STATE OF MINNESOTA
IN COURT OF APPEALS
A12-2260

In re the Marriage of:
Kenneth Duane Lee,
petitioner,
Appellant,

vs.

Nancy Jean Lee,
Respondent.

Filed June 17, 2013
Affirmed
Cleary, Judge

Big Stone County District Court
File No. 06-F8-02-000075

Ronald R. Frauenshuh, Jr., Ortonville, Minnesota (for appellant)

Nancy J. Lee, Ortonville, Minnesota (pro se respondent)

William J. Watson, Big Stone County Attorney, Ortonville, Minnesota (for respondent county)

Considered and decided by Cleary, Presiding Judge; Hooten, Judge; and Klaphake, Judge.*

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

U N P U B L I S H E D O P I N I O N

CLEARY, Judge

Appellant challenges the order issued by a child-support magistrate (CSM) denying a motion to modify basic child support and granting a motion to modify medical support. Appellant argues that his current child-support obligation should include the amount that he owes for his children's medical-insurance premium. We affirm.

FACTS

Appellant Kenneth Duane Lee and respondent Nancy Jean Lee are the parents of two minor children, A.L., born November 24, 1999, and J.L., born August 11, 2001. The marriage of the parties was dissolved by Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree (decree) filed on April 23, 2003. The decree awarded respondent sole legal and physical custody of the children "subject to [appellant's] rights of parenting time" as specified. Appellant was ordered to pay $432.85 per month for child support. The decree stated that appellant "must obtain group dependent medical and dental insurance for the minor children if it is available through any future employer." The decree also stated that "[i]n the event that [r]espondent obtains health and/or dental insurance on the minor children, [appellant] shall be responsible for paying 49% of the premium for that coverage." Since 2003, appellant's child-support obligation has increased to $512 per month as a result of cost-of-living adjustments.

In August 2012, Big Stone County, as intervenor, filed a motion for modification of child support, asking the CSM to modify ongoing basic child support and medical

support owed by appellant. A hearing was held in September 2012, and the CSM issued an order in October 2012 denying the motion to modify basic child support and granting the motion to modify medical support.

The CSM found that appellant has the ability to earn a gross monthly income of $1,884, and that respondent's gross monthly income is $3,233. The CSM calculated that the combined parental income for determining child support (PICS) is $5,117, and that the combined basic-support obligation is $1,275. Finally, the CSM determined that appellant's percentage share of the PICS is 37% and, after the parenting-time-expense adjustment, appellant's basic-support obligation is $415 per month. The CSM also addressed the children's healthcare coverage. The children receive health insurance under MinnesotaCare for which respondent pays a $157 monthly premium. Because appellant's potential income meets the eligibility requirements for public coverage, the CSM calculated appellant's contribution toward the monthly premium, according to the MinnesotaCare Premium Table, to be $37. In the child support guidelines worksheet, the CSM added the basic-support amount of $415 to the medical-support amount of $37 and arrived at total support obligation of $452.

The CSM noted that appellant had been ordered to pay child support of $432.85 per month in the decree and that the obligation has increased to $512 per month based on cost-of-living adjustments. The CSM concluded that, because appellant's child-support obligation as calculated according to his current circumstances is not 20% or $75 lower than the current support obligation, "there has not been a substantial change in circumstances that renders the existing child support order unreasonable and unfair." The

CSM denied the request to modify the basic child-support obligation and granted the request to modify the medical-support obligation. This appeal follows.

D E C I S I O N

The standards for reviewing a CSM's decision are the same as if the decision had been made by a district court. *Ludwigson v. Ludwigson*, 642 N.W.2d 441, 445–46 (Minn. App. 2002). A district court "enjoys broad discretion in ordering modifications to child support orders." *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002). A district court's order regarding child support should be reversed only if the reviewing court is "convinced that the district court abused its broad discretion by reaching a clearly erroneous conclusion that is against logic and the facts on record." *Id.*

Appellant argues that the CSM erred by ordering him to pay medical support in addition to basic child support.[1] He contends that he should "pay the existing child support and include the medical support in that amount." The record in this case does not demonstrate that appellant made this argument to the CSM. Appellant did not submit anything to the CSM in response to the motion to modify child support, and there is no transcript from which to determine whether he raised the argument during the September 2012 hearing.[2] Because there is no evidence that appellant raised this argument below,

[1] Appellant also argues in his brief that a cost-of-living adjustment should not have been applied to his original child-support obligation. At oral argument, appellant conceded this argument, and we do not address it here.

[2] Appellant did not order a transcript of the hearing held in September 2012, so this court is unable to determine whether appellant's argument was presented to the CSM. Even if appellant had alleged that he raised this argument to the CSM, we cannot review it because there is no evidence supporting such an argument in the record. *See Mitterhauser v. Mitterhauser*, 399 N.W.2d 664, 667 (Minn. App. 1987) (stating that an

we do not consider it on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) ("A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it.") (quotation omitted).

Affirmed.

---

appellate court "cannot base its decision on matters outside the record on appeal" and that an appellant "bears the burden of providing an adequate record on appeal").