthly income. On remand, the district court shall specifically address depreciation and debt service, and may, within its discretion, conduct any necessary evidentiary hearing.

**Reversed and remanded.**