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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0932**

In re the Marriage of: Katherine Thistle Rivard, petitioner,
Respondent,

vs.

Andrew Laurence Rivard,
Appellant.

**Filed January 22, 2013
Affirmed
Connolly, Judge**

Hennepin County District Court
File No. 27-FA-000265636

Andrew L. Rivard, Jackson, Mississippi (pro se appellant)

Katherine T. Rivard, Hopkins, Minnesota (pro se respondent)

Considered and decided by Hooten, Presiding Judge; Connolly, Judge; and
Rodenberg, Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

Appellant argues that the district court abused its discretion in modifying his child-support obligation. Because the district court's decision is against neither logic nor the facts on the record, we affirm.

FACTS

Appellant Andrew Rivard and respondent Katherine Rivard were married in 1996; their son, E., was born in September 1998. They separated in 2000. The parties, represented by counsel, prepared a marital termination agreement, on which the district court based its 2002 judgment.

The judgment granted the parties joint legal custody of E. and respondent, who was then living with E. in Minnesota, sole physical custody. Appellant, a physician, was living in Pennsylvania, where he had just finished a contract; he was looking for further employment. The district court found that appellant's net monthly income while he was employed was \$2,318.52 and respondent's net monthly income was between \$500 and \$600. Appellant's basic child-support obligation was set at \$408, with basic medical support of \$52.77 and child care support of \$150.¹

In December 2011, respondent moved to modify appellant's child-support and medical-support obligations.² Following a hearing at which neither party was represented by counsel and only respondent was present, the district court issued an order finding that appellant's parental income for determining child support (PICS) is now \$28,051, his nonjoint child deduction is \$1,364, and respondent's PICS is \$1,224, giving them a combined PICS of \$29,275 and a joint child-support obligation for E. of \$1,883. Because appellant's share is 96% and respondent's is 4%, the district court concluded that appellant's child-support obligation is \$1,808. The district court also found that E.'s

¹ Because appellant's parenting-time travel expenses were about \$183 monthly, respondent agreed to a reduction of \$100 monthly in his child-support obligation.

² E. no longer requires child care, so child-care support is not at issue.

medical- and dental- insurance coverage, provided by respondent, is \$233, and appellant's medical-support obligation is \$224. Thus, the district court concluded that appellant's combined child-support and medical-support obligation is \$2,032, which is more than 20% and \$75 higher than the existing obligation imposed by the 2002 order, and modified appellant's child-support obligation accordingly.

Appellant contends that the modification was an abuse of discretion.³

DECISION

Whether to modify child support is discretionary with the district court, and its decision will be altered on appeal only if it resolved the matter in a manner that is against logic and the facts on record. *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002).

The district court found that “[p]ursuant to Minn. Stat. § 518A.35, . . . [appellant’s] ongoing basic and medical support obligation would be \$2,032 per month. This amount is 20% and \$75 higher than the current support obligation of \$460.77 [child

³ Appellant raises three other “issues.” The first is that he was denied due process because he was improperly served when the district court’s order was sent to the wrong address. But appellant clearly had access to the order, because he challenges it on appeal, and he provides no support for the proposition that the modification of child support is invalid because it was improperly served. The second is that the district court’s order discriminates against the “Rights of Fathers” because “only a minority of fathers are custodial parents.” Appellant cites no support for the view that the child-support guidelines may be disregarded on the ground that they are discriminatory against fathers. The third is that the 208% increase in his obligation from \$660 to \$2,032 “is not in the best interest of the child and [will cause] harm to [his] character by oversolicitude, overindulgence, and excessiveness,” for which he cites *In re Marriage of Singleteary*, 687 N.E.2d 1080, 1089 (Ill. App. Ct. 1997) (holding that, when percentage-of-income based child-support order would have required change in obligation from \$864 to \$3,000, modifying change to \$2,000 was not an abuse of discretion because the child’s “shown needs and lifestyle to which he is accustomed can be adequately maintained on . . . \$2,000 per month”). But *Singleteary* is not dispositive, and in any event appellant does not present a reason for departing from the guideline amount.

support of \$408 and medical support of \$52.77] per month” and concluded that “[t]here has been a substantial change in circumstances that makes the prior child support and medical support order unreasonable and unfair.” *See* Minn. Stat. § 518.39A, subd. 2(b)(1) (2012) (stating that a substantial change in circumstances is presumed to exist and the terms of a current order are rebuttably presumed to be unreasonable and unfair if the application of the current guidelines results in a change in obligation of more than 20% or \$75). Appellant does not challenge the district court’s application of the guidelines, but he makes four other arguments.

First, he argues that the district court failed to make findings on respondent’s gross income. Respondent testified as to her earnings from two part-time jobs and her efforts to find additional employment. Based on this testimony, the district court found that “[respondent] is employed working part-time earning an average gross monthly income of \$1,224” and that her PICS is \$1,224. When the district court asked respondent if she paid her on-line graduate-school tuition with student loans, she answered, “I do have family assisting.” Appellant argues that this assistance should be considered as part of respondent’s income, but he offers no legal support for that argument, and the record includes no evidence as to the amount of tuition assistance respondent receives.⁴

Second, appellant argues that the district court “[was] not aware that the compensation for [his] employment is voluntarily in excess of the normal 40-hour work

⁴ Apparently as an alternative, appellant argues that respondent misused child-support funds to pay her tuition. But respondent testified that her family assists with her tuition, and appellant provided no evidence that child-support funds were used for that purpose.

week” and therefore failed to make the appropriate deduction. But appellant does not state that he is paid on an hourly basis or that his “excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour,” *see* Minn. Stat. § 518A.29(b)(2)(iv) (2012) (imposing this requirement on exclusion of income received as compensation for more than a 40-hour week), nor does he explain how the district court could have abused its discretion by failing to consider information of which it was “not aware.” *See Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that “a party cannot complain about a district court’s failure to rule in [the party’s] 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”), *review denied* (Minn. Nov. 25, 2003).

Third, appellant concedes that respondent told the district court the amount of E.’s medical and dental premium, a total of \$233, but argues that, because respondent had not submitted copies of additional medical expenses at the time of the hearing, the district court “fail[ed] . . . to determine [E.’s] actual medical expenses.” But the district court told respondent that, before she could get reimbursement for E.’s orthodontic expenses, “[appellant] needs to have copies – he needs to be notified of everything that you’re asking for reimbursement of”; the district court did not order appellant to pay reimbursement.

Fourth, appellant argues that his support obligation “far exceeds [E.’s] needs” and that the district court failed to deviate from the guidelines although it “has discretion and can mandatorily deviate from the guidelines provided it meets the best interests of the

child to provide support which is reasonable.” But, when the joint PICS is over \$15,000, the district court has discretion to either use the support specified for that PICS or “derive a support order without specifically following the guidelines.” Minn. Stat. § 518A.35, subs. 2, 4 (2012). The parties’ combined PICS is \$29,275, or almost twice the \$15,000 maximum PICS specified in the guidelines. Thus, the district court would have had discretion to order a significantly greater child-support obligation but had no basis for ordering less than the \$1,833 specified for a PICS of \$15,000.

The district court did not abuse its discretion in modifying appellant’s child-support obligation.

Affirmed.