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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1573**

In re the Marriage of: Rania Zeid Sughayar, petitioner,
Respondent,

vs.

Khaled Jamal Abed,
Appellant.

**Filed May 16, 2011
Affirmed
Stoneburner, Judge**

Ramsey County District Court
File No. 62FA081518

James Capra, St. Paul, Minnesota (for respondent)

Rebecca C. Graves, Roseville, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Stoneburner, Judge; and
Randall, Judge.*

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant father challenges the district court's denial of is motion to modify child
support, arguing that the district court erred by concluding that no change in

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

circumstances occurred to warrant modification of father's child-support obligation. We affirm.

FACTS

The marriage of appellant Khaled Jamal Abed (father) and respondent Rania Zeid Sughayar (mother) was dissolved by judgment entered in October 2009. The judgment required father to pay child support in the amount of \$673 per month and medical support in the amount of \$83 per month for the two minor children of the marriage. Father's support obligation was based on a finding of gross monthly income in the amount of \$2,708. The finding was based, in part, on father's successful application for an automobile loan in which father represented himself as co-owner and a 14-year employee of Fremont Market, with a gross annual income of \$32,500. The district court concluded that father's assertions in the loan application were more credible than father's trial testimony about his income. The dissolution judgment was not appealed.

In June 2010, mother moved for an order finding father in constructive-civil contempt of court for failure to pay child support. Father opposed the motion and moved for a modification of child support, claiming he is not a co-owner of the market and has suffered a decrease in income that makes the original support order unreasonable and unfair. After a hearing, the district court found father in constructive-civil contempt of court and denied his motion to modify child support, concluding that father had failed to credibly demonstrate a change in circumstances that warrants modification of child support. Father appeals only the district court's denial of his motion to modify child support.

DECISION

The district court has broad discretion in modifying child-support orders. *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002). A reviewing court will reverse a district court's order regarding child support only if the district court "abused its broad discretion by reaching a clearly erroneous conclusion that is against logic and the facts on record." *Id.*

Modification of a child-support order requires a showing that a substantial change in circumstances renders the terms of the existing child-support order unreasonable and unfair. Minn. Stat. § 518A.39, subd. 2 (2010). The party requesting modification has the burden of proving that circumstances have substantially changed since the time of the dissolution, or since the award was last modified. *Johnson v. Fritz*, 406 N.W.2d 614, 616 (Minn. App. 1987).

Father argues that the district court abused its discretion when it denied his motion to modify his child-support obligation based on his lack of credibility and abused its discretion by using an income amount that is contrary to the evidence in the record. We disagree.

Father testified that, since February 2010, he has been offered only ten hours of work per week at Fremont Market due to a recent string of robberies and property damage. Father submitted pay stubs and tax returns purporting to document that, despite the amount of income found in the dissolution judgment, his income in 2008 was \$12,322 and in 2009 was \$18,980. Father also testified that he has some medical conditions and

religious beliefs that limit his employment opportunities. He asserted his poor English skills and a suffering economy as other reasons for not finding additional employment.

The district court found that father's credibility "continues to be seriously questioned by this Court." Based on father's lack of credible documentary evidence to support many of his claims and the district court's finding that father's testimony regarding his employment was not credible, the district court concluded that father failed to demonstrate a change of circumstance that makes his current child-support obligation unreasonable or unfair.

Where there is adequate evidentiary support for the [district] court's factual findings, as a reviewing court we are bound to accept them. It is especially compelling that we do so in this type of case where the determinations are based primarily on the relative credibility of the parties and the witnesses, whose testimonial demeanor only the [district court] has been permitted to observe and evaluate.

Nelson v. Nelson, 291 Minn. 496, 497, 189 N.W.2d 413, 415 (1971) (referring to divorce proceedings). We defer to the district court's credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *Vangsness v. Vangsness*, 607 N.W.2d 468, 473, 474 (Minn. App. 2000).

Father challenges the original determination of his income. But his income was established in the dissolution proceeding, not in the current proceeding from which appeal was taken, and any challenge to the determination of his income in the dissolution proceeding is outside the scope of this appeal. *See* Minn. R. Civ. App. P. 103.01, subd. 1(a) (requiring notice of appeal to specify the judgment or order from which appeal is taken).

Father argues that the district court abused its discretion by considering the fact that he has remarried and is expecting a child in determining his credibility. We disagree. As the district court noted, father's undertaking of substantial financial obligations since the dissolution judgment undermine his claim of "dire financial circumstances" that have precluded him from making child-support payments. The district court's reference to his new family is only one factor in the district court's determination that father's assertions about his income are not credible.

Affirmed.