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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1033**

In re the Marriage of:
Susan Kay Trosvig, petitioner,
Respondent,

vs.

Ronald William Trosvig,
Appellant.

**Filed May 31, 2011
Affirmed
Minge, Judge**

Hennepin County District Court
File No. 27-FA-09-2987

Kay Nord Hunt, Lommen, Abdo, Cole, King & Stageberg, P.A., Minneapolis, Minnesota;
and

Vija L. Brookshire, Messerli & Kramer, P.A., Minneapolis, Minnesota (for respondent)

Randall A. Smith, Lake Harriet Law Office & Mediation Services, LLC, Minneapolis,
Minnesota (for appellant)

Considered and decided by Klaphake, Presiding Judge; Minge, Judge; and Harten,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

MINGE, Judge

Appellant-husband challenges the district court's unequal division of the marital property, awarding wife's pension solely to her. We affirm.

FACTS

The parties married in 1981 and dissolved their marriage in 2010. At that time, appellant-husband Ronald Trosvig was 56 years old and respondent-wife Susan Trosvig was 58.

Wife has worked as a nurse since 1976. In 1995, she was diagnosed with chronic fatigue syndrome and went on disability leave for most of the next two years. When she returned to work, she reduced her hours from 64 to 48 hours per biweekly pay period. She has continued to work those hours since. Also, because of her seniority, wife no longer has to work extra, on-call shifts. She is at the top of her pay scale; her gross income for 2009 was \$61,045. In addition to nursing, six years ago wife began making and selling stained glass, a business that generates a modest amount of income each year. Wife testified that she did most of the cleaning, grocery shopping, laundry, cooking, hosting, and gift and household-needs buying during the marriage.

Husband has an industrial-engineering degree and has worked as an enterprise business architect with American Express for the past 15 years. In 2009, he earned \$124,863 and bonus income of \$25,728. He also received shares of restricted stock.

The only asset at issue in this appeal is wife's Minnesota Nursing Association (MNA) pension. After the pension value was determined, wife received a letter

informing her that the pension had been classified as “endangered” because it was underfunded. The letter indicated that Twin City Hospitals, the entity responsible for financing and operating the pension plan, would be required to make substantial additional contributions to the plan and that it intended to raise this funding obligation as an issue with the union. The value of the pension was not adjusted for the risks referenced in the letter.

The district court equally divided the marital property with the exception of the defined-benefit nursing pension, which was awarded solely to wife. Based on this allocation and the appraised value of the nursing pension, wife received approximately 53.8% of the marital estate, and husband 46.2%.

After receiving the judgment, husband filed a pro se letter requesting clarification and correction. The district court construed the letter as a motion to correct clerical errors in the judgment under Minn. R. Civ. P. 60.01. It found no clerical errors that would substantively change the judgment, declined to amend nonsubstantive errors, and advised husband that he could move for amended findings under Minn. R. Civ. P. 52.02. No such motion was filed, and this appeal followed.

DECISION

I.

The issue on appeal is whether the district court abused its discretion by awarding wife the nursing pension and therefore more than 50% of the total marital property. “A [district] court has broad discretion in evaluating and dividing property in a marital dissolution and will not be overturned except for an abuse of discretion. We will affirm

the [district] court's division of property if it had an acceptable basis in fact and principle even though we might have taken a different approach." *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002) (citation omitted). A district court abuses its discretion in dividing property if it resolves the matter in a manner "that is against logic and the facts on record." *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984).

In dividing marital property, the district court "shall make a just and equitable division" and "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." Minn. Stat. § 518.58, subd. 1 (2010). In *Miller v. Miller*, the supreme court stated that "equal division of the wealth accumulated through the joint efforts of the parties is appropriate on dissolution of a long term marriage." 352 N.W.2d 738, 742 (Minn. 1984). However, a just and equitable division of marital property "is not necessarily an equal division." *Sirek v. Sirek*, 693 N.W.2d 896, 900 (Minn. App. 2005) (quotation and citation omitted).

The district court explained that it did not include the wife's pension in the asset division for several reasons: wife is older and will reach retirement sooner; husband's income is greater, allowing him to set aside more resources for retirement; and wife is in a better position to monitor the financial risks associated with her pension. The district court explained that because wife did "the cleaning, grocery shopping, laundry, cooking, guest and party preparation, [and] gift and household needs buying during the marriage,"

she had invested less time in her career than husband had invested in his—presumably explaining part of his greater income level.

The cases cited by husband note other factual scenarios where long-term marital assets were divided unequally. However, “each marital dissolution proceeding is unique and centers upon the individualized facts and circumstances of the parties.” *Dobrin v. Dobrin*, 569 N.W.2d 199, 201 (Minn. 1997). Here, the district court’s decision is reasonably based on the facts from the record, including factors such as age, income, and contributions as a homemaker. On the husband’s calculation, the MNA pension only accounted for about 7.6% of the marital property. Given the facts of this case, the award of 53.8% percentage of the marital assets to wife is not “against logic” and is not an abuse of discretion. *See Rutten*, 347 N.W.2d at 50.

Affirmed.

Dated: